Introduction to Michigan's Wetland Program

Michigan Wetlands -

Part 303 – Wetland Protection, of NREPA

"The legislature finds that… A loss of a wetland may deprive the people of the state of some or all of the following benefits to be derived from the wetland…"

- **Flood and storm control**
- **Wildlife habitat**
- **Protection of subsurface water resources and recharging ground water supplies**
- **Pollution treatment**
- **Erosion control**
- **Nursery grounds and sanctuaries for fish**

Economic values

State Migratory bird hunting
$21.7 million/year

Passive recreation –
Saginaw Bay coastal wetlands
$239 million in present worth

Ecosystem services
NJ – freshwater wetlands
$9.4 billion/year

A high percentage of Michigan residents recognize the multiple benefits provided by wetlands.

Percent of Michigan residents who view various wetland services as very important or extremely important:

- **Wildlife habitat** **87%**
- **Fish habitat** **78%**
- **Flood control** **75%**
- **Wildflower habitat** **73%**
- **Water filtration** **73%**

- Michael D. Kaplowitz and John Kerr, Michigan residents' perceptions of wetlands and mitigation. *Wetlands,* Vol. 23, No. 2 June 2003

Part 303, Wetland Protection…

Protects wetland functions and values by requiring permits for activities within wetlands.

Regulated wetlands:

- **Connected to other waters**
- **Within 500 feet of inland waters, or 1000 feet of the Great Lakes**
- **More than 5 acres in size**
- **DEQ has determined that the wetland is essential to the preservation of the state's natural resources.**

Part 303 … regulated activities

- **Deposit or permit the placing of fill material in a wetland.**
- **Dredge, remove, or permit the removal of soil or minerals from a wetland.**
- **Construct, operate, or maintain any use or development in a wetland.**
- **Drain surface water from a wetland**

Streamlining wetland protection

1. Legislative exemptions
2. Consolidate permitting under multiple state authorities
3. Coordinate with federal permitting / assume authority where possible
4. Expedite processing for minor activities
5. Technological efficiencies

#1. Legislative exemptions from wetland permit requirements include…

- Fishing, trapping, boating, hiking
- Specified farming and forestry activities – plowing, planting, harvesting, minor drainage; grazing; stock ponds

- Farm and forest roads
- Maintenance – road, utilities, dikes, drains, permitted structures

#2. Consolidated permit processing – pioneered by LWMD prior to passage of wetland law

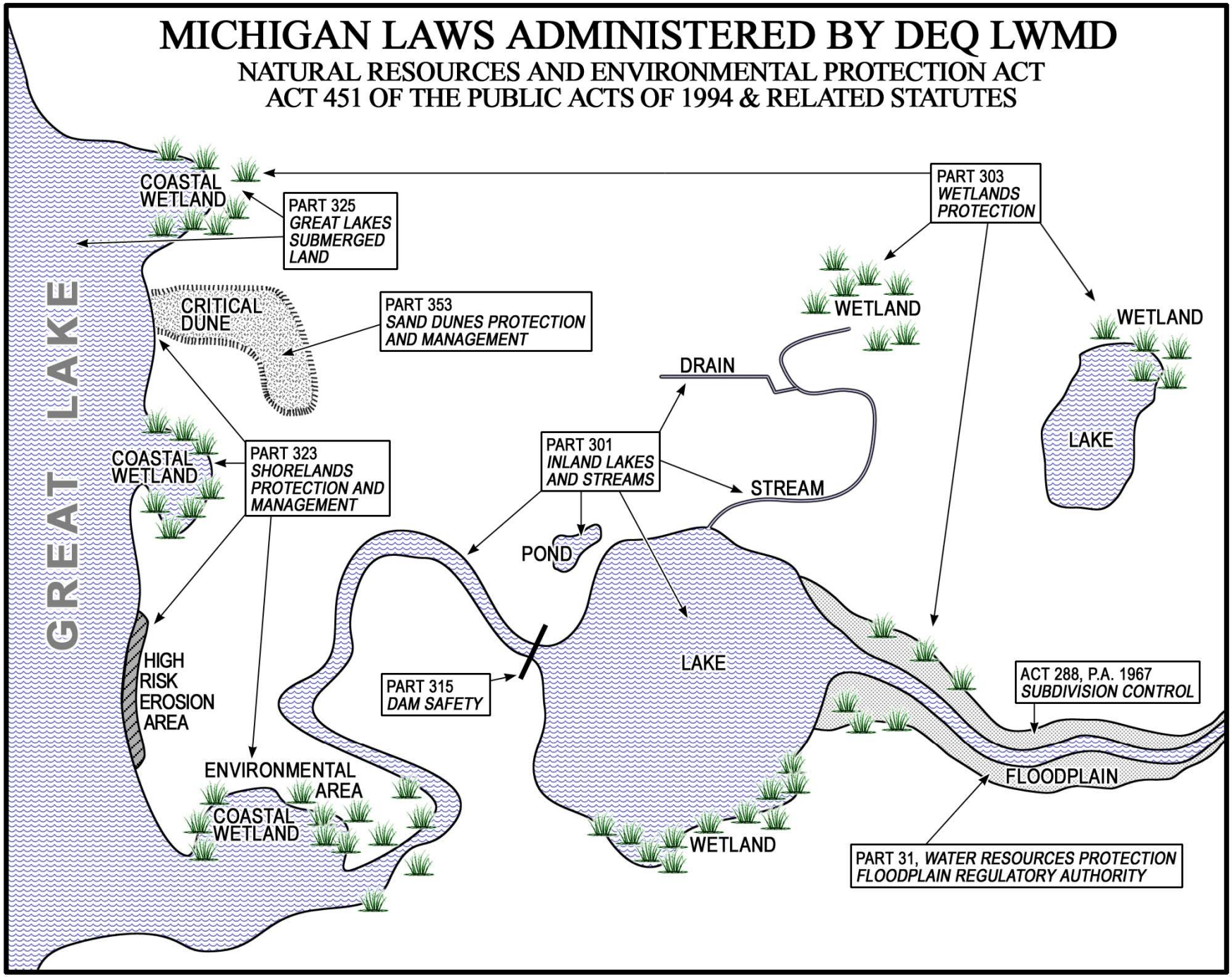
Single permit application –

Single fee –

Simultaneous review under all pertinent authorities.

MICHIGAN LAWS ADMINISTERED BY DEQ LWMD

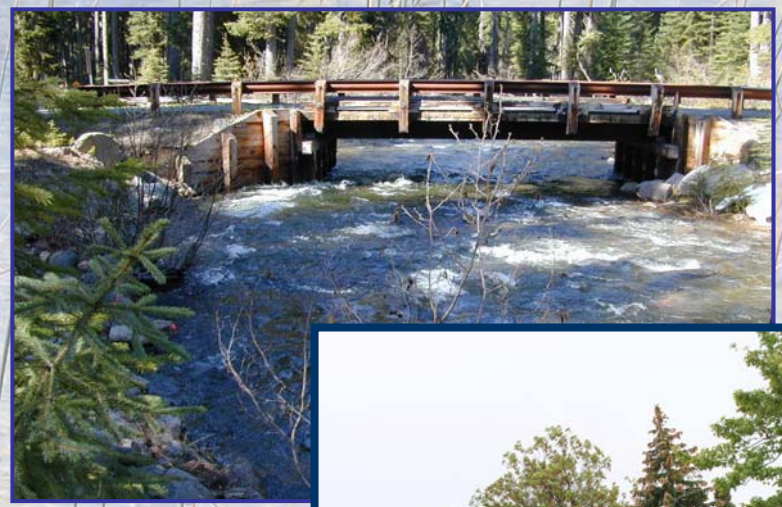
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT
ACT 451 OF THE PUBLIC ACTS OF 1994 & RELATED STATUTES



Part 301, Inland Lakes and Streams

Protects inland waters by regulating work in inland lakes and streams.

- **Boat ramps**
- **Bridges and culverts**
- **Dams**
- **Dredge and fill**
- **Marinas**
- **Permanent structures in regulated areas**
- **Ponds**
- **Shoreline protection**
- **Streambank stabilization**



Part 325, Great Lakes Submerged Lands

Protects our Great Lakes resources by regulating development below the ordinary high-water mark.

#3. Coordination with federal agencies

1977 - Joint permit application with Corps of Engineers

1979 - Passage of Wetland Protection Act, with intention to assume administration of federal permit program

1984 - Michigan became the first state to receive EPA approval to administer CWA Section 404 Permit Program.

State - Federal Consistency

(e.g. exemptions, general permits, public notice procedures, criteria)

A state Section 404 Program must meet federal Clean Water Act standards,

- **…to protect interstate resources.**
- **…to ensure a "level playing field" in the national wetland permit program.**

"Any approved State Program shall, at all times, be conducted in accordance with the requirements of the [Clean Water] Act and of this Part.

While States may impose more stringent requirements, they may not impose any less stringent requirements for any purpose."

40 CFR §233.1

State - Federal Coordination….

… consistent but not identical authorities

- State “404” permits are issued under *state* law
- Foundations include land use regulations, Public Trust responsibilities, recognition of riparian rights
- Policies and procedures specific to state needs while federally consistent

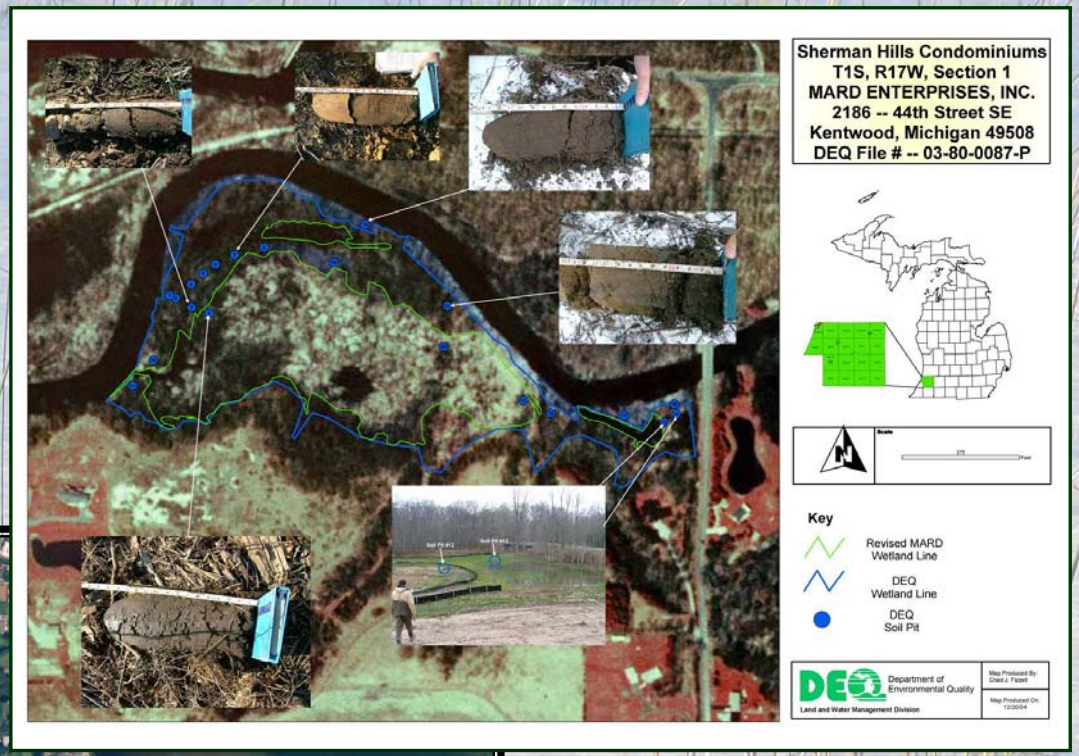
A wetland permit issued by the department typically carries with it the following authorizations, at no additional expense to the applicant:

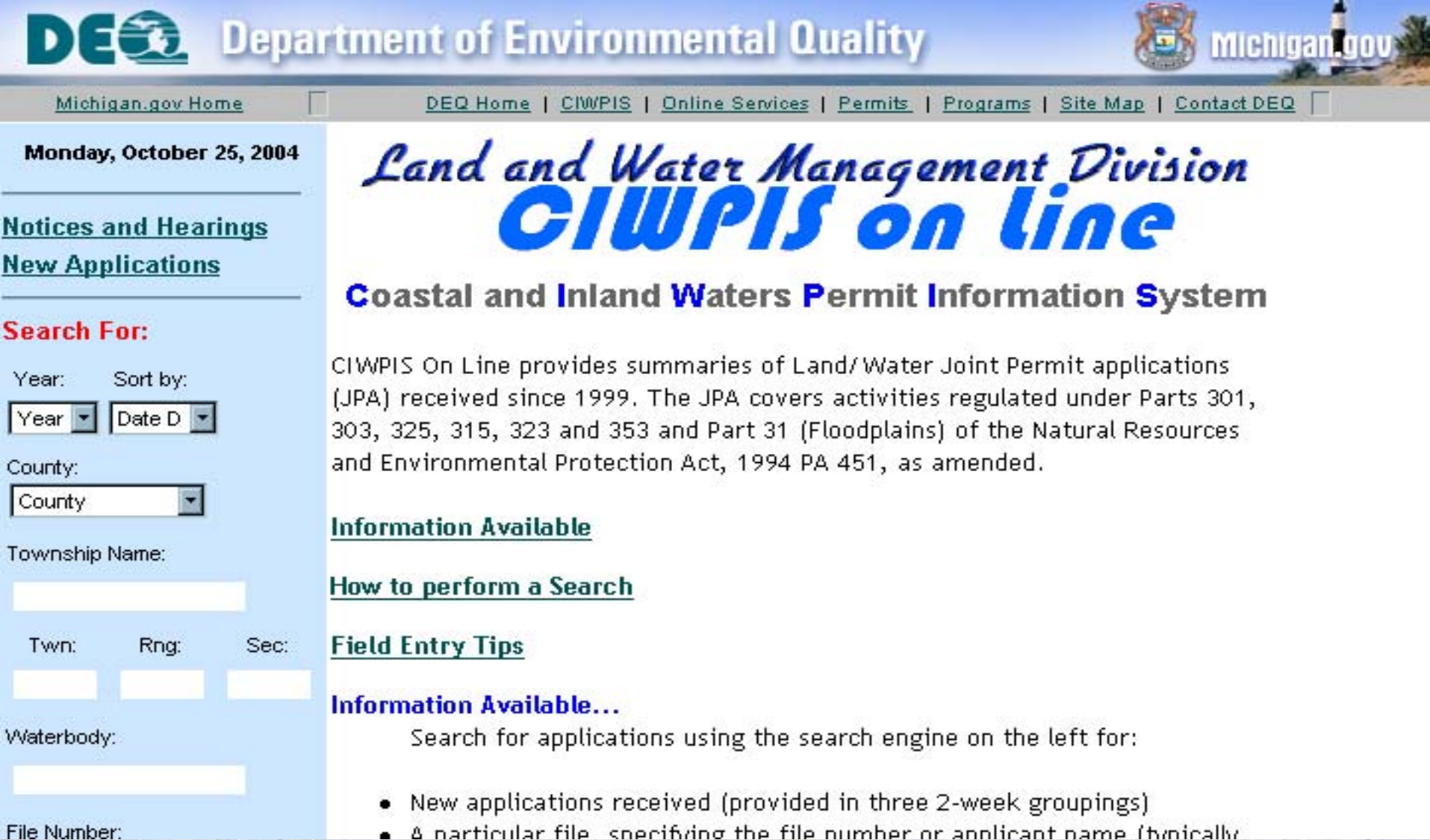
- Authorization under Section 404 of the Federal Clean Water Act
- Water Quality Certification under Section 401 of the Clean Water Act
- Coastal Zone Certification
- Screening and coordination with state and federal endangered species programs
- Screening and coordination with the federal historic preservation program

#4. Minor and general permits

- **For activities that have minor individual and cumulative impacts, and do not require public notice**
- **Similar process for Parts 301 and 303**
- **Lower fees, generally quicker**
- **Expanded under PA 120**

#5. Technology driven efficiencies





A copy of a Public Notice and the status of all permit applications is available to the public at www.michigan.gov/jointpermit

Current Wetland Program Summary

- **LWMD processes about 1500 *wetland* permit applications per year (out of 4000-6000 applications under all statutes)**
- **78 LWMD staff contribute to wetland program, including 57 field staff in 10 offices**
- **Permit issued to 90% of applicants, but with modifications to significantly reduce total wetland impacts**
- **Processing time: Average for complete applications**
  - **65 days if public notice required**
  - **14 days (or less) for general permits**
  - **Legal maximum = 90 days (120 if there is a hearing)**

Questions?