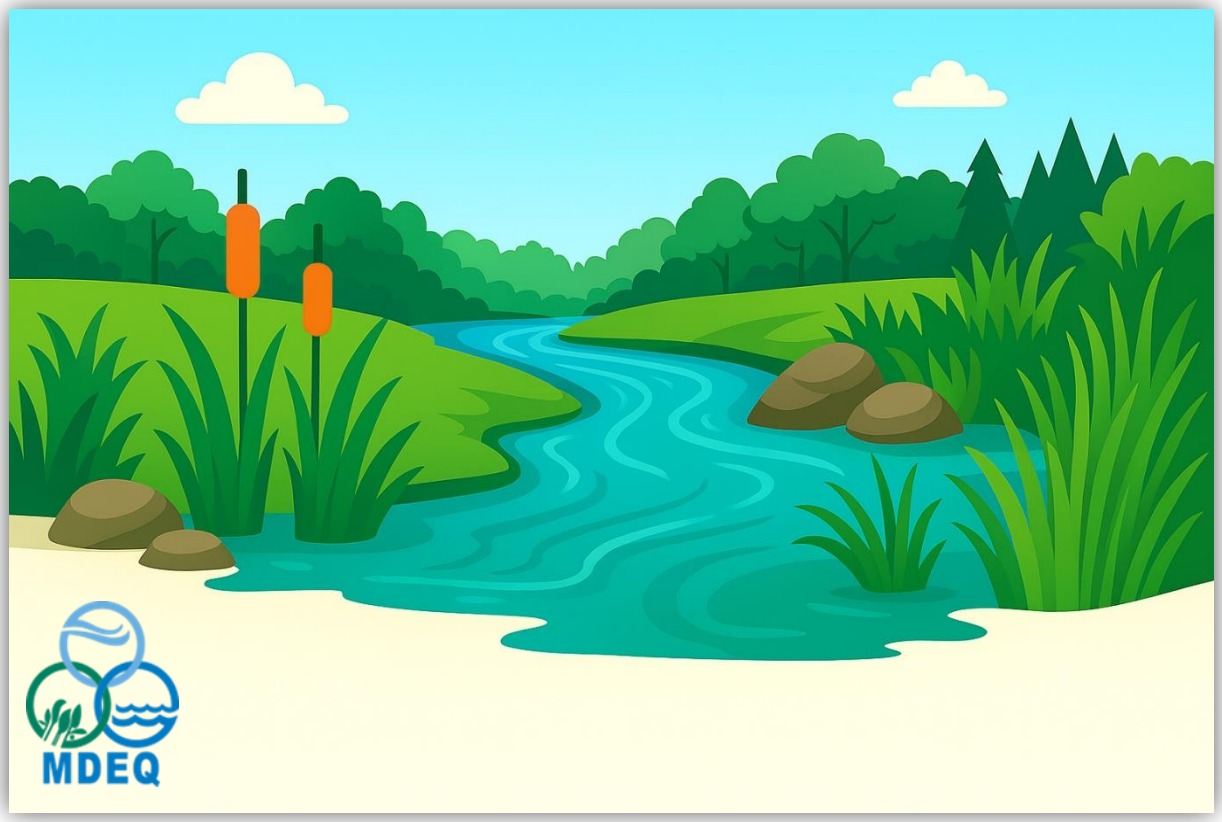
State Water Alteration Program (SWAP) Listening Sessions



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Waters of the State Definition

(85) "Waters of the State" means all waters within the jurisdiction of this State, including all streams, lakes, ponds, wetlands, impounding reservoirs, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, whether permanent, intermittent, or ephemeral, situated wholly or partly within or bordering upon the State, and such coastal waters as are within the jurisdiction of the State.

The following are excluded from the definition of waters of the State:

(a) a lake, pond, or other basin that is entirely surrounded by land; owned by a single individual, partnership, or corporation; has no inlet from or outlet to other surface waters; and is not regulated under the Federal Clean Water Act (33 U.S.C. 1251, et seq.).

(b) artificial basins or wetlands constructed entirely in upland areas; used primarily for stormwater or wastewater storage, treatment, or flow control; and not constructed for wetland mitigation purposes.

SWAP Definitions

Terms Defined for SWAP (Rule 1.4.1)

- Access road
- Activity
- Ephemeral streams (references definition in Rule 1.1.1)
- Initial impact
- Intermittent streams
- Larger common plan of development or sale
- Linear project or linear component(s) of a project
- Linear watercourses
- Mitigation (references definition in Rule 1.1.1)
- Non-linear open waters
- Perennial streams
- Practicable alternatives (references definition in Rule 1.1.1)
- Secondary impact
- Single and complete project
- Wetlands

Stakeholder Question

1. **What additional terms, if any, should be defined for SWAP?**

SWAP Exemption Categories

SWAP Exemption Categories

- Constructed Ditch Maintenance
- Emergency Watershed Protection and Rehabilitation Activities
- Established and Ongoing Farming, Ranching, and Silviculture Activities
- Response Operations for Oil and Hazardous Substances

Stakeholder Question

2. Are there other categories of activities MDEQ should consider for SWAP exemptions?

SWAP Permit by Rule and General Permit Categories

Permit Type	Categories
Permit by Rule	**No Initial Impact Thresholds** • Ecosystem and Watershed Restoration Activities • Miscellaneous Low-Impact Activities
	With Initial Impact Thresholds • Development Activities • Water and Waste Management Activities • Minor Discharges and Minor Dredging
General Permit	**With Corresponding Permit by Rule** • Development Activities • Water and Waste Management Activities • Minor Discharges and Minor Dredging
	With No Corresponding Permit by Rule • Bank Stabilization Activities • Mining Activities (not including Coal Surface Mining)

Stakeholder Question

3. Are there other categories of activities MDEQ should consider for SWAP permits by rule?

Stakeholder Question

4. Are there other categories of activities MDEQ should consider for SWAP general permits?

SWAP Initial Impact Thresholds – Permits by Rule

Permit Type	Potential Thresholds
Permit by Rule	• 500 linear ft. of non-ephemeral linear watercourses **and** • 0.50 acres of non-linear open waters and wetlands **and** • any number of linear ft. of ephemeral linear watercourses
	• 10 cubic yards of material *(Minor Discharges and Minor Dredging)*

Stakeholder Question

5. **Which option is closest to your recommended SWAP permit by rule initial impact thresholds for wetlands/open waters and non-ephemeral watercourses?**

   (Note that MDEQ is considering having **no upper limit** for initial impacts to **ephemeral watercourses**.)

   (Select one answer.)

   a. 0.25 acres / 250 linear ft.
   b. 0.50 acres / 500 linear ft.
   c. 1.0 acres / 1,000 linear ft.
   d. 2.0 acres / 1,500 linear ft.

SWAP Initial Impact Thresholds – General Permits

Permit Type	Potential Thresholds
General Permit	• 1,500 linear ft. of non-ephemeral linear watercourses **and** • 2.0 acres of non-linear open waters and wetlands **and** • any number of linear ft. of ephemeral linear watercourses
	• 25 cubic yards of material *(Minor Discharges and Minor Dredging)*

Stakeholder Question

6. **Which option is closest to your recommended SWAP general permit initial impact thresholds for wetlands/open waters and non-ephemeral watercourses?**

   (Note that MDEQ is considering having **no upper limit** for initial impacts to **ephemeral watercourses**.)

   (Select one answer.)

   a. 1.0 acres / 1,000 linear ft.
   b. 2.0 acres / 1,500 linear ft.
   c. 4. 0 acres / 3,000 linear ft.
   d. 8.0 acres / 6,000 linear ft.

Desktop Delineation Data Sources

A desktop delineation would provide a quick, cost-effective review of a project area using an online tool that accesses publicly available data sources. Data sources would include:

- **The National Hydrography Dataset (NHD)** (accessing and analyzing water drainage networks; identifying streams, rivers, lakes, and related aquatic features)
- **United States Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI)** (locating and mapping aquatic features and obtaining standardized wetland data for the study area)
- **United States Geological Survey (USGS) Data** (obtaining soil maps and classifications; accessing groundwater and surface water data; using elevation and land cover data for environmental assessments)
- **LiDAR-derived Digital Elevation Models (DEM)** (conducting high-resolution terrain analysis; performing hydrologic modeling and watershed delineation)
- **Federal Emergency Management Agency (FEMA) Floodplain Maps** (assessing flood risk zones; evaluating potential aquatic connectivity and floodplain extent)
- **Land Use and Land Cover Data** (evaluating human impacts on the landscape; understanding ecological settings and habitat conditions)
- **Historical and Current Aerial Imagery** (detecting changes in hydrology over time; observing vegetation patterns and disturbances; monitoring land use changes and habitat alterations)

Stakeholder Question

7. **Should additional factors, datasets, or parameters be added to the desktop delineation tool? If so, please state them.**

Mississippi Certified Delineator Requirements

Potential Initial Certification Requirements

- Minimum qualifications (e.g., education, experience)
- Mississippi Certified Delineator Course (with field study) and Exam
- Certification fee
- Provisions for revocation or suspension of certification

Potential Recertification Requirements

- Timeframe (e.g., every three years, consistent with other states)
- Refresher course and retesting
- Recertification fee

Stakeholder Question

8. What should be the minimum requirements to sit for the Mississippi Certified Delineator Course and Exam?

(You may select more than one answer.)

a. Education (specific degree program)
b. Delineation experience
c. Education or delineation experience (not both)
d. Professional references
e. None

Stakeholder Question

9. What do you think is an appropriate timeframe for requiring recertification?

(Select one answer.)

a. < 3 years
b. 3 years
c. 4 years
d. 5 years
e. > 5 years

Full Delineation Approaches

Resource Type	Potential Basis for Mississippi WOTS Full Delineation Approach
Wetlands	• USACE's *Wetlands Delineation Manual* (1987) • USACE's Atlantic and Gulf Coastal Plain Regional Supplement
Linear Watercourses and Non-Linear Open Waters	• USACE's *Ordinary High Water Mark Field Delineation Manual* • USEPA's Streamflow Duration Assessment Method (SDAM)

Stakeholder Question

10. For full delineations under SWAP, are there other approaches MDEQ should consider for identifying all aquatic resources on site? If so, please state them.

(Note that **delineation identifies** aquatic resources on site but **does not classify** those resources as waters of the State and/or waters of the United States.)

SWAP Compensatory Mitigation Being Considered

SWAP Permit Type(s)	Compensatory Mitigation Mechanism Options
• Exemption (no SWAP permit) • SWAP Permit by Rule	No compensatory mitigation required
• SWAP General Permit • SWAP Individual Permit	Permittee responsible mitigation (PRM) • up to 50% of PRM through preservation • remaining 50% through one of the three restorative methods
• SWAP General Permit	In-lieu fee programs
• SWAP General Permit • SWAP Individual Permit	Mitigation banks
No compensatory mitigation for impacts to ephemeral linear watercourses.	

Permittee-Responsible Mitigation (PRM)

Stakeholder Question

11. Do you generally agree with permittee-responsible mitigation (PRM) as an option for up to 100% of SWAP compensatory mitigation requirements?

Stakeholder Question

12. If PRM is used, what % of PRM should MDEQ allow to be accomplished through preservation as the mitigation method?

(Select one answer.)

a. 0%
b. Up to 25%
c. Up to 50%
d. Up to 75%
e. Up to 100%

In-Lieu Fees

Stakeholder Question

13. For what types of SWAP permits should in-lieu fees be allowed to satisfy compensatory mitigation requirements?

(Select one answer.)

a. General permits only
b. General permits and individual permits
c. None – in-lieu fees should not be an option

Stakeholder Question

14. What third-party environmental stewardship organizations should MDEQ consider for receiving SWAP in-lieu fees?

Stakeholder Question

15. What should be the basis for in-lieu fee calculations under SWAP?

(Select one answer.)

a. Size of initial impact only (acres/linear feet of resource)
b. Size of initial impact and quality of resource impacted

Compensatory Mitigation Banks

Stakeholder Question

16. What challenges might arise if existing mitigation banks and their credit calculation methods are used for SWAP?