Background

- EPA/Corps policy pre-2001
- SWANCC decision – 2001
- Rapanos decision – 2006
- Current guidance
- Litigation since SWANCC & Rapanos
- New draft guidance
- Plan to issue new regulation
Issues in New Guidance

- Traditional Navigable Waters (TNWs)
- Interstate waters
- Tributaries
- Ditches
- Ephemeral waters
- Adjacent wetlands
- Other waters
- Waters that are generally non-jurisdictional
Where From Here?

- Expansion of jurisdiction in new guidance
- Application to 404 and NPDES programs
- Issuance of final guidance
- Development of new proposed rule
- Ongoing litigation
- Constitutional challenges
- Legislative action