

A photograph of a forest stream with fallen logs and reflections. The water is calm, reflecting the surrounding trees and the sky. The logs are covered in moss and are partially submerged. The trees are mostly bare, suggesting a late autumn or winter setting. The overall scene is serene and natural.

# Coordinating with the 401/404 Process

Implementing Riparian & Wetland Setbacks  
May 17, 2006  
Holden Arboretum

2004 12 3



# Ohio EPA Programs

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- 401 Water Quality Certifications (Clean Water Act)
- Isolated Wetland Permits (HB 231)



# 401 Water Quality Certification

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- Required for activities involving the discharge of dredged or fill material into waters of the US
- Certification is a part of the federal 404 permit process
- Primarily utilized to regulate impacts to Water Quality



# 401 Water Quality Certification

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- ORC Chapter 6111
- OAC 3745-32: 401 Certification Rules
- OAC 3745-1: Water Quality Standards
  - OAC 3745-1-05: Antidegradation
  - OAC 3745-1-50 thru 54: Wetland Water Quality Standards



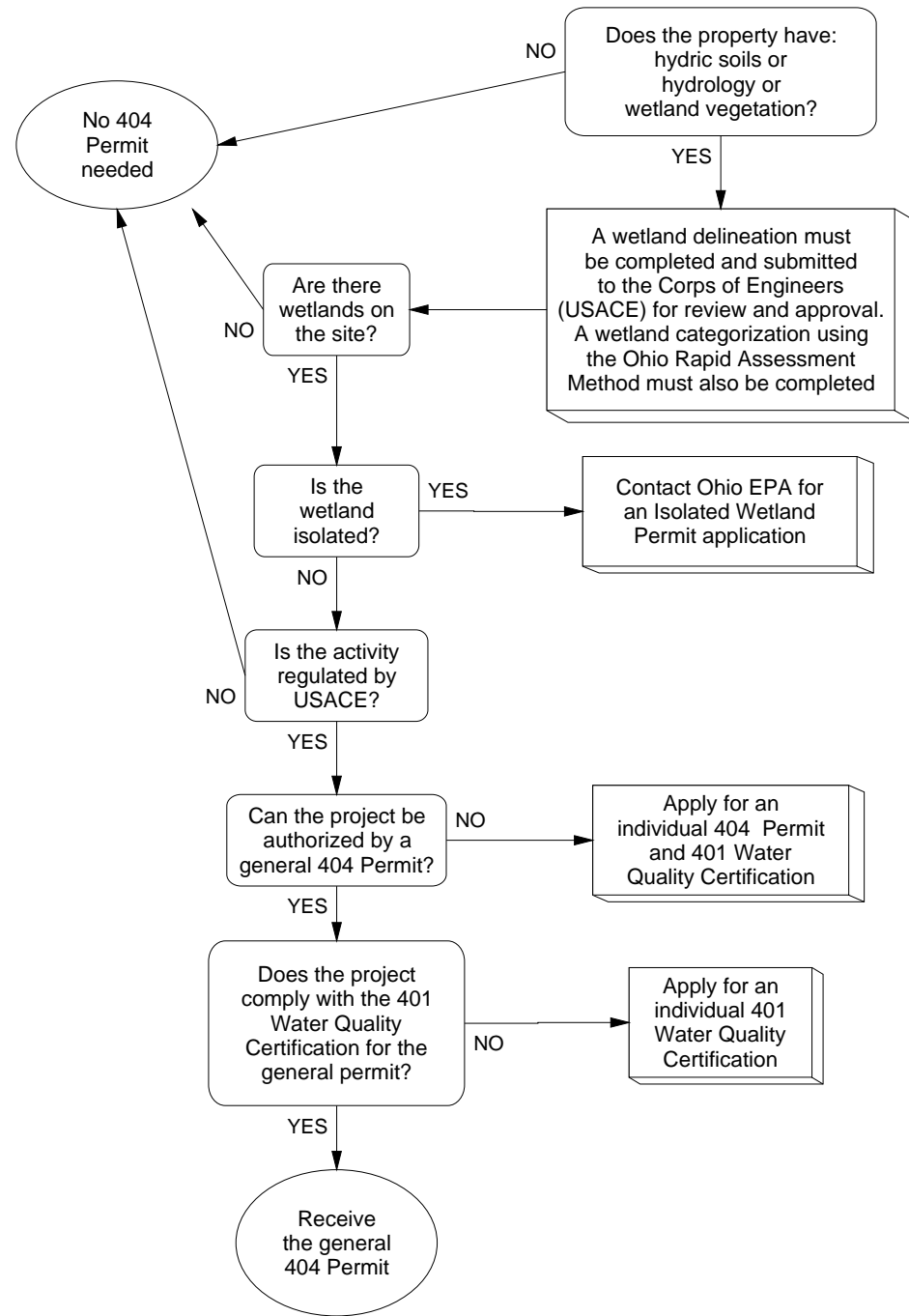
# Isolated Wetland Permits

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All of the requirements for the Isolated Wetland Permit program are contained in ORC Sections 6111.020 through 6111.029



So you want to  
Build something in  
A wetland...  
Now what?





# Recent Wetland Program Statutory Changes

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- Changes to Wetland Fees  
(ORC SECTION 3745.114)
  - \$200 Application Fee
  - Review Fee based on the size and type of impact
  - Fees capped at \$5,000 for municipalities and \$25,000 for all others
  - Half of the total fee due at time of application



## Statutory Changes cont.

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- Review Fees - based on project size
  - \$500 per acre of wetland
  - \$5 - \$15 per linear foot of stream
  - \$3 per cubic yard of dredge/fill material



# Statutory Changes cont.

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- Changes to application process (ORC SECTION 6111.30)
  - The Clean Water Act allows state certifying agencies one year from the date of the USACE Public Notice to approve or deny 401 Water Quality Certification
  - Per Ohio Revised Code, the Division of Surface Water must act on an application within 180 days from the date of the complete application



# Statutory Changes cont.

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- **New Ohio EPA Responsibilities**
  - 15 Day Completeness Review
  - A draft of the certification must be provided to the applicant prior to issuance
  - Public comments must be provided to the applicant within 5 days of receipt



# Statutory Changes cont.

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- **New Applicant Responsibilities**
  - The applicant must submit a complete application to start the review process
  - The applicant must provide the Public Notice for receipt of the application and the public hearing (if applicable)



# Statutory Changes cont.

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- A complete application package consists of:
  - Application Forms
  - USACE Jurisdictional Determination
  - Wetland Characterization (if applicable)
  - Use Attainability Analysis (if applicable)
  - Specific Mitigation Proposal
  - Applicable Fees



# Statutory Changes cont.

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- A complete application continued
  - Site Photographs
  - Threatened & Endangered Species documentation
  - Alternative Analysis Information
  - Investigation of Waters of the US (if applicable)
  - USACE Public Notice (if applicable)



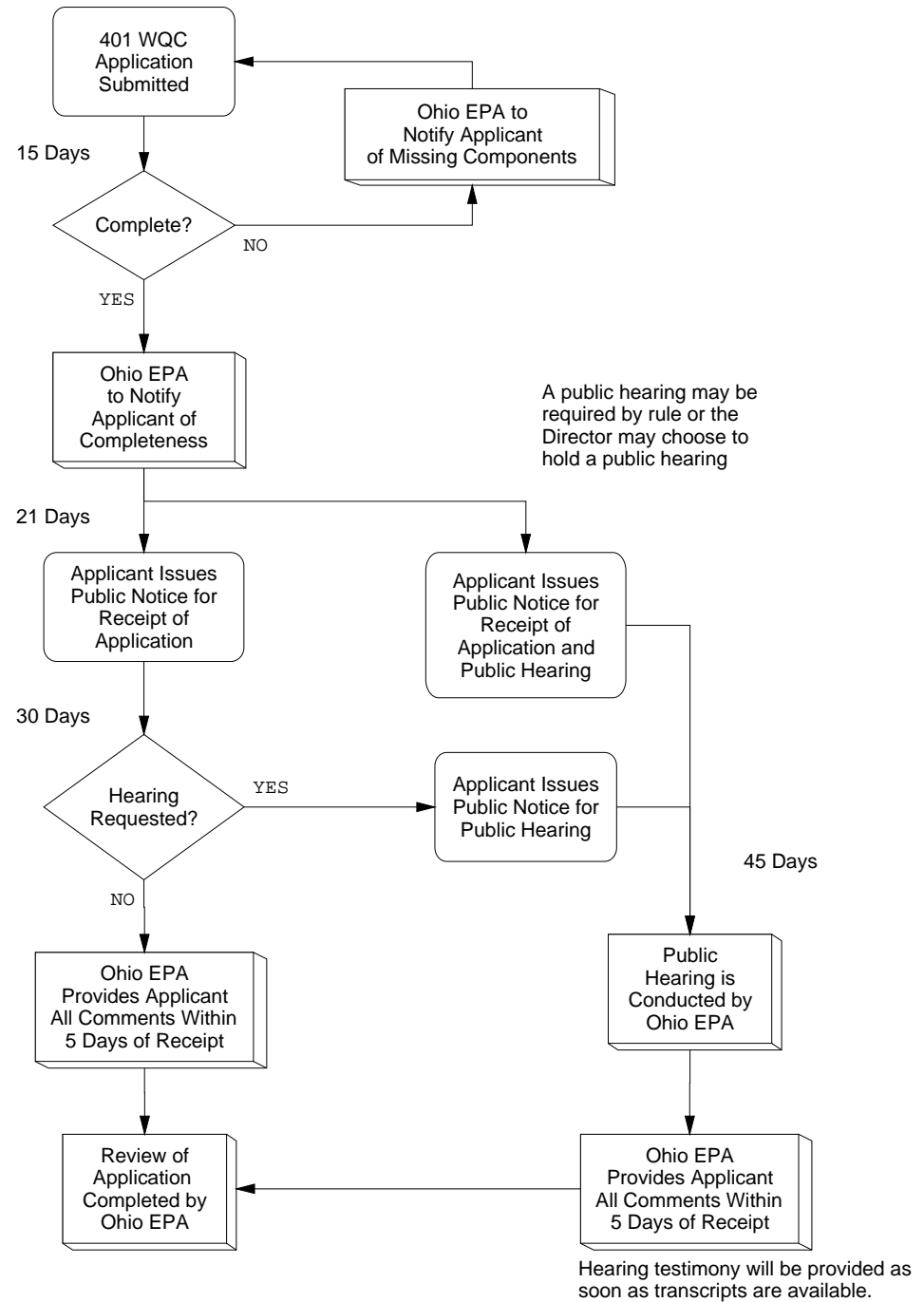
# Statutory Changes cont.

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- Applicant's Public Notice Requirements
  - The Antidegradation Rule requires that the public be provided the opportunity to comment on 401 certifications
  - Guidance and templates have been provided on the DSW web site
  - This should be completed within 21 days of an application being considered complete



# Public Notice Flow Chart

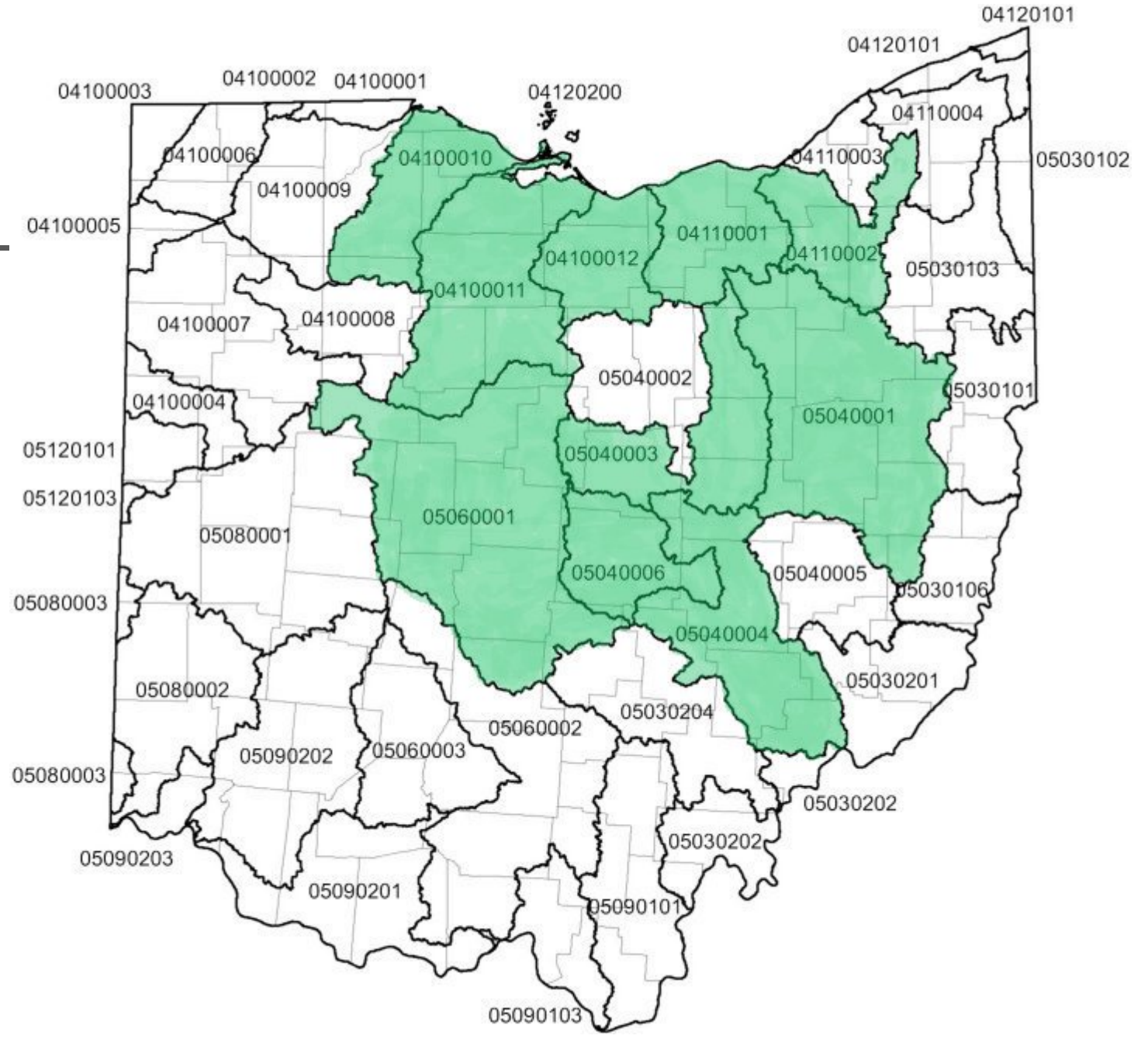
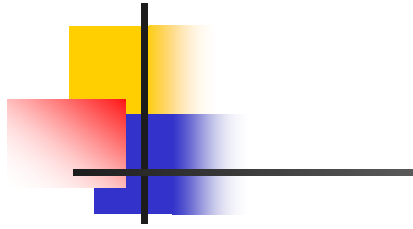




# Recent and Proposed Wetland Program Improvements

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- Mitigation Clearinghouse
- District Office 401 Coordinators
  - NWDO, NEDO
- Mitigation Coordinator Position
- Digitization and update of NWI maps





# Additional Information

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- Ohio EPA-DSW website:

<http://www.epa.state.oh.us/dsw/401/401WetlandSection.html>



# Information on the Ohio EPA-DSW Website:

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- 401 Water Quality Certification Application
- 401 Application Primer
- Isolated Wetland Permit Application
- Mitigation Bank Information
- Mitigation Clearinghouse
- Links to the Corps of Engineers
- Certification of the Nationwide Permits
- Public Notice Guidance



# What Will The Future Bring?

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- State of Ohio stream and wetland mitigation rule package
- Federal mitigation rule package
- Supreme Court ruling on the CWA jurisdiction case (Rampanos)
- New Nationwide Permits (NWPs) in 2007



# Contact Information

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# Questions

