



October 11, 2023

U.S. Army Corps of Engineers
Humphreys Engineer Center (CEHEC-OC)
7701 Telegraph Road
Alexandria, VA 22315-3860

Re: Freedom of Information Act (FOIA) Request

Dear FOIA Specialist:

This is a Freedom of Information Act ("FOIA") request pursuant to 5 U.S.C. § 552 in accordance with the regulations of the Department of Defense at 32 C.F.R. § 286.

On September 8, 2023, the U.S. Army Corps of Engineers ("Corps") and U.S. Environmental Protection Agency (EPA) published a final rule in the Federal Register¹ revising the regulatory definition of "waters of the United States" (WOTUS) under the Clean Water Act to conform to the U.S. Supreme Court's decision in *Sackett v. EPA*.²

In the final rule's preamble, the agencies claimed that while the rule was "immediately effective," the agencies may provide additional administrative guidance documents, memorandums, and training materials for either the public or Corps district staff on how they intend to implement the conforming WOTUS regulatory definition.³

On behalf of the National Association of Home Builders ("NAHB"), I hereby request electronic versions of the following types of documents concerning the implementation of the September 8 WOTUS regulatory definition.

- Administrative guidance documents;
- Memoranda;
- Training materials;
- Draft iterations of the aforementioned documents;
- Tom Walker's September 28 email on JD Coordination;
- Corps implementation guidance of the pre-2015 Regulatory Regime post-Sackett;
- Corps implementation guidance related to the implementation of the 2023 rule (a.k.a., Corps HQ Jurisdiction SharePoint files); and
- Correspondence between Corps headquarters and the districts concerning the aforementioned documents.

NAHB requests a waiver from any potential administrative fees related to this FOIA request. NAHB's FOIA request is non-commercial in nature. It advances the public's interest and NAHB members' understanding of what guidance Corps' headquarters has provided to districts on implementing the WOTUS rule.

¹ 88 Fed. Reg., §§61,964 – 61,969 (Friday, September 8, 2023).

² *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023).

³ 88 Fed. Reg., §61,966 (Friday, September 8, 2023).

Please contact me at (202) 266-8662, or apugh@nahb.org if the Corps denies NAHB's request to waive fees pursuant to this FOIA request. If I am unavailable, please contact Michael Mittelholzer, AVP, Environmental Policy, at (202) 266-8660, or mmittelholzer@nahb.org.

NAHB would appreciate hearing from you immediately if your Agency will not be able to comply with the statutory time limit of twenty (20) days pursuant to 5 U.S.C. § 552(a)(6)(A)(i) for responding to this request.

Please do not hesitate to contact me or Mr. Mittelholzer if you have any questions regarding this FOIA request or have any follow-up questions about the type of information being sought. We look forward to your prompt response.

Sincerely,

A handwritten signature in black ink that reads "Adam Pugh". The signature is written in a cursive, flowing style.

Adam Pugh
Program Manager, Environmental Policy
National Association of Home Builders