

The banner features a blue background with the MDEQ logo in the top right corner. On the left, there is a vertical strip showing a blue sky with white clouds. The main text reads "State Water Alteration Program (SWAP)" in large white font, with "February 2026 Listening Sessions" in a smaller font below it. To the right of the text are two photographs: one of a stream flowing through a wooded area and another of a grassy field with trees in the background.

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Today's Listening Session



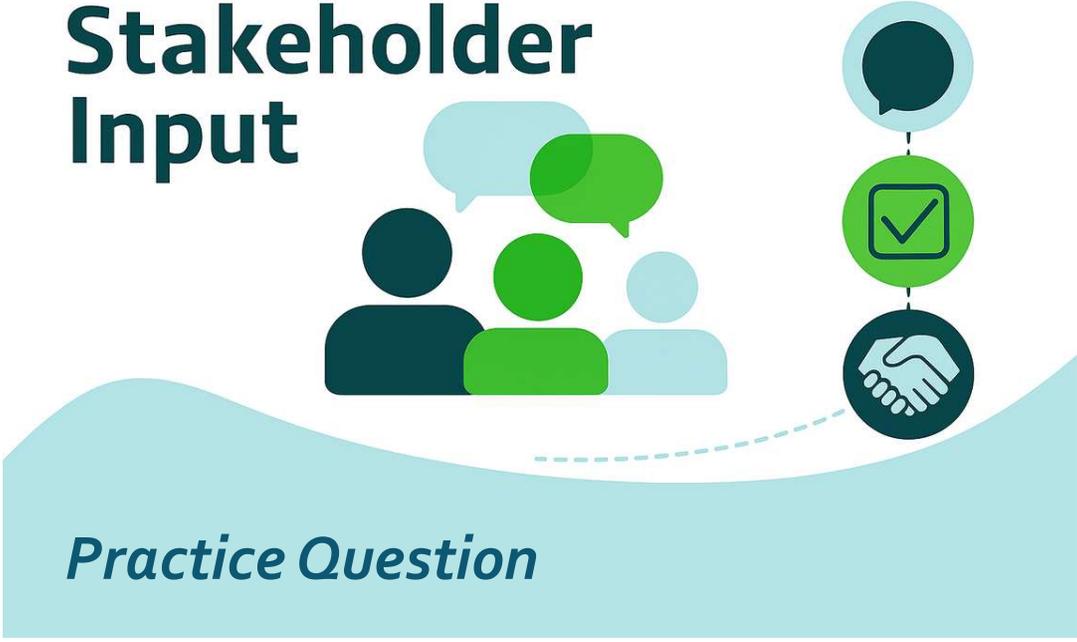
- Not a formal public hearing – no proposed regulations
- SWAP overview
- Input through in-meeting surveys
 - Handout – summary of info in ANPRM used as reference for survey questions
- Open comment session
- Comment period ends April 6



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Stakeholder Input



The diagram features the title "Stakeholder Input" in large, bold, dark teal letters. Below the title, there are three stylized human figures in dark teal, green, and light blue, with speech bubbles above them. To the right, a vertical flow of three circular icons is connected by a dashed line: a dark teal speech bubble, a green circle with a white checkmark, and a dark teal circle with a white handshake. Below these elements is a light blue wavy shape containing the text "Practice Question" in a dark teal, italicized font. In the bottom right corner, there is the MDEQ logo.

Practice Question

MDEQ

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Brief History of SWAP Development



A horizontal timeline with five key events, each represented by an icon above a dot on a line. The events are: 1. Sackett Decision (gavel icon) in May 2023; 2. MDEQ Stakeholder Meetings (three people icon) in Summer 2024; 3. Draft Regulations Proposed (document icon) in January 2025; 4. Public Hearing (microphone icon) in April 2025; 5. Advance Notice of Proposed Rulemaking (megaphone icon) in January 2026. The MDEQ logo is in the bottom right corner.

Sackett Decision
May 2023

MDEQ Stakeholder Meetings
Summer 2024

Draft Regulations Proposed
January 2025

Public Hearing
April 2025

Advance Notice of Proposed Rulemaking
January 2026

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SWAP Design Objectives



Certainty

Set clear expectations and develop repeatable processes



Clarity

Facilitate a common understanding of program terms and requirements



Efficiency

Streamline applicant and MDEQ workflow for the majority of projects

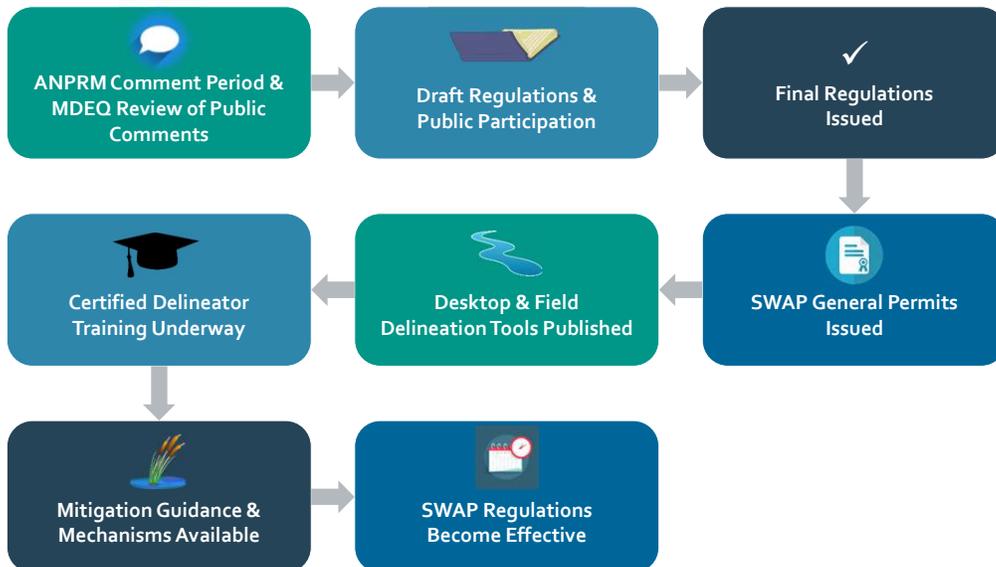


Flexibility

Provide options for program components and required actions where possible



SWAP Implementation



SWAP General Requirements



Definitions
Clarified definition of WOTS; defined terms for SWAP



Applicability
Activities with initial impacts to WOTS



Effect of a SWAP Permit
What a SWAP permit does and does not do



Conditions Applicable to All SWAP Actions
Relationship to CWA Section 401 Water Quality Certification



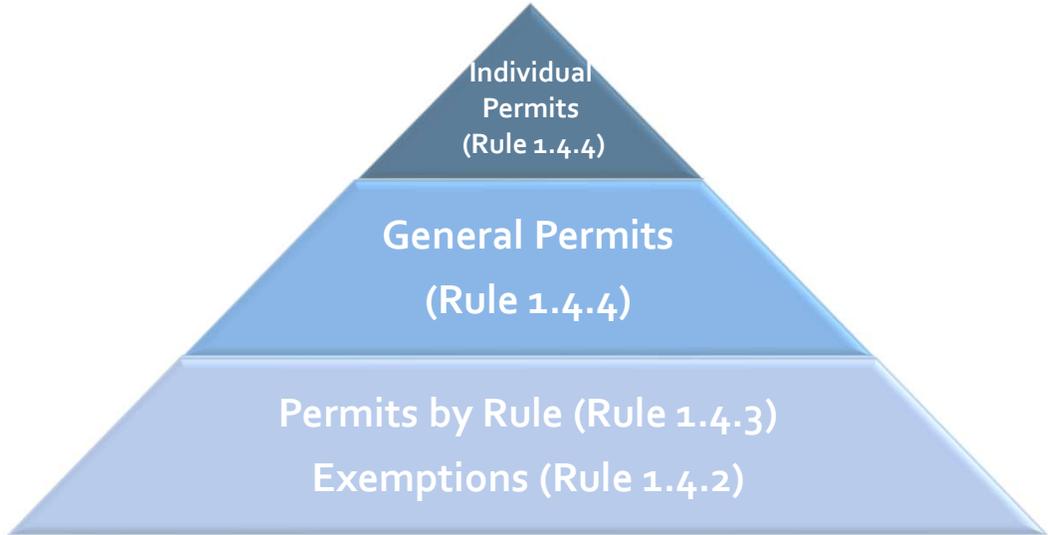
Stakeholder Input



See Handout p. 2



SWAP Exemptions and Permits



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SWAP Exemptions



Constructed Ditch Maintenance



Emergency Watershed Protection and Rehabilitation Activities *(added)*



Established and Ongoing Farming, Ranching, and Silviculture Activities



Response Operations for Oil and Hazardous Substances



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Stakeholder Input

See Handout p. 3

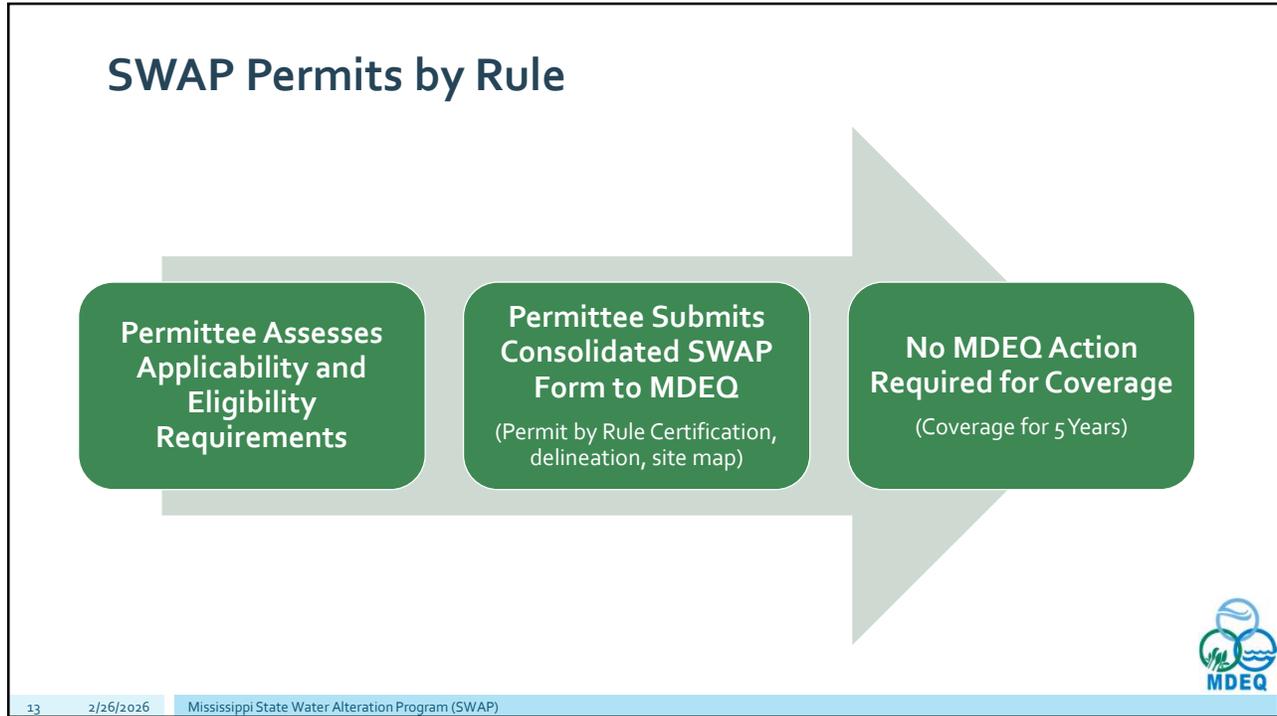
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SWAP Permit by Rule Category (Applicability)	SWAP Initial Impact Thresholds for a Single and Complete Project (Eligibility)
<ul style="list-style-type: none"> Ecosystem and Watershed Restoration Activities Miscellaneous Low-Impact Activities 	 Unlimited
<ul style="list-style-type: none"> Development Activities Water and Waste Management Activities 	 500 linear ft. of non-ephemeral linear watercourses AND  any number of linear ft. of ephemeral linear watercourses  0.5 acres of non-linear open waters and wetlands
<ul style="list-style-type: none"> Minor Discharges and Minor Dredging 	 10 cubic yards of material

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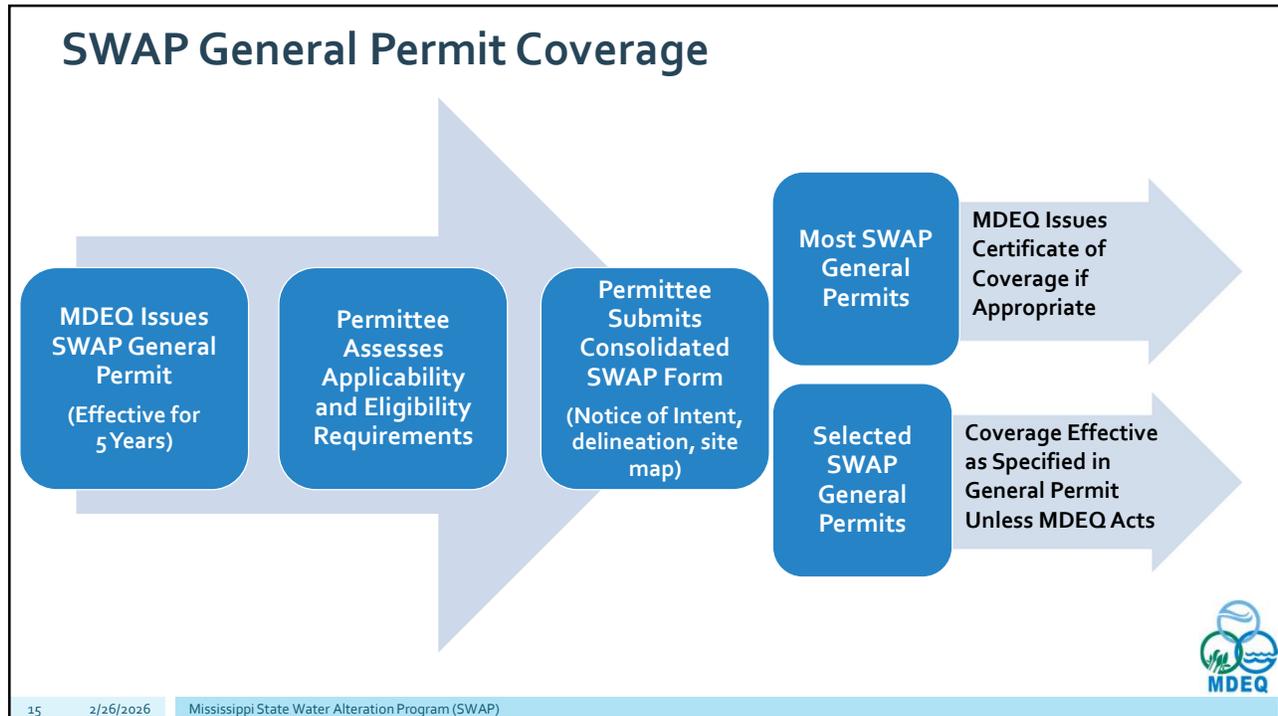
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SWAP General Permit Category (Applicability)	SWAP Initial Impact Thresholds for a Single and Complete Project (Eligibility)
<ul style="list-style-type: none"> • Bank Stabilization Activities <i>(no Permit by Rule)</i> • Development Activities • Mining Activities (not including Coal Surface Mining) <i>(no Permit by Rule)</i> • Water and Waste Management Activities 	<div style="display: flex; flex-direction: column; align-items: center;"> <div style="display: flex; align-items: center; margin-bottom: 10px;"> <div style="text-align: left;"> <p>1,500 linear ft. of non-ephemeral linear watercourses</p> </div> </div> <div style="display: flex; align-items: center; margin-bottom: 10px;"> <div style="margin-right: 10px;">AND</div> <div style="text-align: left;"> <p>2.0 acres of non-linear open waters and wetlands</p> </div> </div> <div style="display: flex; align-items: center;"> <div style="text-align: left;"> <p>any number of linear ft. of ephemeral linear watercourses</p> </div> </div> </div>
<ul style="list-style-type: none"> • Minor Discharges and Minor Dredging 	<div style="display: flex; align-items: center;"> <div style="text-align: left;"> <p>25 cubic yards of material</p> </div> </div>

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SWAP Individual Permits

Individual SWAP Permits needed for:

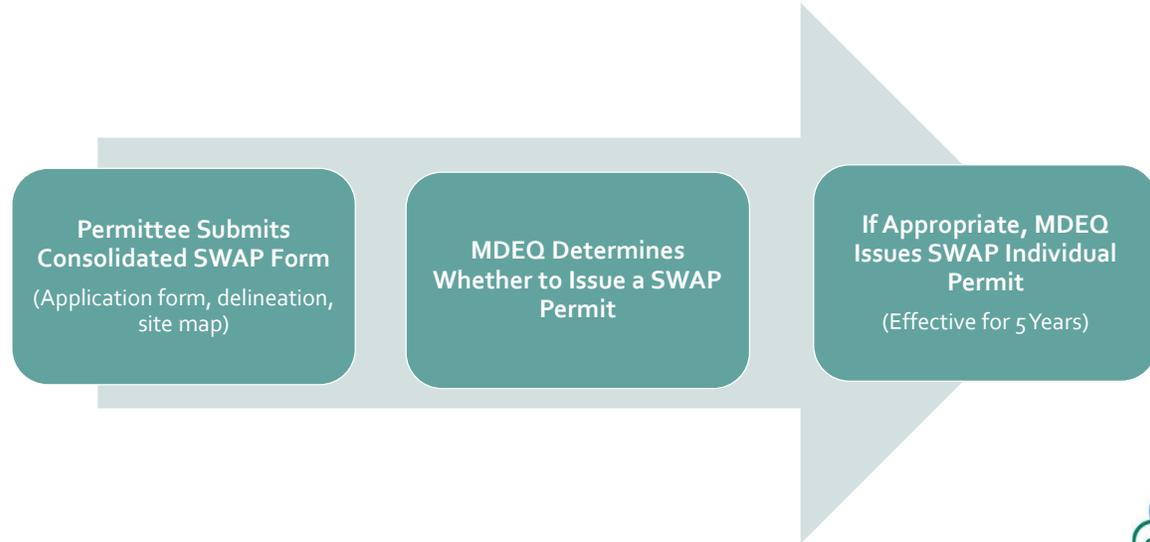
- Activities not meeting Permit by Rule or General Permit applicability and eligibility requirements (i.e., categories, thresholds)
- Any activity requiring an individual CWA Section 401 WQC – **SWAP Exemption, Permit by Rule, or General Permit not available**

The icon depicts a document with a green checkmark inside a circle, indicating a checklist or a completed task.

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SWAP Individual Permit Issuance



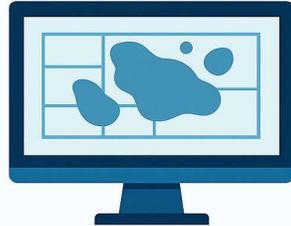
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Stakeholder Input



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Self-Delineation: A Two-Tiered Process



Desktop delineation

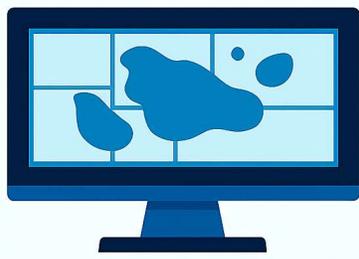
Full delineation



Delineations must identify all aquatic resources on site.



Desktop Delineations



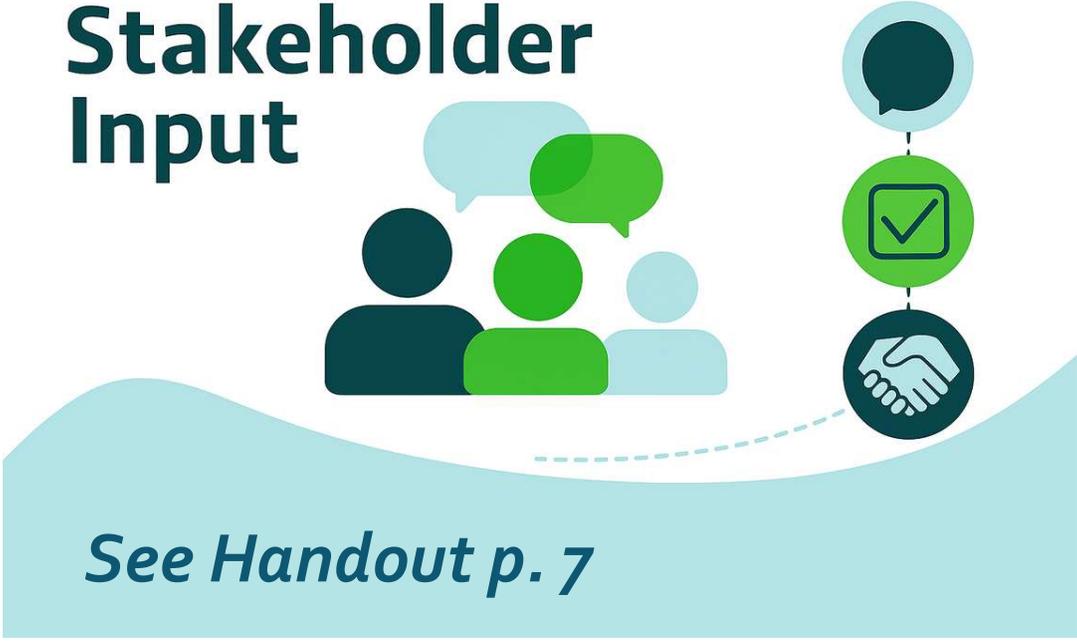
Uses publicly available data

Includes predictive model for conservative estimate of all aquatic resources

Screening tool to identify a likely permitting path



Stakeholder Input



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See Handout p. 7

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Mississippi Certified Delineator Program

-  MDEQ Certified Delineator Training Course with field study
-  Mississippi Certified Delineator Exam and fees
-  Minimum qualifications to sit for training and exam
-  Certification term and recertification requirements
-  Provisions for revocation or suspension of certification



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Full Delineations



Required for general permits and individual permits

Waters of the State of Mississippi Delineation and Functional Assessment Manual

Conducted by Mississippi Certified Delineator

Minimum data submission requirements

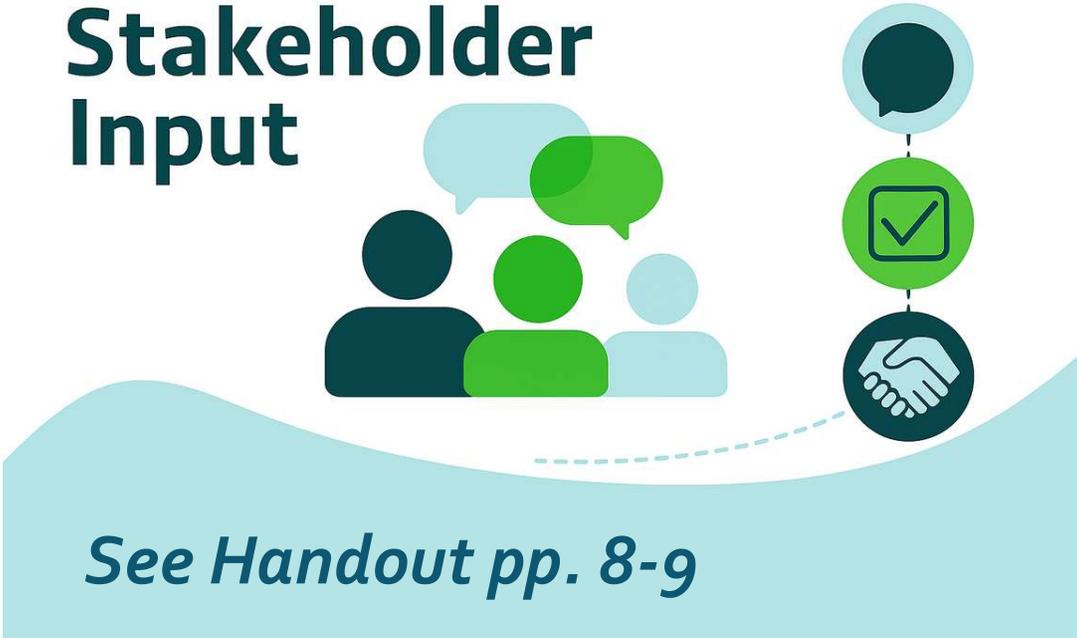


Full Delineation Approaches

Resource Type	Potential Basis for Mississippi WOTS Full Delineation Approach
Wetlands	<ul style="list-style-type: none"> USACE's <i>Wetlands Delineation Manual</i> (1987) USACE's Atlantic and Gulf Coastal Plain Regional Supplement
Linear Watercourses and Non-Linear Open Waters	<ul style="list-style-type: none"> USACE's <i>Ordinary High Water Mark Field Delineation Manual</i> USEPA's Streamflow Duration Assessment Method (SDAM)



Stakeholder Input



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See Handout pp. 8-9

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Compensatory Mitigation Methods and Mechanisms

- **Compensatory Mitigation Methods**
 - **restoration** of a previously existing wetland or other aquatic site
 - **enhancement** of an existing aquatic site's functions
 - **establishment** (i.e., creation) of a new aquatic site
 - **preservation** of an existing aquatic site
- **Compensatory Mitigation Mechanisms**
 - permittee responsible mitigation (PRM)
 - in lieu fee programs
 - mitigation banks



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SWAP Compensatory Mitigation Being Considered

SWAP Permit Type(s)	Compensatory Mitigation Mechanism
<ul style="list-style-type: none"> Exemption (no SWAP permit) SWAP Permit by Rule 	No compensatory mitigation required
<ul style="list-style-type: none"> SWAP General Permit SWAP Individual Permit 	Permittee responsible mitigation (PRM) <ul style="list-style-type: none"> up to 50% of PRM through preservation remaining 50% through one of the three restorative methods
<ul style="list-style-type: none"> SWAP General Permit 	In-lieu fee programs
<ul style="list-style-type: none"> SWAP General Permit SWAP Individual Permit 	Mitigation banks

No compensatory mitigation for impacts to ephemeral linear watercourses.



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Stakeholder Input



See Handout pp. 10-11



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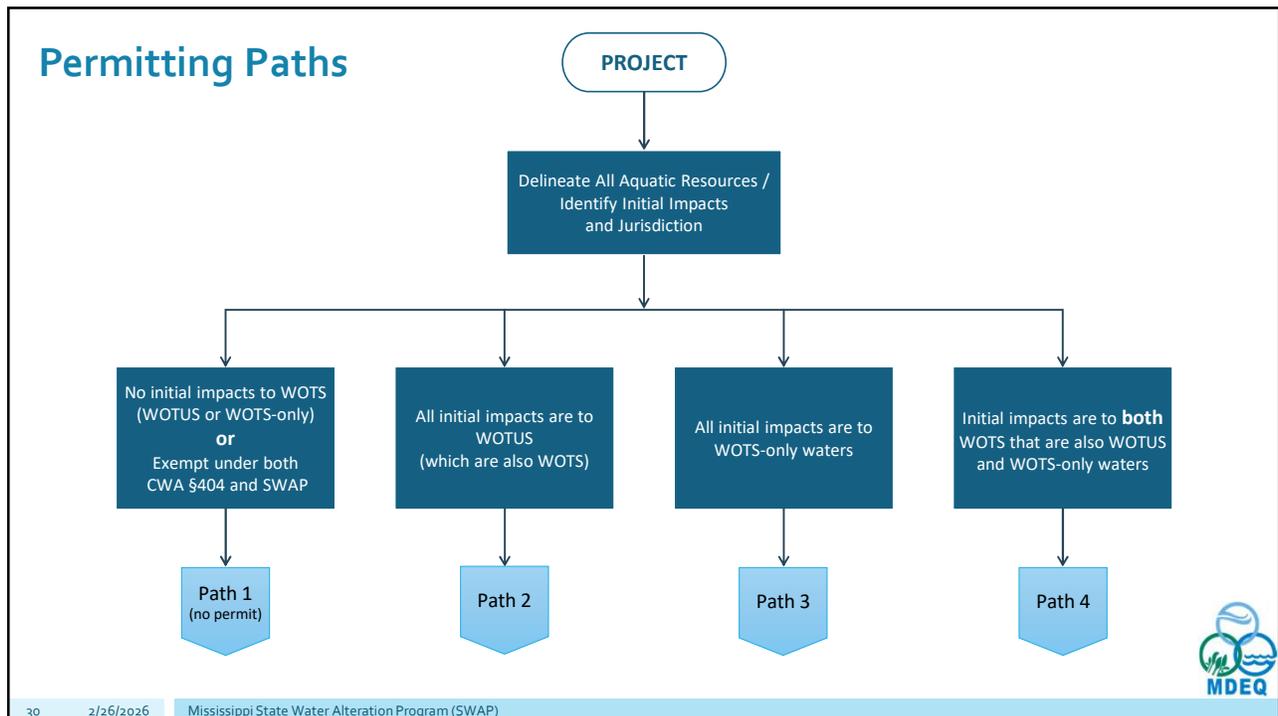


SWAP and Clean Water Act Sections 404 and 401



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Scenario 1: *No Permit Required*

- Farm Pond Construction
 - Project activities have initial impacts to **0.2 acres of wetlands**
- Exempt from CWA Section 404 permitting under 40 CFR 232.3(c)(3)
- SWAP Exemption Applies (Established and Ongoing Farming, Ranching, and Silviculture Activities)



Photo Credit: Natural Resource Enterprises, Mississippi State University



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Certainty vs. Efficiency

- **Certainty:** Some project applicants are interested in as much certainty as possible in the permitting process
- **Efficiency:** Other applicants might be interested in making the permitting process as efficient as possible, even if doing so means accepting some risk



- A project may present opportunities to **trade or balance certainty and efficiency** in the SWAP process.



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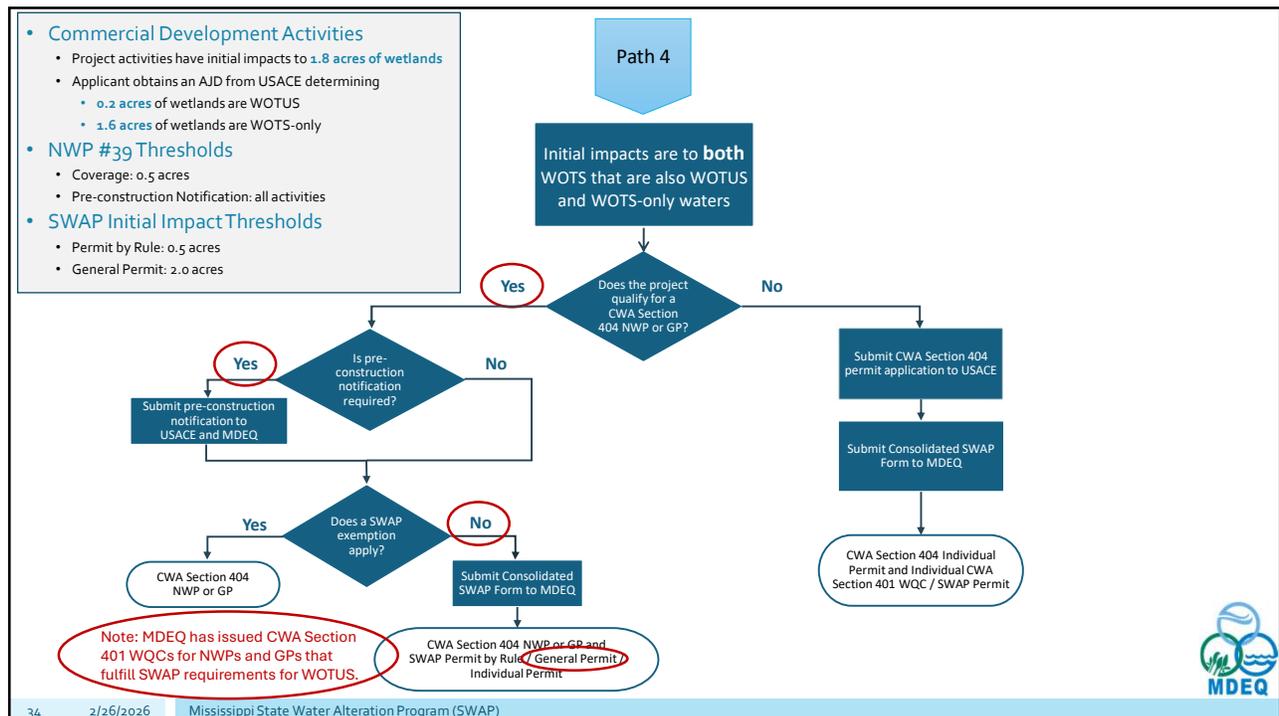
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Scenario 2: Maximizing Certainty

- Commercial Development Activities
 - Project activities have initial impacts to **1.8 acres of wetlands**
 - Applicant obtains an AJD from USACE determining
 - **0.2 acres** of wetlands are WOTUS
 - **1.6 acres** of wetlands are WOTS-only
- NWP #39 Thresholds
 - Coverage: 0.5 acres
 - Pre-construction Notification: all activities
- SWAP Initial Impact Thresholds
 - Permit by Rule: 0.5 acres
 - General Permit: 2.0 acres



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Scenario 3: Increasing Efficiency – Accepting Uncertainty/Risk

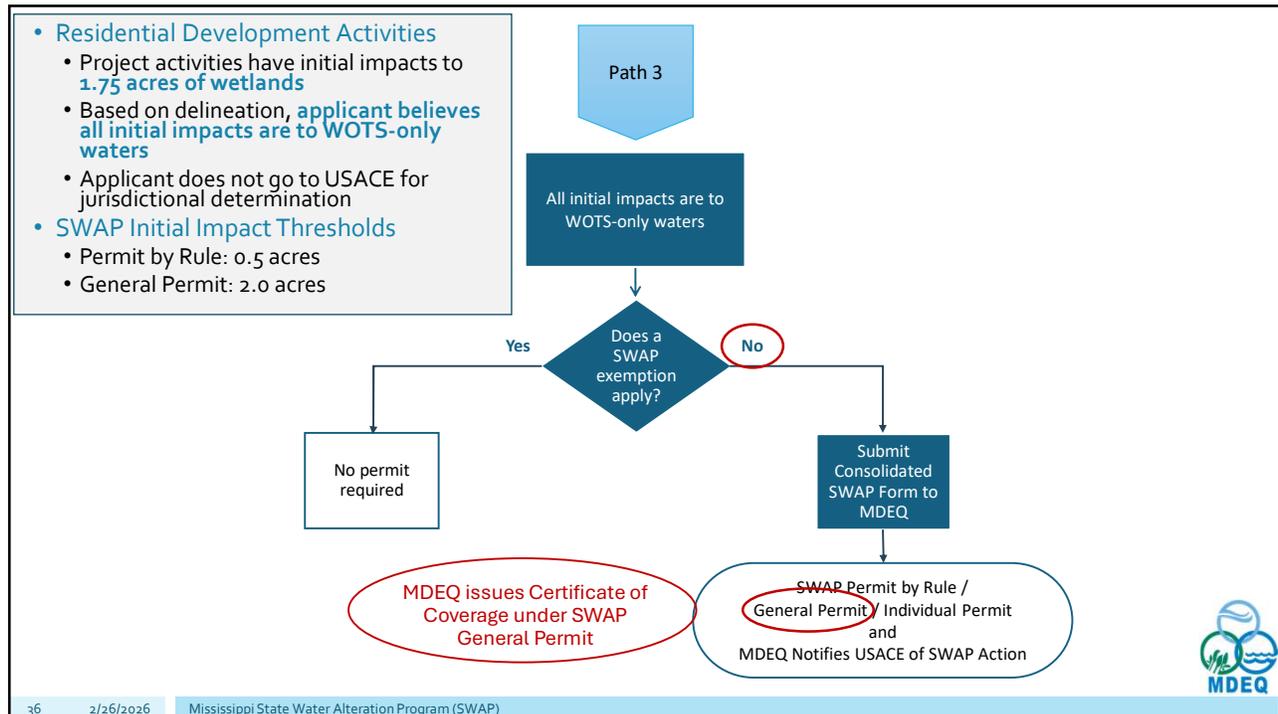
- Residential Development Activities
 - Project activities have initial impacts to **1.75 acres of wetlands**
 - Based on delineation, **believes all initial impacts are to WOTS-only waters**
 - Applicant does not go to USACE for jurisdictional determination
- SWAP Initial Impact Thresholds
 - Permit by Rule: 0.5 acres
 - General Permit: 2.0 acres



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Scenario 3 – *Amended*

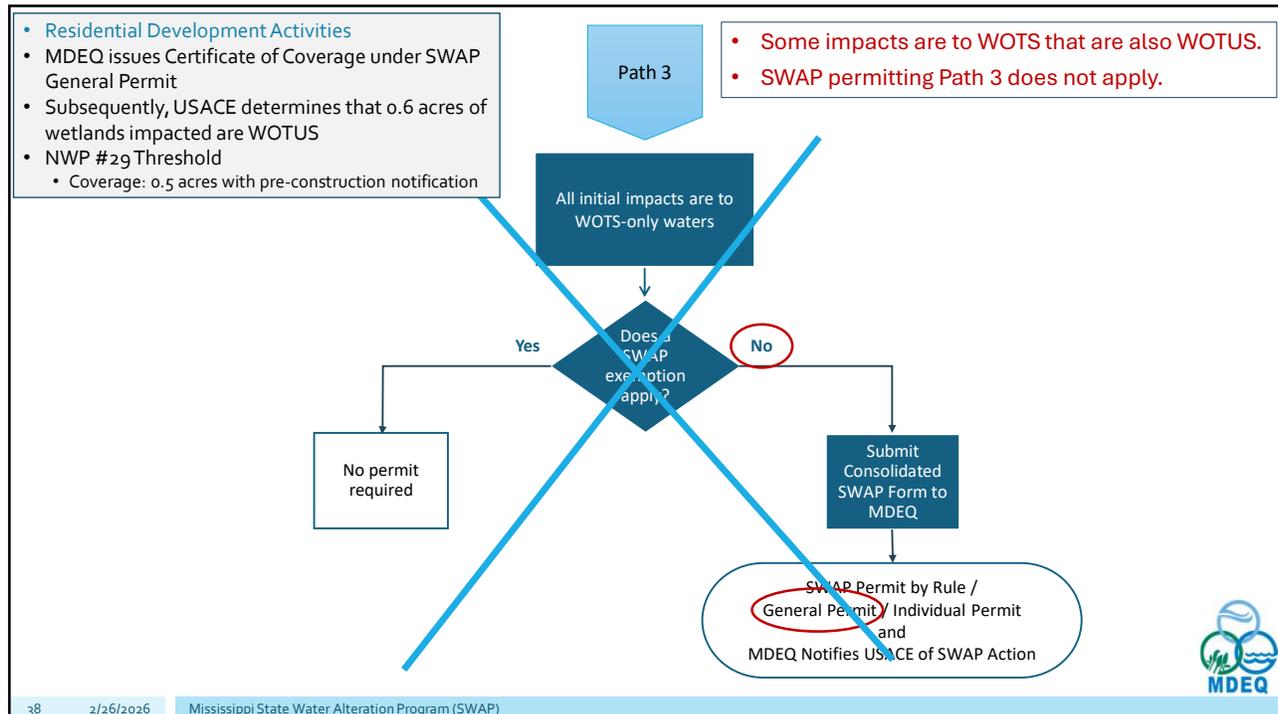
- Residential Development Activities
 - Project activities have initial impacts to **1.75 acres of wetlands**
 - Based on delineation, **applicant believes all initial impacts are to WOTS-only waters**
 - Applicant does not go to USACE for jurisdictional determination
- SWAP Initial Impact Thresholds
 - Permit by Rule: 0.5 acres
 - General Permit: 2.0 acres
- **MDEQ issues Certificate of Coverage under SWAP General Permit**
- **Subsequently, USACE determines that 0.6 acres of wetlands impacted are WOTUS**
- **NWP #29 Threshold**
 - Coverage: 0.5 acres with pre-construction notification

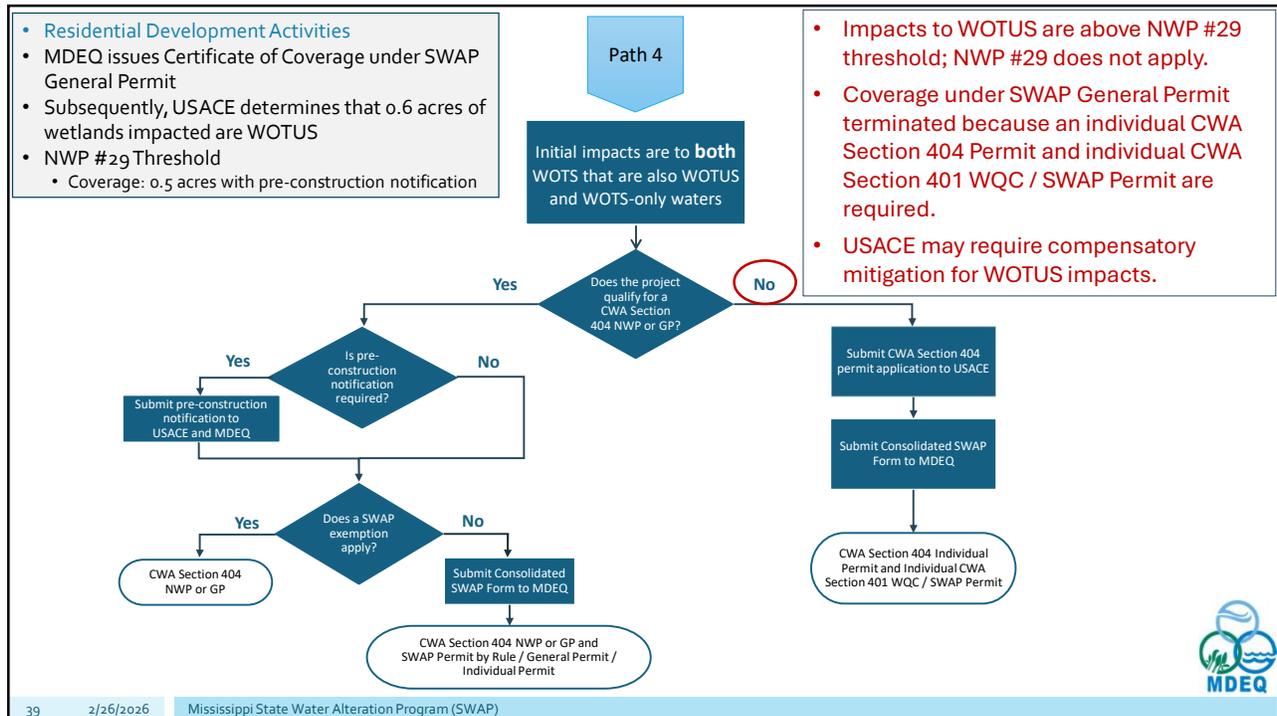


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Scenario 4: *Balancing Certainty and Efficiency*

- Utility Line Activities – Water
 - Project activities have initial impacts to **0.3 acres / 1,300 linear feet of intermittent stream**
 - Applicant asks USACE for a PJD, agreeing that **all 0.3 acres / 1,300 linear feet are WOTUS**
- NWP #58 Thresholds
 - Coverage: 0.5 acres
 - Pre-construction Notification: 0.1 acre
- SWAP Initial Impact Thresholds
 - Permit by Rule: 500 linear feet
 - General Permit: 1,500 linear feet

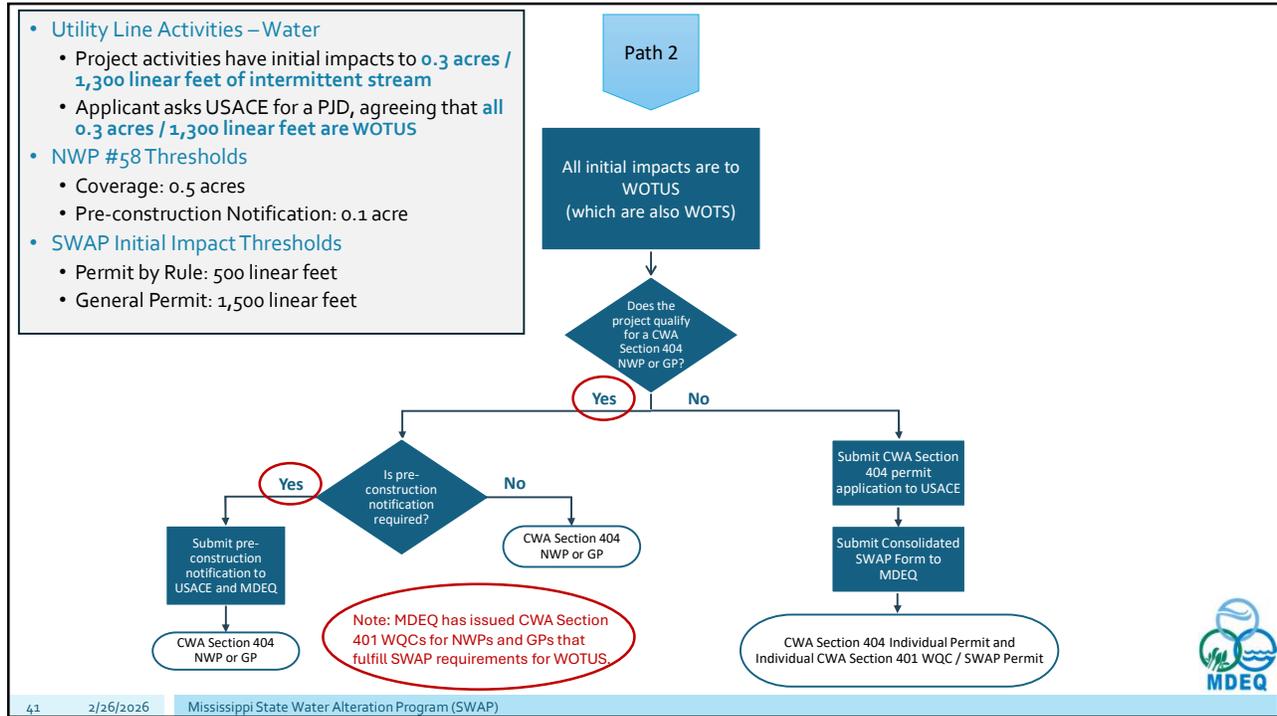


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Open Comment Session





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