

Corps/EPA View of CWA Jurisdiction

	<i>Pre SWANCC/ Rapanos</i>	<i>2003 SWANCC/ 2008 Rapanos Guidance</i>	2011 Draft Guidance
Traditional Navigable Waters (TNWs)	IN	IN	IN
Interstate Waters (IWs)	NOT SPECIFICALLY ADDRESSED	DOES NOT SPECIFICALLY ADDRESS	IN
Tributaries			
Relatively permanent, non-navigable tributaries of TNWs	GENERALLY IN	IN	IN
Relatively permanent, non-navigable tributaries of IWs	NOT SPECIFICALLY ADDRESSED	DOES NOT SPECIFICALLY ADDRESS	IN IF SIGNIFICANT NEXUS TO DOWNSTREAM IW
Non-navigable tributaries that are not relatively permanent	NOT SPECIFICALLY ADDRESSED	IN IF SIGNIFICANT NEXUS TO DOWNSTREAM TNW	IN IF SIGNIFICANT NEXUS TO DOWNSTREAM TNW
Non-tidal drainage ditches* (see below)	GENERALLY OUT	GENERALLY OUT	IN IF HAVE A BED AND BANK AND ORDINARY HIGH WATER MARK; CONNECT DIRECTLY OR INDIRECTLY TO A TNW OR IW; AND HAVE ONE OF THE FOLLOWING CHARACTERISTICS: <ul style="list-style-type: none"> • ALTERED NATURAL STREAM • EXCAVATED IN WATERS OF THE US/WETLANDS • RELATIVELY PERMANENT WATER • CONNECT TWO OR MORE JURISDICTIONAL WATERS • DRAIN NATURAL WATER-BODIES INTO TRIBUTARY SYSTEM OF A TNW OR IW

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Other Waters (continued) Not Physically Proximate			IN IF SIGNIFICANT NEXUS TO DOWNSTREAM TNW OR IW/ CASE-BY-CASE/MUST REFER TO HEADQUARTERS
Non-Jurisdictional Waters			
Non tidal drainage ditches excavated on dry land* (see above)	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT
Artificially irrigated areas	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT
Artificial lakes or ponds	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT
Artificial reflecting or swimming pools or other ornamental bodies of water	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT
Water-filled depressions created on dry land incidental to construction activity	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT
Erosional features	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT
Swales	GENERALLY OUT	GENERALLY OUT	GENERALLY OUT