

Potential Framework for a Category I Wetlands Program in Delaware

for consideration by the
Advisory Committee

What are Category I Wetlands?

❖ Category I Wetlands are:

- Coastal plain seasonal ponds
 - Inner-dune depression meadows
 - Peat-land fens
 - Bald cypress swamps
 - Atlantic white cedar swamps
 - Black ash seepage swamps
 - Piedmont stream valley wetlands
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- Total acreage of all Category I Wetlands = 18,758 acres or 1.5% of Delaware's total land area of 1,251,200 acres.

Subset of Category I Wetlands

❖ Not regulated by Corps (isolated)

- Coastal plain seasonal ponds
 - Inner-dune depression meadows
 - Peat-land fens
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- Total isolated Category I Wetlands = 5,775 acres or 0.5% Delaware's total land area.

Subset of Category I Wetlands

❖ Regulated by Corps (not isolated)

- Bald cypress swamps
 - Atlantic white cedar swamps
 - Black ash seepage swamps
 - Piedmont stream valley wetlands
- Total non-isolated Category I Wetlands = 12,983 acres or 1.0% of Delaware's total land area.

Staff Requirements

❖ Category I Wetlands (isolated)

- No additional staff required

❖ Category I Wetlands (non-isolated)

- One additional environmental scientist added from existing DNREC staff

Fiscal Requirements

❖ Category I Wetlands (isolated)

- Estimated Annual Program Costs = \$ 0

❖ Category I Wetlands (non-isolated)

- Estimated Annual Program Costs = \$ 0

Resource Considerations

- Category I Wetlands are unique communities that support many rare plants and animals.
- Category I Wetlands are not highly prized for development, agriculture or forestry.
- Category I Wetlands do not occur on existing cropland.
- Category I Wetlands regulation can co-exist with forestry activities via approved Timber Management Plans.

Comparison of State and Federal Programs (Category I Wetlands – Resource Management)

	State Program (proposed)	Federal Program
Category I (isolated)	Regulated	Not regulated
Category I (not isolated)	Regulated	Regulated
Resource Definition	Predictable	Unpredictable - Affected by EPA, Corps, and Court Decisions
Wetlands Mapped	Yes	No (delineation required)
Resource Management	State Level	None
Local Knowledge	Yes - extensive	Minimal
Incentives Program	Yes	No
Resource Staff in DE	20 + (existing staff from multiple programs)	None

Program Considerations

- Implementation will require only minor changes to the existing statute, regulations and program.
- Mapping of all Category I Wetlands will be completed in-house.
- The program will be supported by existing staff.
- The program will be support by existing funds.

Implementation Process

1. Update existing tidal wetlands statute.
2. Update existing tidal wetlands regulations.
3. Develop a Memorandum of Agreement with Corps.
4. Create Category I Wetland maps.
5. Develop an In-lieu fee program for unavoidable impacts.

Creating Wetland Maps

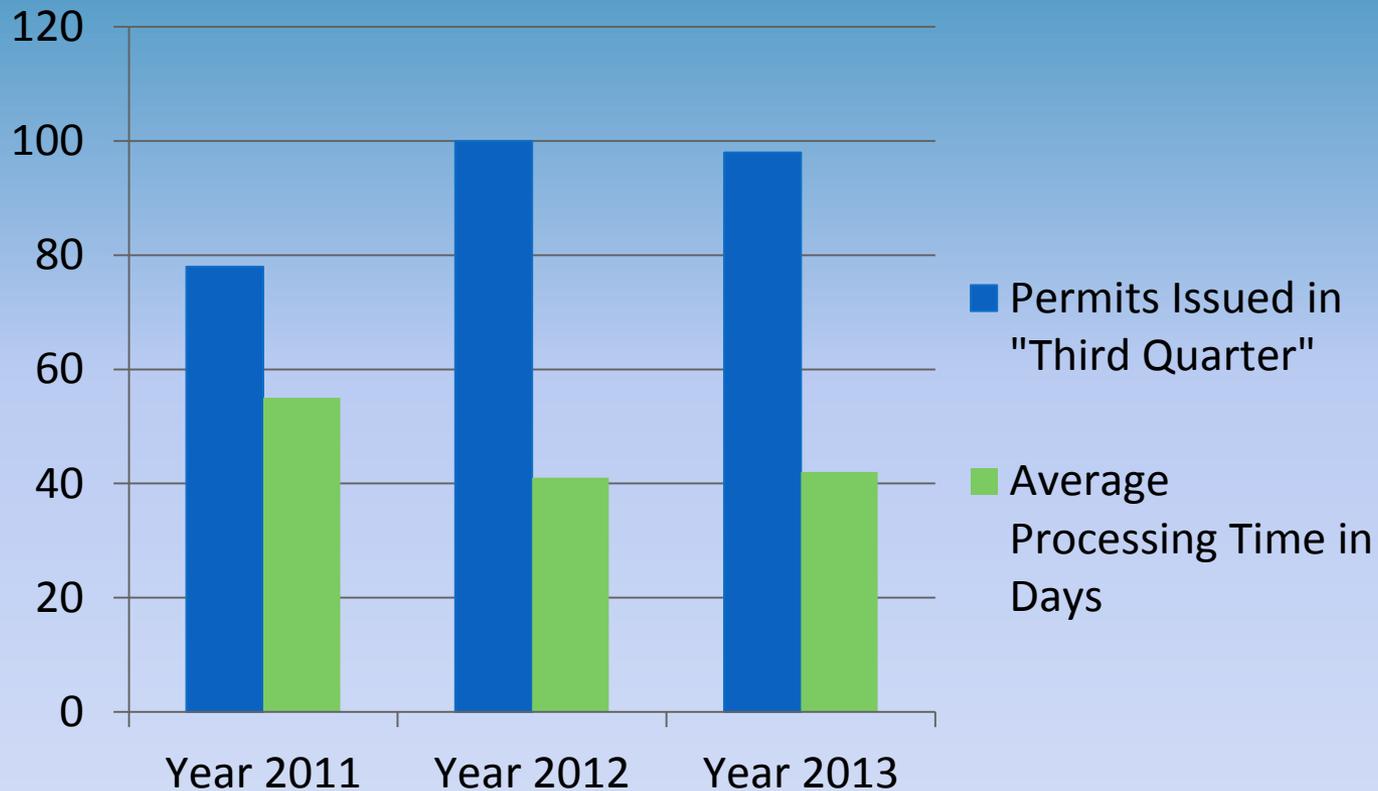
1. Prepare draft Category I Wetland maps.
2. Hold public workshops/hearings for public input.
3. Change maps as necessary following public input.
4. Adopt final Category I Wetland maps.
5. Change maps on case by case basis if discrepancies are found.

Comparison of State and Federal Programs

(Category I Wetlands - Permitting)

	State Program (proposed)	Federal Program
Wetland Definition	Predictable (plant list reviewed every 10 years)	Unpredictable (plant list reviewed every 6 months)
Wetland Delineations	Not required for Category I	Required for all wetlands
Jurisdictional Determinations	Not required for Category I	Required for all wetlands
Isolated Wetland Determinations	Not required for Category I	Required (Washington, D.C.)
Abbreviated Permits and Exemptions	Yes	Yes
In Lieu Fee Program	Yes	No
Permitting Staff in Delaware	9 existing staff	1 existing staff
Responsiveness	Prompt – readily available to make site visits	Not prompt – limited availability to make site visits
Appeal of Decisions	Environmental Appeals Board	No review board

Permitting Efficiencies Wetlands & Subaqueous Permits



Using more efficient methods to process permits the Average Processing Time has been reduced by 14 days.