

CESWG-PE-R

13 February 2001

MEMORANDUM FOR All SWG-PE-R Personnel

SUBJECT: Adjacent/Isolated Criteria, Galveston District Policy Number 01-001

1. **PURPOSE.** This document is to aid and guide jurisdictional determinations on whether an area is adjacent v. isolated in the context of the U.S. Army Corps of Engineers Regulatory Program. An additional benefit of this document is to establish a consolidated position on making adjacency determinations. This information is based on existing regulations, guidance memorandums, case studies and certain internal decisions and practices that have been in place for a number of years within the Galveston District. Please note that with any attempts at defining policy, that there may be specific unique situations in which this may not apply. These case-by-case situations should be closely evaluated and discussed, prior to any final determinations.
2. **BACKGROUND.** The term adjacent wetlands were first described and defined in the 1977 preamble 33 CFR 323.2(d) as "wetlands that directly connect to other waters of the U.S. or that are in reasonable proximity to these waters but physically separated from them by man-made dikes or barriers, natural river berms, beach dunes, and similar obstructions". Under the 1986 regulations under 33 CFR 328.3(c), "the term 'adjacent' means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes, or barriers, natural river berms, beach dunes and the like are adjacent wetlands". Since that time, limited guidance has been issued, which at times has created some difficulty in maintaining consistency. This document is an attempt to formulate a reasonable, consistent, and understandable method in evaluating and making determinations whether an area is adjacent or isolated.
3. **CRITERIA.** The following criteria are to be evaluated when determining whether an area is adjacent, or isolated, in the context of the Regulatory Program.
  - a. **PROXIMITY:** The actual physical closeness of a water to a navigable water, or water that is a part of a surface tributary system, is the overriding factor in determining adjacency. If a wetland/water is contiguous (touching) another water of the U.S., such as a surface tributary system, or if it is separated from other waters of the U.S. by a man-made dike or barrier, natural river berm, or beach

dune, it is "adjacent". Otherwise, it could be "isolated" if separated by more than one barrier (see c. below). Proximity should not be used alone, but in consideration with a hydrological connection. For example, it is possible, but not common; to have a water situated close to navigable water, and be isolated if it is "perched" and has no hydrologic connection. Hydrologic connections are addressed in more detail under "b." in this document.

**b. HYDROLOGICAL CONNECTIONS:** Relationships between navigable water, or a surface tributary system, **must** exist to be considered adjacent. Otherwise, the wetland is considered isolated. Examples of hydrologic connections include surface tributary systems, surface water connections such as a stream, continuous wetland system, ditch, or watercourse that carries water from a water body to navigable waters, or waters that are a part of a surface tributary system, during normal expected flows or predictable flood events.

It is reasonable to consider wetlands/waters that lie within the 100-year floodplain as adjacent. When considering the premise of the Clean Water Act, a hydrologic connection can exist during a flood event. The Federal Emergency Management Association (FEMA) maps show the 100-year and 500-year flood plains. The practice within the Galveston District has been to use the 100-year flood maps published by FEMA as a tool. Wetlands or waters that are located within a flood plain are hydrologically interrelated during flood events, which occur during a natural cycle within riverine systems, and are driven largely by rainfall, and not water of a tidal origin. However, it should be noted that sheet flow over land, outside a flood plain is not considered a sufficient hydrologic connection. In addition, since groundwater connections are extremely difficult to identify or verify, they have not been relied upon in making determinations of whether an area is adjacent/isolated.

Use of the 100-year flood plain has been viewed differently with respect to making determinations of adjacency on barrier islands and peninsulas along the coast. While the 100-year floodplain is calculated using the same basic numerical factors, areas within the 100-year floodplain on barrier islands are inundated by rising tidal

CESWG-PE-R

13 February 2001

SUBJECT: Adjacent/Isolated Criteria, Galveston District Policy Number 01-001

water during storm events. Our regulations make reference that the extent of our jurisdiction in coastal regions does not include areas that are inundated by storm surges, above the high tide line. With that distinction, and previous input from the Environmental Protection Agency, it is possible for wetlands or waters within the broader reaches of a barrier island to be isolated from other waters if they are not connected through a surface water connection to other waters. The normal rule, and practice, has been to consider the first swale of wetlands/waters immediately behind the first line of dunes to be adjacent to the Gulf of Mexico. Wetlands/waters behind the second line of swales are isolated, provided there are no surface water connections, even if within the flood plain; unless adjacency prevails from the bay side of an island or peninsula.

c. **TWO-BARRIER RULE:** When at least two natural or man-made upland barriers or berms separate a wetland/water from other waters of the U.S. it is isolated, not adjacent, even within floodplain situations. The rationale is that the two barriers of sufficient height would eliminate the necessary surface connection. A land feature, such as a man-made road or levee that is culverted to allow flow between areas is not considered a barrier. The key factor here is that the culvert should also be associated with an obvious watercourse, and not positioned to high so as to prevent normal or expected flow, or serve as a water control device.

  
FRED L. ANTHAMATTEN  
Chief, Policy Analysis Section