

CHAPTER 4 PROGRAM ORGANIZATION

This chapter contains four sections. Section 1 describes the administrative infrastructure of the State of Ohio, its key departments and the institutional framework within which coastal area activities are regulated and managed.

Section 2 describes the specific authorities through which the OCMP is implemented.

Section 3 details the institutional relationships and coordination mechanisms that ensure effective implementation of the program at the state and local level.

Section 4 describes the mechanisms for achieving state consistency. This discussion follows program implementation in the setting of permits, grants, state development projects and general enforcement of other provisions of O.R.C. 1506.01 et seq.

SECTION 1. ADMINISTRATIVE STRUCTURE TO IMPLEMENT THE OHIO COASTAL MANAGEMENT PROGRAM

The State of Ohio has numerous departments that exercise statewide jurisdiction over activities, some of which occur within, or affect resources of, Ohio's coastal area. Coastal area projects are developed, financially assisted or regulated in accordance with the authorities and police powers of the executive agencies. This section describes the general statewide authority exercised by these departments as well as the authority of local governments and special districts.

The Governor, the Cabinet, and the General Authority of the State

The executive branch of Ohio's government consists of six elected officials: the Governor, Lieutenant Governor, Attorney General, Secretary of State, Auditor of State and Treasurer of State. In addition, the executive branch includes the departments or agencies responsible for administering state law and policy in major areas such as Ohio's natural resources.

As head of the executive branch, the Governor coordinates all of the agencies in the state's executive department, oversees preparation of the budget and supervises state programs. The composition of the Governor's Cabinet varies from administration to administration, but generally includes department directors and others selected by the Governor.

The majority of laws enacted by the General Assembly are implemented by the administrative departments. The Governor appoints the heads of these agencies, who serve at the Governor's pleasure. While there is no rigid pattern for the structure of a department, most departments function through the collective efforts of their divisions' assigned duties. Division heads are usually appointed by and are responsible to the director of the department.

Major State Agencies

Major state agencies that regulate, fund and/or generate activities that occur within or could affect coastal areas include:

Department of Natural Resources

As the state of Ohio's umbrella agency responsible for development, conservation and wise use of the state's natural resources, the Ohio Department of Natural Resources (ODNR) is the designated agency for development and implementation of the OCMP. ODNR possesses the organizational structure and processes necessary to improve the coordination, integration, predictability and efficiency of governmental decision making related to coastal management.

The state coastal management law embodied in O.R.C. Chapter 1506 empowers the Director of Natural Resources with broad authorities to cooperate with other agencies of the state and its political subdivisions, to adopt rules for the implementation, centralized administration and enforcement of the OCMP and to provide coastal management assistance grants awarded from federal and state funds for coastal management purposes. With the enactment of the state coastal management law, ODNR's director delegated responsibility for the program development and administration to the Division of Real Estate and Land Management (REALM). Since the creation of ODNR's Office of Coastal Management (OCM) in July, 2002, program administration has been conducted by OCM. Section 3 of this chapter provides details regarding OCM's responsibility for administering the OCMP and implementing specific provisions of Ohio's coastal management law.

ODNR's divisions and offices carry out the statutory requirements of ODNR with the approval of the director and advice of many boards and councils. ODNR's headquarters is located in Columbus, and numerous field offices and facilities of various divisions, as well as the Office of Coastal Management, are located in the coastal area. Fourteen divisions carry out ODNR's statutory responsibilities with respect to coastal area resource management:

- The **Office of Coastal Management** administers the Ohio Coastal Management Program. The ODNR created the Office of Coastal Management in 2002 as the first step in a reorganization effort designed to better serve Ohioans' coastal needs. Prior to this time, the Office of Coastal Management's role was carried out by various ODNR divisions. However, knowing the importance of Lake Erie to the economic, aesthetic, cultural and natural well-being of Ohio residents, ODNR felt it would be best to have coastal issues coordinated through one office. The Office of Coastal Management, located on Sandusky's waterfront, is the only ODNR division or office to be headquartered outside of Columbus.

- The **Division of Real Estate and Land Management** is responsible for comprehensive recreation planning; master land-use planning for lands under the jurisdiction of ODNR; conducting ODNR's interdisciplinary environmental review process; administering the state NatureWorks local park grant program, the National Recreational Trails Fund and the federal Land and Water Conservation Fund Program; acquiring real property; coordinating the Statewide Trails Program; and managing property including canal lands. The division also operates the Ohio Capability Analysis Program (OCAP), a computerized natural resources geographic information system; inventories and maps soil resources; conducts land planning courses for local officials; and obtains and analyzes aerial photographs and satellite imagery for a variety of land use applications.

- The **Division of Geological Survey** locates, maps, and analyzes the geologic, mineral and fossil fuel resources of the state. This division also counsels citizens, government and industry on geologic matters. The division's Lake Erie Geology Group conducts coastal investigations and research on coastal erosion, sedimentation, wetlands, hydrology and habitat within Lake Erie and the Lake Erie watershed. This Group provides geological information and technical assistance to coastal constituents and agencies and provides educational opportunities through workshops, field trips and student internships. The Lake Erie Geology Group is responsible for identifying and mapping coastal erosion areas and monitoring the extraction of sand and gravel resources from the bed of Lake Erie. The Division operates two research vessels on Lake Erie and has specialized sampling and geophysical surveying equipment for use on Lake Erie.

- The **Division of Wildlife** manages and protects the wildlife of the state, provides hunting and fishing areas, stocks fish and wildlife, enforces hunting, fishing and trapping regulations, conducts fish and wildlife management research, administers the state endangered species law, acquires and manages wetlands and other habitats for wildlife conservation purposes and administers a program to protect and restore nongame and endangered species. Areas and facilities managed by the division within the coastal area are Magee Marsh, Metzger Marsh, Pickerel Creek, Portage River, Put-In-Bay Hatchery Aquatic Resource Education Center, Toussaint Creek, Dempsey's Lake Erie Access Area, Green Island, Little Portage River Access, Mallard Club Marsh, West Harbor Refuge, Pipe Creek, Mazurik Lake Erie Access Area, Honey Point, Willow Point, North Bass, Kuehnle Wildlife Area, Bay Bridge Access, and Fox's Marsh Wildlife Area. The division also maintains three wildlife production areas as well as Crane Creek Wildlife Research Station on Lake Erie. The station is devoted to wetlands research, waterfowl management and restoration of habitat important to North America waterfowl and other wetland dependent wildlife. The division's Lake Erie Fish Research Units in Sandusky and Fairport Harbor produce basic data and undertake special investigations to support Lake

Erie fisheries management. The division also administers and manages ODNR's coastal wetlands research and educational programs through a cooperative state/federal partnership with the National Estuarine Reserve Research System. This program is headquartered in the Ohio Center for Coastal Wetlands Research facility at Old Woman Creek National Estuarine Research Reserve (OWC-NERR).

- The **Division of Engineering** provides professional and technical, engineering and related administrative support services required by ODNR in improving, using and managing its properties and associated resources. The division serves as the principal representative of the director in all aspects of engineering, planning, designing, contracting, surveying, inspecting and managing ODNR's construction and capital improvements projects.
- The **Division of Water** has broad responsibilities for managing Ohio's surface and groundwater resources. The division collects hydrologic data; develops groundwater resources and pollution potential maps; issues permits for the construction of dams, dikes and levees; inspects existing dams; operates the state canal systems; administers the state floodplain management program; and conducts water supply studies. The division develops the state's floodplain management requirements (minimum standards) for development undertaken by state agencies and works with coastal communities to ensure that local flood hazard regulations are being understood and implemented. The division issues permits for construction of erosion control structures and provides technical assistance pertaining to erosion control. In cooperation with the Division of Geological Survey, the division is authorized to prepare Ohio's plan for the management of shore erosion along Lake Erie.
- The **Division of Natural Areas and Preserves** is responsible for acquisition and management of natural areas of the state and for the scenic river preservation program. The division administers the state endangered plant law and maintains the state's Natural Heritage Database on the occurrences of rare plant and animal species, unique geologic areas and other locations of special interest. This division cooperates with local governments, special districts and independent organizations, some of which own and manage areas dedicated within the state nature preserve system. Coastal preserves and facilities managed by the division are Sheldon Marsh, Dupont Marsh, Mentor Marsh, Headlands Dunes, Lakeside Daisy-Colleen "Casey" Taylor and Ruth E. Fiscus.
- The **Division of Parks and Recreation** is responsible for developing and managing Ohio's state park system. State parks within the coastal area are Cleveland Lakefront, Crane Creek, Geneva, Headlands Beach, East Harbor, Lake Erie Islands, Marblehead Lighthouse and Maumee Bay.

- The **Division of Soil and Water Conservation** provides technical and financial assistance and program guidance to Ohio's 88 local soil and water districts. It sets agricultural pollution control and urban sediment pollution abatement standards and coordinates their local implementation. The division administers the NatureWorks funding for pollution control and the nonpoint source management program within ODNR. The division administers the Ohio Coastal Nonpoint Source Pollution (NPS) Control Program and Plan. This includes employing the 6217 Coordinator at the Office of Coastal Management. The division administers the Ohio Clean Marinas Program Grant. The Ohio Clean Marinas Program has one full time employee housed at the Office of Coastal Management and is designed to implement the Coastal NPS Management Measures for Marinas and Recreational Boating. The Ohio Watershed Coordinator Grant Program funds watershed coordinator positions in the Lake Erie Watershed. The watershed coordinators develop a sustainable watershed organization and produce and implement a local watershed action plan that incorporates the Coastal NPS Management Measures. The division also administers the local Stormwater Specialist Grant Programs and Soil and Water Information Management System in the Lake Erie Watershed.
- The **Division of Watercraft** administers registration, operation and safety laws for all watercraft using Ohio's waterways; operates a watercraft safety program; and assists communities in developing boating facilities. The division also administers the NatureWorks Lake Erie access local grants program.
- The **Division of Recycling and Litter Prevention** administers a statewide litter prevention and recycling program and makes grants to local governments, solid waste management districts and businesses for specific recycling and litter prevention projects.
- The **Division of Forestry** protects and manages Ohio's state forests and provides technical assistance to landowners on sound forest management.
- The **Division of Mineral Resources Management** regulates all oil and gas field operations to protect the resource base, the environment and public safety, and the mining and reclamation of coal and industrial minerals, and enforces a mine safety program. Industrial mineral operations within the coastal area are regulated by this division.

Environmental Protection Agency

The Ohio Environmental Protection Agency (Ohio EPA) has authority to regulate air and water pollution, solid and infectious waste disposal, hazardous materials management, sewage treatment and public water supply facilities and water quality planning. Ohio EPA

is also responsible for water quality planning, pollution prevention programs and waste minimization planning. For Ohio EPA administrative purposes, the state is divided into five districts. District offices at Bowling Green in Wood County, and at Twinsburg in Portage County, serve the western and eastern areas of Lake Erie, respectively. Major policy decisions and oversight for Lake Erie programs and regulatory functions are coordinated from Ohio EPA's Central Office in Columbus.

Seven divisions located in the Central Office as well as the district offices carry out Ohio EPA's regulatory authorities:

- The **Division of Air Pollution Control** ensures that clean air standards set by USEPA pursuant to the 1970 Clean Air Act and its 1990 amendments are met throughout Ohio. Division services that contribute to that enforcement include surveillance, monitoring, inspection, evaluation of new sources and permit applications, emissions inventorying, litigation support, and technical assistance to industry and the public.
- The **Division of Drinking and Ground Waters** works to assure an adequate supply of safe drinking water through implementation of the 1974 Federal Safe Drinking Water Act and its amendments. The division regulates public water supply systems and maintains and interprets ground water data in support of other Ohio EPA activities.
- The **Division of Emergency and Remedial Response** oversees investigation and cleanup work at abandoned and unregulated hazardous waste sites; works with U.S. EPA to oversee superfund site cleanup; provides assistance to communities and industries during spills and other environmental accidents; oversees the treatment, storage and disposal of PCBs through a federal grant; administers the Right-to-Know Program for the State Emergency Response Commission; regulates the cessation of regulated operations; and conducts criminal investigations of improper handling and disposal of hazardous wastes.
- The **Division of Hazardous Waste Management** provides "cradle-to-grave" regulation of hazardous wastes, which includes monitoring and permit enforcement of generation, transport and disposal in compliance with state and federal rules.
- The **Division of Solid and Infectious Waste Management** regulates the disposal of solid waste, construction and demolition waste, and infectious waste through facility permits and construction oversight inspections, complaint investigation, local solid waste management plan review, and landfill closure plan review.
- The **Division of Surface Water** works to meet the objectives of the Federal Clean Water Act (CWA) by issuing permits for treated stormwater and wastewater

discharge, monitoring and enforcing permit compliance, and overseeing the treatment of industrial wastewaters before discharge into public sewage treatment systems. The division also establishes water quality standards, determines whether Ohio streams and lakes meet the requirements of the CWA and conducts detailed water quality studies. Wetland-related activities, development and implementation of Remedial Action Plans for the Cuyahoga, Maumee, Black and Ashtabula rivers, toxics monitoring and evaluation; and nonpoint source pollution monitoring and projects are coordinated by the division.

Other Ohio EPA programs located only in the Central Office have relevance to coastal area environmental quality responsibilities. The Division of Environmental and Financial Assistance administers the Ohio Water Pollution Control Loan Fund for municipal wastewater facilities construction and control of nonpoint source pollutants, pursuant to Title VI of the CWA. The Pollution Prevention Section works with agency divisions to integrate pollution prevention concepts into agency policy and regulations. The Environmental Education Fund awards grants for projects to increase awareness and understanding of environmental issues.

Department of Health

The Ohio Department of Health (ODH) has legislative authority for plan approval including location, construction and development of all marinas, campgrounds, manufactured home parks and swimming pools. ODH further works in concert with other state agencies and local health departments to ensure proper licensure and sanitation of the above-mentioned areas.

ODH is also the coordinating agency for collection of bathing-beach water samples, regulation of private drinking water systems and household/small flow onsite sewage treatment systems, posting of swimming advisories and administration of Clean Vessel Act grants. The department is responsible for issuing fish tissue consumption advisories, working in conjunction with Ohio EPA and ODNR.

Department of Development

The Ohio Department of Development (ODOD) administers federal community development programs and other state and federal financial assistance and service programs. ODOD's Office of Housing and Community Partnerships administers the federal Community Development Block Grant program to promote community and economic development in small cities and nonurban counties. ODOD, through its Office of Urban Development, also administers the Clean Ohio Revitalization Fund (CORF) and related loan funds authorized under O.R.C. 122.658 to undertake brownfield site clean up and remediation activities. ODOD works closely with the Ohio EPA and other agencies in managing these resources.

Department of Transportation

The Ohio Department of Transportation (ODOT) plans, builds and maintains a safe, efficient, accessible transportation system that integrates highway, transit, rail, air and water networks to foster economic growth and personal travel.

Department of Agriculture

The Ohio Department of Agriculture (ODA) enforces state agricultural laws and regulations governing the production, handling, distribution and marketing of agricultural products.

Historic Preservation Office

The Ohio Historic Preservation Office (OHPO) is the historic preservation agency of the State of Ohio. OHPO fulfills the responsibilities of the State Historic Preservation Office as outlined in the National Historic Preservation Act of 1966 (16 U.S.C. 470). OHPO identifies historic places and archaeological sites; nominates eligible properties to the National Register of Historic Places; reviews rehabilitation work on income-producing National Register properties for federal investment tax credits; monitors federally-assisted projects for effects on historical, architectural and archaeological resources; consults on conservation of buildings and sites; and offers educational programs and publications. OHPO is a division of the Ohio Historical Society (OHS), whose functions include maintaining archaeological and historic sites, registering landmarks, and operating museums and a research library.

Boards, Commissions and Authorities

Among Ohio's Boards, Commissions and Authorities, several have jurisdiction affecting activities in the coastal area:

Lake Erie Commission

The Lake Erie Commission consists of the directors of ODNR, Ohio EPA, ODOD, ODH, ODOT and ODAG. The commission meets quarterly or more frequently and is responsible for (1) ensuring coordination of water quality, toxic pollution control and resource protection policies and programs, (2) reviewing and making recommendations regarding management of Lake Erie water resources consistent with the Great Lakes water quality and toxic substances control agreements, (3) recommending modifications to the coastal management program, (4) implementing the Great Lakes and Lake Erie protection funds, (5) ensuring a basin-wide approach to lake issues, (6) enhancing Ohio's representation in state, regional, national and international forums regarding lake issues, and (7) promoting education regarding wise management of Lake Erie resources.

The Ohio Lake Erie Office was created to assist the commission in its efforts. The office is located in Toledo, Ohio. The executive director reports to the chair of the commission and serves as secretary for the commission. The Lake Erie Office performs functions important to coastal management, including: (1) assisting the commission in administering grants from the Lake Erie Protection Fund, (2) advising the governor and directors of relevant departments and agencies on the development, implementation and coordination of Lake Erie programs and policies, and (3) increasing representation of Ohio's interests in regional, national and international forums pertaining to resources of the Great Lakes.

Port Authorities

There are 11 port authorities on Lake Erie: Toledo-Lucas County, Vermilion, Huron, Put-in-Bay, Kelleys Island, Lorain, Cleveland-Cuyahoga County, Chagrin River, Fairport Harbor, Ashtabula and Conneaut. O.R.C. Chapter 4582 authorizes any county, municipal corporation or township to establish a port authority. With almost \$18 billion in annual exports from Ohio, these authorities play an important role in international trade. Port authorities also work cooperatively with federal, state and local governments, and the Army Corps of Engineers in activities including harbor development and maintenance, waterfront development, redevelopment and rehabilitation.

Hazardous Waste Facility Board

The Hazardous Waste Facility Board (HWFB) determines whether applications for new hazardous waste facilities should be granted or denied according to criteria established in Ohio law. The HWFB is composed of the Director of Ohio EPA, the Director of ODNR,

the Chairman of the Ohio Water Development Authority, a chemical engineer and a geologist employed by a state university.

Environmental Review Appeals Commission

The Environmental Review Appeals Commission (ERAC) is an appellate review board that hears appeals of decisions of the Ohio EPA Director regarding regulations and the issue and renewal of licenses, permits and pollution control certification. The ERAC also hears appeals of Board of Health actions regarding Solid Waste Facility licenses.

Power Siting Board

The Power Siting Board is a seven-member board that rules on the siting of major power generation and transmission facilities in the State of Ohio by issuing or denying certificates unless the activity is regulated under interstate commerce by the Federal Energy Regulatory Commission. The Directors of Ohio EPA and the Ohio Departments of Agriculture, Development, Health, and Natural Resources serve as members of the Board.

Water Development Authority

The Ohio Water Development Authority is an independent agency that provides financing to local governments for water, sewer, solid waste and energy projects by issuing revenue bonds to be retired with fees from the projects. The directors of Ohio EPA, ODNR and ODOD serve on the seven-member authority.

Ohio Commission on Dispute Resolution and Conflict Management

The Ohio Commission on Dispute Resolution and Conflict Management (OCDRCM) is charged with helping agencies and individuals learn practical ways to solve disputes. OCDRCM was the first commission in the nation to be sponsored jointly by all three branches of state government and to serve as a statewide resource for dispute resolution and conflict management information and referrals.

Local Agencies

The following are the local, county and regional entities that control or affect activities in the coastal area:

Municipalities

The form and powers of municipalities in Ohio are specified in the Ohio Constitution and the Ohio Revised Code. In general, municipalities provide the services associated with local government: police and fire protection, water supply, traffic control, zoning and building permits, and public health regulation and sanitation. A municipal corporation is classified as a city if its population exceeds 5,000, otherwise, an incorporated municipality is called a village. "Any municipality may frame and adopt or amend a charter for its government and . . . exercise thereunder all powers of local self-government," according to Article XVIII, Section 7, of the Ohio Constitution. It is under this home rule authority that cities and villages may adopt charters that vary their form of government from that provided under the general laws of the State of Ohio.

Municipalities with coastal flood hazard areas contribute to implementation of the OCMP by participation in the National Flood Insurance Program (NFIP) and enforcement of ordinances which meet or exceed standards required for such participation (see Policy 3). Municipalities additionally may elect to adopt and enforce ordinances to administer the OCMP permit for construction of permanent structures in Lake Erie coastal erosion areas (see Policy 1).

Townships

Townships in Ohio are divisions of the counties that exercise only those powers specifically delegated to them by the General Assembly, including the power to levy taxes. Townships are governed by a three-member board of trustees. Township responsibilities include road maintenance, police and fire protection, zoning and cemetery management.

Counties

The county is the major local subdivision of the state. Counties have been created to serve as agencies for the administration of state law. The major difference between a county and a municipality is that a municipality is created by the state upon the request of the people living within it for their interest and advantage, but a county is created by the state in order to carry out state policy. The people of the county must adopt a charter in order for the county government to exercise such broad powers.

Counties with coastal flood hazard areas contribute to implementation of the OCMP by participation in the National Flood Insurance Program (NFIP) and enforcement of ordinances that meet or exceed standards required for such participation (see Policy 3). Counties additionally may elect to adopt and enforce ordinances to administer the OCMP permit for construction of permanent structures in Lake Erie coastal erosion areas (see Policy 1).

Special Districts

Ohio law has authorized the creation of a variety of special districts to serve specific governmental purposes. A special district is not a part of another governmental unit but is a unit in and of itself. It has an independent budget and means of financing. Examples of special districts include conservancy districts, park districts, solid waste management districts, joint recreational districts, port authorities, regional water and sewer districts, soil and water conservation districts, joint economic development zones, general health districts and city health districts.

Local Health Departments

Local health departments may operate at the municipal or county level under a city health district board, general health district or combined district board of health. They serve a broad spectrum of health-related functions. Examples of the health department actions that may affect activities in the coastal area include enforcing regulations for private water systems and household sewage disposal systems, conducting bathing-beach water quality sampling programs, and licensing manufactured home parks, marinas, and campgrounds.

Regional Planning Agencies

County-wide and regional planning agencies also provide input on coastal management policy development and implementation. These agencies also serve an important coordinating function for the OCMP on issues of common interest among local jurisdictions in the coastal area. Regional planning agencies in the coastal area are the Toledo Metropolitan Area Council of Governments (TMACOG) and the Northeast Ohio Areawide Coordinating Agency (NOACA). Each serves as the local clearinghouse for the intergovernmental review of federal assistance applications coordinated by the State Clearinghouse. The Ashtabula County Planning Commission and the Erie County Regional Planning Commission perform planning and intergovernmental review services for Ashtabula and Erie County, respectively. TMACOG and NOACA are involved in water quality planning and the development of Remedial Action Plans (RAPs) for the Maumee River and Cuyahoga River Areas of Concern (AOCs).

SECTION 2. IMPLEMENTATION AUTHORITIES

The primary state statutory authority for implementation of the OCMP is O.R.C. Chapter 1506, which incorporates coastal management law into O.R.C. Title 15, Conservation of Natural Resources. By definition in O.R.C. 1506.01(B), the OCMP is ". . . the comprehensive action of the state and its political subdivisions cooperatively to preserve, protect, develop, restore, or enhance the resources of the coastal area and to ensure the wise use of the land and water resources of the coastal area" O.R.C. 1506.02 designates ODNR as the lead agency for the development and implementation of the OCMP. This statute requires the director of ODNR to develop and adopt the coastal management program document and to administer the OCMP in accordance with the program document, O.R.C. Chapter 1506, and administrative rules adopted under it. O.R.C. Chapter 1506 is contained in its entirety in Appendix C.

As an overview of authorities to manage activities in the coastal area, the following identifies ODNR's responsibilities derived from O.R.C. Chapter 1506 and additional state statutory authorities to implement Ohio's coastal management policies. The authorities are organized into nine issue areas that correspond to those described in Chapter 5, Management Policies, and include both enforceable and enhancement authorities as described in that chapter.

Coastal Erosion and Flooding

- Delineate 30-year Coastal Erosion Areas (O.R.C. 1506.06, O.A.C. 1501-6-10 to 1501-6-13)
- Enforce rules regulating new structures in Coastal Erosion Areas (O.R.C. 1506.07, O.A.C. 1501-6-21 to 1501-6-28)
- Require owners of property in Lake Erie Coastal Erosion Areas to notify buyers of the land's status prior to any transaction (O.R.C. 1506.06)
- Allow local authorities to adopt regulations in compliance with O.R.C. § 1506.07 (O.R.C. 307.37 and O.A.C. 1501-6-27)
- Administer a permit process for construction of erosion control structures (O.R.C. 1507.04)
- Provide financial assistance for erosion and flood control projects (O.R.C. 1507.06)
- Provide technical assistance for addressing erosion and flood hazard concerns (O.R.C. 1507.10 and § 1521.13)
- Cooperate with the Secretary of the Army, acting through the chief of engineers of the U.S. Army Corps of Engineers in conducting studies of Lake Erie shorelines and methods of arresting shore erosion and resulting damage (O.R.C. 1507.02)

- Enforce compliance by local governments with the National Flood Insurance Program (NFIP) (O.R.C. 1506.04, O.A.C. 1501:22-1-01 to 1501:22-1-08)
- Require that state-funded and financed developments comply with the NFIP and that when state regulatory jurisdiction preempts local regulations, ensure that the development complies with the NFIP before granting a permit, license or authorization (O.R.C. 1521.14)
- Prohibit financial disaster assistance in connection with a flood event within counties and municipalities determined to have noncompliant floodplain management regulations (O.R.C. 1521.14)
- Require that all state agencies and political subdivisions consult with ODNR, Division of Water, regarding avoidance of uneconomic, hazardous or unnecessary use of floodplains for public facilities (O.R.C. 1521.14)
- Regulate design and construction of dams, dikes and levees (O.R.C. 1521.06 et seq., O.A.C. 1501:21)

Water Quality

- Assure attainment of State Water Quality Standards (O.R.C. Chapters 3734, 3745, 6111 and 6121, O.A.C. 3745-1)
- Control discharges into waters of the state by requiring permits to construct facilities and by establishing and enforcing effluent limitations under the national pollutant discharge elimination system (O.R.C. 6111.03, O.A.C. 3745-31 and 3745-33)
- Administer a permit system to control injection well drilling in compliance with the "Safe Drinking Water Act" and the CWA (O.R.C. 6111.043 and 6111.0444, O.A.C. Chapter 3745-34)
- Regulate discharge of dredge or fill material in accordance with Section 401 of the Clean Water Act (O.R.C. 6111.03, O.A.C. Chapter 3745-32)
- Establish uniform regulations regarding solid waste disposal sites and facilities (O.R.C. 3734.02 and 3734.05, O.A.C. 3745-50 through 58, 3745-63, -65 and -69)
- Prohibit the sale or distribution for sale of phosphorus-containing household laundry detergents in the Lake Erie basin (O.R.C. 6111.10)
- Prepare a state water quality management plan to assess technical needs for pollution control and institutional mechanisms to enforce controls (O.R.C. 6111.41 and 6111.42)

- Administer a state revolving loan fund program to provide financial assistance for publicly owned wastewater treatment facilities and the implementation of nonpoint source pollution management programs (O.R.C. 6111.03, 6111.036, 6111.037 and 6121.03)
- Provide financial support for research and pollution abatement projects (O.R.C. 1506.23)
- Coordinate policies and programs pertaining to Lake Erie water quality through the Lake Erie Commission (O.R.C. 1506.21)
- Promote soil and water conservation and prevention of agricultural and urban sediment pollution (O.R.C. Chapters 1511 and 1515, O.A.C. 1501:15-5)
- Provide financial and technical assistance for soil and water conservation purposes (O.R.C. 1515.02)
- Implement the Ohio Nonpoint Source Management Program through a broad matrix of authorities
- Require emergency planning to prevent and contain environmental contaminant releases (O.R.C. Chapter 3750)
- Provide emergency response to spills (O.R.C. Chapters 6111 and 3750)
- Supervise the design, construction and operation of public water supply systems (O.R.C. 6109.07, O.A.C. 3745-81 through 83, and -85, -89, -91, -92, -95 and -99)
- Administer the state Safe Drinking Water Act (O.R.C. Chapter 6109, O.A.C. 3745-81 and -82)
- Regulate construction and operation of water supply and wastewater treatment systems (O.R.C. 3701.04, 3701.344, 3718.02, 6111.03, 6109.07, and O.A.C. 3701-28, 3701-29, 3745-9)
- Regulate underground hazardous and petroleum materials storage facilities and above-ground hazardous waste storage (O.R.C. 3737.87, 3737.88, 3737.881, 3737.882 and O.A.C. 1301:7-9 and 3745-54)
- Regulate oil, gas, coal and mineral operations (O.R.C. Chapter 1509, 1513 and 1514, O.A.C. 1501-9-1, -3, -5, -7 and -9 through -11)
- Regulate subsurface injection of brine and other wastes associated with oil and gas operations (O.R.C. 1509.22)

Ecologically Sensitive Resources

- Regulate wetland development activities through water quality standards, including the antidegradation policy, and Ohio EPA's Section 401 Water Quality Certification (O.R.C. 6111.03(O) and 6111.03(P), O.A.C. 3745-1 and 3745-32)
- Minimize adverse impacts to wetlands in carrying out ODNR responsibilities (ODNR Policy Statement - Wetlands)
- Acquire, protect and restore coastal wetlands (O.R.C. 1501.01, O.R.C. Chapters 1517, 1531 and 1541)
- Acquire, protect and manage state nature preserves (O.R.C. 1517.05 and 1517.06. O.A.C. 1501:17)
- Protect habitat of rare and endangered species (O.R.C. 6111.03(O), 6111.03(R), O.A.C. 3745-1-05(C))
- Restrict the taking and possession of threatened native animal species (O.R.C. 1531.25 and 1531.99, O.A.C. 1501:31)
- Restrict the taking, removal, transportation and sale of endangered or threatened native plant species (O.R.C. 1518.02, O.A.C. 1501:18)
- Regulate the sale of purple loosestrife (O.R.C. 927.682)
- Regulate the importation, sale and possession of exotic species of fish (O.A.C. 1501:31-19-01)

Ports and Shoreline Development

- Protect the public trust in Lake Erie waters and underlying lands through submerged lands leasing program (O.R.C. 1506.10 and 1506.11 and O.A.C. 1501-6-01 through 1501-6-06), submerged lands preserves (O.R.C. 1506.31) and permits for salvage and alteration of submerged abandoned property (O.R.C. 1506.32)
- Regulate the discharge and disposal of dredged material (O.R.C. 6111.03(P) and O.A.C. 3745-1)
- Regulate commercial dredging of mineral resources (O.R.C. 1505.07)

Recreational and Cultural Resources

- Protect public access rights through submerged lands leasing program (O.R.C. 1506.11 and O.A.C. 1501-6-01 through 1501-6-06)
- Provide for public access within the state nature preserve system and state parks system (O.R.C. 1517.05 and O.R.C. Chapter 1541, O.A.C. 1501:17 and 1501:41)
- Prepare, maintain and update a Lake Erie public access facilities inventory; assess needs and prepare plans and policy recommendations to increase public access (O.R.C. 1506.05)
- Provide grants for public access improvements (O.R.C. 1506.02 and 1506.05)
- Protect historically and archaeologically significant resources and abandoned submerged property (O.R.C. 149.55, 149.51, 149.56, 1506.31 and 1506.32, O.A.C. 149-1-02)
- Regulate watercraft safety (O.R.C. Chapter 1547)
- Require licensure of hunters, trappers and fishermen and provide hunter and trapper education (O.R.C. 1533.10, 1533.111 and 1533.32, O.A.C. 1501:31)
- Conduct a watercraft safety and education program (O.R.C. 1547.52 and 1547.521)
- Administer the refuge harbor program jointly with the U.S. Army Corps of Engineers (O.R.C. 1547.71)

Fish and Wildlife Management

- Require hunter safety and trapper education courses (O.R.C. 1533.10 and 1533.111, O.A.C. 1501:31)
- Regulate the taking of fish (O.R.C. 1531.08 and O.A.C. 1501:31) and wildlife (O.R.C. Chapter 1533 and O.A.C. 1501:31)
- Protect all wildlife, including nongame and endangered species (O.R.C. 1531.02, 1531.08 and 1531.25, O.A.C. 1501:31)
- Establish state wildlife areas (O.R.C. Chapter 1531.06, O.A.C. 1501:31)
- Investigate water pollution, fish kills and stream litter (O.R.C. 1531.29, 1531.02, and 1531.202)
- Protect fish habitat (O.R.C. 1531.29 and 6111.03, O.A.C. 3745-27-01 and 3745-1)
- Acquire and develop fishing access areas (O.R.C. 1531.06)

Environmental Quality

- Attain and maintain National Ambient Air Quality Standards (O.R.C. Chapters 3745, 3706, and 5709 and O.A.C. 3745)
- Regulate hazardous, solid and infectious waste facilities (O.R.C. Chapter 3734, O.A.C. 3745)
- Enforce requirements of the Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (O.R.C. Chapter 3734, O.A.C. 3745-50 through 58, 3745-63 and 3745-65 through 69)
- Establish long-range solid and hazardous waste management plans and hazardous waste pollution prevention plans (O.R.C. Chapter 3734, O.A.C. 3745-52-20, 3745-54-73, 3745-54-75, 3745-34-04)
- Regulate marina construction relative to sanitary facilities (O.R.C. 3733.22 and 3733.24, O.A.C. 3701-35)
- Prohibit dumping of litter (O.R.C. 3767.32)

Energy and Mineral Resources

- Require certification of major utility facilities (O.R.C. 4906 and O.A.C. 4906)
- Require 10-year demand, resource and site inventory forecasts for energy generation and transmission activities (O.R.C. 4935.04 and O.A.C. 4901:5)
- Regulate storage of energy related resources (coal, oil and gas) (O.R.C. 4906.06 and O.A.C. 4906)
- Regulate oil and gas extraction (O.R.C. 1509.02 and O.A.C. 1501:9)
- Regulate removal of minerals and other substances from Lake Erie and under its lake bed (O.R.C. 1505.07)
- Regulate surface mining activities (O.R.C. 1514, O.A.C. 1501:14-1 through 1501:14-4 and O.R.C. 1561, 1563, 1565 and 1567)

Water Quantity

- Regulate water diversions from Lake Erie (O.R.C. 1501.30 through 1501.32 and O.A.C. 1501-2-01 through 1501-2-12); coordinate with Great Lakes states and provinces regarding certain such regulatory actions (O.R.C. 1503.32)
- Require large facilities to register capacity and submit annual withdrawal reports (O.R.C. 1521.16)
- Develop and implement a long- range water resources plan for the Lake Erie Basin (O.R.C. 1521.15)
- Develop regional water management plans (O.R.C. 1521.03)
- Require the filing of well logs (O.R.C. 1521.05)
- Assist in ground water conflict resolution (O.R.C. 1521.03(E)) and designate ground water stress areas (O.R.C 1521.16(B))

SECTION 3. ORGANIZATIONAL STRUCTURE OF THE OHIO COASTAL MANAGEMENT PROGRAM

The Role of the Office of Coastal Management

The Office of Coastal Management (OCM) is organized to serve the director and ODNR in carrying out certain mandates of state and federal law including Lake Erie coastal area management. Tables of Organization for ODNR and OCM are illustrated in Figures 3 and 4, respectively.

OCM contains four sections: Fiscal/Administration, Coastal Lands, Coastal Network, and Engineering. The programs operating within these sections work in an integrated management setting. The Fiscal/Administration section conducts the office's human resources and fiscal activities and administers the federal grant from NOAA. The Coastal Engineering section conducts review of applications for Shore Structure Permits and Coastal Erosion Area permits, as well as providing technical support for applicants, consultants, and local and state government agencies. The Coastal Lands section provides resources for information management and dissemination, including the Lake Erie GIS project and the Ohio Coastal Atlas. The section also administers the Submerged Land program. The Coastal Network section conducts ODNR's state and federal consistency reviews, administers the Coastal Management Assistance Grant program, oversees implementation of the Coastal and Estuarine Land Conservation Program (CELCP), and coordinates OCMP network initiatives, including the IMT and PPCC.

An Assistant Attorney General provides legal advice and assistance in rulemaking, regulatory and contractual actions, and represents ODNR in coastal-related legal proceedings. An Assistant Attorney General has assisted the Coastal Management Section in reviewing proposed OCMP authorities and policies and will assist in mediating disagreements between federal agencies and ODNR regarding consistency of federal actions with the policies of the OCMP.

OCM is charged with specific responsibilities in developing and implementing the OCMP. The following are OCM's coastal management responsibilities, some of which are keyed to corresponding policies in Chapter 5:

- Coastal Management Program Administration. OCM is responsible for coordinating the development of rules for the implementation, administration and enforcement of the OCMP and for preparing and amending the OCMP document. The Administration section prepares the program budget, uses state and federal funds to support program activities and provides grants for a wide range of coastal-related projects. Staff are responsible for coordinating with all ODNR divisions and state agencies networked in the OCMP. The Chief is responsible for coordinating with ODNR's federal counterpart, the National Oceanic and Atmospheric Administration (NOAA), Office of

FIGURE 3

OHIO DEPARTMENT OF NATURAL RESOURCES

March 2007

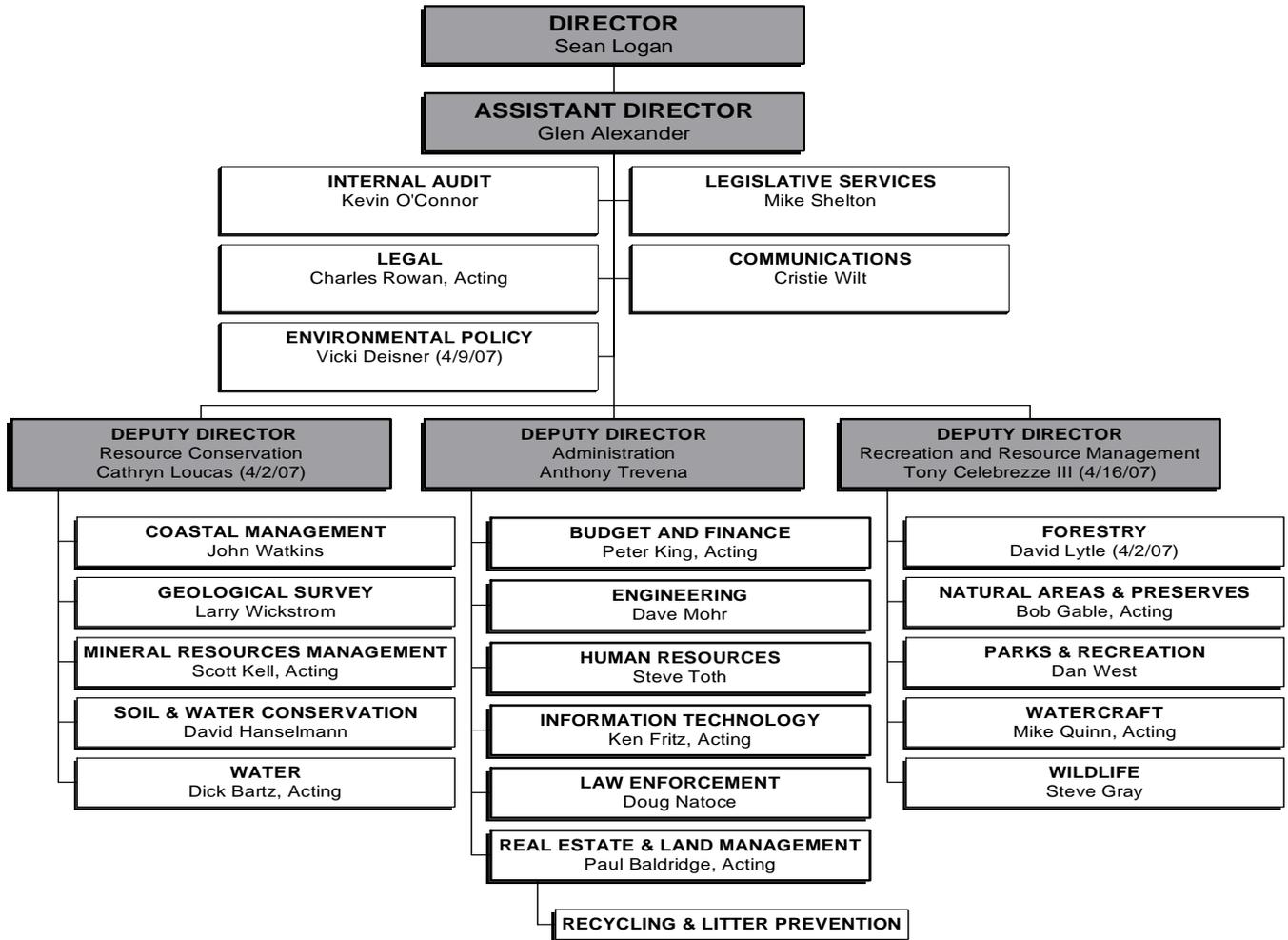
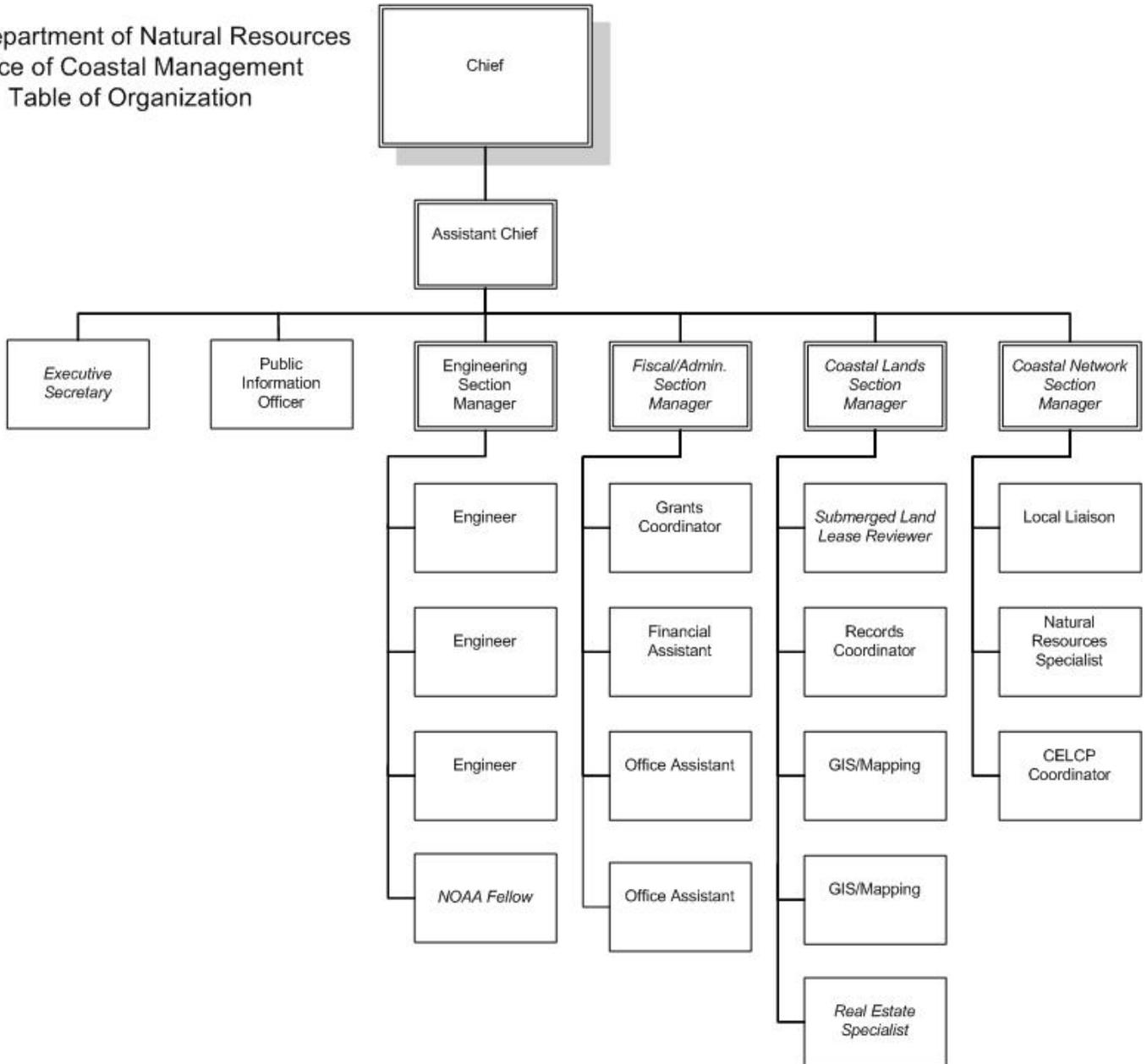


FIGURE 4

Ohio Department of Natural Resources
Office of Coastal Management
Table of Organization



- Ocean and Coastal Resource Management (OCRM), on program implementation, evaluation and enhancement.
- Administration of Lake Erie submerged lands (Policy 16).
- Administration of the Submerged Lands Preserves program and salvage permitting process for abandoned submerged property (Policy 26).
- Conducting ODNR's consistency reviews of federal projects, activities requiring federal licenses or permits, and federal assistance activities in accordance with the requirements of the federal CZMA and implementing regulations (see Chapter 7, Federal Consistency). The Coastal Network section is responsible for coordinating these reviews within ODNR and consulting with other agencies with coastal management responsibilities to ensure consistency with the rules, regulations and policies of the OCMP.
- Conducting consistency reviews of state agency projects and activities subject to the approval of any state agency. The Coastal Network section is responsible for coordinating these reviews within ODNR and consulting with other agencies networked in the coastal management program to ensure consistency with the policies of the OCMP (see Section 4 of this chapter, "Achieving Consistency with Coastal Management Policies").
- Administering the Coastal Management Assistance Grants Program.
- Preparing and maintaining a current inventory of public access facilities and preparing and publishing plans and policy recommendations for enhancing public access to Lake Erie (Policy 21).

OCM exercises significant direct controls over activities in the coastal area. Among OCM's responsibilities cited above, direct controls include (1) controlling uses of Lake Erie public trust waters and submerged lands through submerged lands leasing, (2) providing special protection for abandoned property and features and formations in Lake Erie by establishing submerged lands preserves as well as policies and rules governing access to and use of preserves, and (3) regulating the recovery, alteration or salvage of abandoned submerged property through permitting.

ODNR, through the authority of the director and/or departmental divisions, exercises many other direct controls, including: (1) controlling development of permanent structures in Lake Erie coastal erosion areas through permitting, (2) regulating erosion control structures on the shoreline of Lake Erie through construction permits, (3) regulating water diversions of Lake Erie through permits, and (4) controlling many other activities in the coastal area through the enforceable authorities of O.R.C. Title 15, Conservation of Natural Resources. These authorities are listed in Section 2 and are presented as enforceable policies in Chapter 5, including citations from O.R.C. Chapters 1501 through 1548.

Mechanisms for Networking the OCMP

Many authorities provide the basis for implementing the coastal management program, including controls exercised by other state agencies. The preceding Section 2 provides an overview. Chapter 5 contains the detailed descriptions of all enforceable policies and enhancement policies used in the coastal management program. These authorities are networked into the OCMP, and OCM has the responsibility to monitor the implementation of these policies for activities affecting the coastal area and to ensure consistency of state activities. Thus, the State of Ohio primarily will use direct state land and water use planning and regulation, control technique 306(e)(1)(B), (15 C.F.R. 923.43), to implement the full range of policies and management techniques. Two exceptions are floodplain management (Policy 3) and administration of a permit system for construction of permanent structures in coastal erosion areas (Policy 1), for which the OCMP will use control technique 306(e)(1)(A), (15 C.F.R. 923.42), or state establishment of criteria and standards for local implementation.

The OCMP is organized within ODNR to integrate the activities of the divisions with coastal management authorities and responsibilities.

The Integrated Management Team assists OCM in coordinating and executing coastal management responsibilities. The Integrated Management Team consists of key individuals representing ODNR's divisions who work cooperatively with OCM to implement the OCMP to ensure that actions of their respective divisions are consistent with the OCMP and ultimately to ensure that ODNR's actions are consistent with coastal management policies. The Director of ODNR directed the chief of each division with significant relevant coastal responsibilities to select a key individual to serve on the management team. Individuals from OCM and the divisions of Natural Areas and Preserves, Parks and Recreation, Forestry, Real Estate and Land Management, Soil and Water Conservation, Water, Watercraft, Wildlife, Geological Survey, and Engineering comprise the ODNR Integrated Management Team. The entire team meets regularly, and portions of the team meet with respect to specific issues as they arise.

The Divisions of Geological Survey, Water, REALM, and OCM have specific designation, enforcement and technical responsibilities pertaining to coastal flooding and erosion areas, shore erosion protection, and use of Lake Erie waters and submerged lands. OCM's Engineering and Coastal Lands sections coordinate ODNR's review of consolidated permit applications.

ODNR's various divisions provide input in department-wide environmental reviews conducted by REALM. The Coastal Network section integrates these interdisciplinary reviews in the OCMP's consistency review process (discussed in Section 4 of this chapter) and coordinates with other state, federal and local agencies.

Outside of ODNR, the OCMP is networked with other state agencies having authority and responsibilities in the coastal area. One method of coordination is through the Lake Erie

Commission. Agencies represented on that commission are the Ohio EPA and the Departments of Health, Agriculture, Transportation and Development.

The OCMP uses a Policies and Programs Coordinating Committee (PPCC) to ensure continuing communication among the agencies networked in the program and to help coordinate the activities of the agencies. The PPCC consists of the Chief of OCM, Executive Director of the Lake Erie Office, individuals designated by the directors of the five agencies in addition to ODNR on the Lake Erie Commission, and an individual designated by the Ohio Historical Society. The responsibilities of those serving on the PPCC include serving as agency liaisons for coastal management purposes and helping to ensure that actions by the respective agencies, or subject to the approval of or funding by the agencies, are consistent with coastal management policies. The PPCC assists ODNR and other agencies with program implementation. Further details on how this relates to other mechanisms in forming a comprehensive program are provided in Section 4 of this chapter. The PPCC will also participate in periodic program evaluation and planning to enhance the OCMP.

The Ohio Coastal Training Program is a national education program initiated in Ohio by Old Woman Creek National Estuarine Research Reserve, the Office of Coastal Management, and Ohio Sea Grant College Program. The mission of the Program is to enhance coastal resource management training by developing partnerships and coordinating activities among organizations that serve the training and information needs of Lake Erie coastal decision-makers. Coastal decision-makers are individuals who, in a professional, volunteer, or way-of-life capacity, make decisions that affect Lake Erie coastal or watershed resources. This may include appointed and elected officials, environmental agency staff, business representatives, farmers, nonprofit organizations, or natural resource managers. To better serve the training and information needs of these professionals, the Ohio Coastal Training Program is developing a web-based information clearinghouse, designing core courses, providing marketing and program evaluation support for training throughout the Lake Erie watershed.

Memoranda of Understanding (MOUs) have been developed between ODNR and the Ohio EPA and the Department of Transportation (see Appendix E). The MOUs are a critical component of the networked coastal management program. The purpose of the MOUs is to facilitate consultation and coordination between ODNR and agencies networked in the OCMP. The MOUs set forth the responsibilities of the agencies to ensure consistency with coastal management policies of activities subject to state agency approval and to provide mechanisms for mediating determinations of inconsistency.

The MOUs describe actions that will be undertaken by each agency to minimize duplication and delays while ensuring that activities affecting the coastal area are adequately reviewed. The MOUs contain a statement of purpose and describe coordination processes with ODNR. Steps are detailed for ensuring consistency of state projects, activities that require a state permit or license, and projects receiving state financial assistance. The MOUs set forth steps to be followed to mediate disagreements and designate agency liaisons for these purposes.

Cooperation with Other Programs

The OCMP cannot achieve its integrated management goals without working with the following additional programs that have complementary objectives. Important OCMP linkages exist with the first two listed programs, which have a common federal partner, NOAA.

The **National Estuarine Research Reserve (NERR) Program**, administered in Ohio by the Division of Wildlife at the Old Woman Creek State Nature Preserve and National Estuarine Research Reserve (OWC-NERR), plays an important role in the development and implementation of Ohio's coastal management policies. Strong institutional relationships exist with the OCMP as a result of OWC-NERR's involvement in ODNR's interdisciplinary environmental reviews, nonpoint source pollution management, coastal wetlands research and wetlands protection policy development. The OWC-NERR program administrator is a member of the OCMP's Integrated Management Team.

The **Ohio Sea Grant College Program**, administered by The Ohio State University, is a partnership of Ohio colleges and universities, agencies, industries, the public and federal government, working to increase the enjoyment, development and balanced use of Lake Erie and marine resources. The program accomplishes its goals through supporting research and providing education and advisory or extension programs. Technology transfer is accomplished by the Advisory Service, its four extension specialists and advisory committees of citizens representing diverse interests in Lake Erie.

The OCMP works directly with Ohio Sea Grant and indirectly through the Ohio Lake Erie Office to publish information on coastal management issues and promote a better understanding of the problems and opportunities in protecting, developing and restoring coastal resources. ODNR and agencies networked in the OCMP publish articles about policies and programs affecting Lake Erie interests in the Lake Erie Commission Supplement to Ohio Sea Grant's bimonthly publication, *Twine Line*. Ohio Sea Grant staff and extension specialists consult ODNR on a wide range of coastal issues and participate in meetings of the OCMP's Coastal Resources Advisory Council. Such interaction enhances the Council's ability to make sound recommendations on policies, plans and programs for long-term, comprehensive coastal management.

The **Coastal Resources Advisory Council** an important linkage for policy development and public outreach. The Council, created pursuant to O.R.C. 1506.12, consists of 19 members representing a broad range of interests, experience and knowledge relating to the management, use, conservation and development of the coastal area. It annually selects a chair from its members and holds meetings at least quarterly in the coastal area. Its meetings are open to the public, as are the records of its proceedings (Appendix F – Sunshine Rule). The Council advises and makes recommendations to ODNR's director on the development of coastal management policies, plans and programs, and on ways to enhance cooperation among governmental agencies having an interest in coastal management. OCM assures effective interaction between the Council and OCMP by involving members of the Integrated Management Team and PPCC in meetings of the Council as

necessary. The Council assists ODNR with public participation in the development of the OCMP, including public meetings and hearings.

Cooperation with **local governments and planning agencies** in the coastal area is vital to the coastal management program. Many of the policies of the OCMP directly affect or call for action by local jurisdictions. The OCMP consults with county planning agencies, area-wide planning agencies, and local communities on submerged lands issues, Lake Erie coastal erosion area designation and enforcement, coastal flood hazard area regulation, and other aspects of coastal management. Coastal Resources Advisory Council meetings provide an opportunity for information exchange and input by local and regional entities on coastal management policy making. There are also linkages between local jurisdictions and several state agencies that are represented on the Lake Erie Commission and ODNR's PPCC. This is important because the PPCC helps state agencies with responsibilities in the coastal area to be knowledgeable about local issues, coastal activities and other coastal management concerns. In turn, the agencies represented on the PPCC assist ODNR in helping keep constituents and local agencies informed about coastal management program activities, policy making and opportunities for cooperative projects.

Finally, ODNR's partnership with NOAA will play an important role in effective administration of the coastal management program. NOAA must work closely with ODNR to maximize the protection and use of the coastal area based upon Ohio's needs, while also satisfying national needs.

SECTION 4. ACHIEVING CONSISTENCY WITH COASTAL MANAGEMENT POLICIES

This Section discusses measures to avoid conflicts and achieve consistency in program implementation at the state level. State consistency is essential in achieving improved coordination, increasing predictability in decision making, and ensuring that the OCMP is a comprehensive program.

Ohio law, O.R.C. 1506.03, states that "no project or activity directly affecting the coastal area that is proposed by or subject to the approval of any agency of the state shall be implemented or approved until the Director of Natural Resources has determined that it is consistent with the policies in the coastal management program document." When the following activities directly affect the coastal area, they must be consistent with the policies in the OCMP document:

1. State agency projects and activities;
2. Applicant activities that require state permits, licenses or certifications.

"State agency" or "agency of the state" means any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. It does not include the general assembly or any court (O.R.C. 1506.01(G)).

Achieving state consistency with Ohio's coastal management policies is fundamentally a proactive effort. It will be of benefit to both the sponsors of projects affecting the coastal area and the state or local agencies that enforce Ohio's policies through permitting, licensing and other actions.

Benefits to developers and project sponsors will include: determining more quickly and precisely what permits or other authorizations are required for a given project and understanding better why and on what basis permits and approvals would be issued, denied, or conditionally granted. In this way, project planning will be expedited and predictability of decision making improved.

Benefits to state and local agencies will include: enhancing each agency's knowledge of the enforceable authorities and policies of other state and local agencies with responsibility in the coastal area; improving the coordination of project reviews between and among agencies; identifying opportunities and taking action to simplify and consolidate the regulation of activities in the coastal area; and improving monitoring and enforcement through communication and networking.

The OCMP will use its enforceable authorities and policies, clearly identified in Chapter 5, to ensure state consistency. These policies and effective consultation and coordination among networked state and local agencies will combine to assure that projects directly affecting the coastal area will be consistent with the state's coastal resource management policies.

The substantive and procedural criteria for determining consistency are unique to each enforceable authority and policy cited in Chapter 5. In practice, ODNR uses information generated by agencies that implement these policies or controls on activities affecting the coastal area. When a project is subject to one or more enforceable authorities, the Coastal Network section, OCM, reviews information provided by the responsible agency(ies) and may consult with other state, federal or local agencies. In appropriate cases, ODNR will notify the public of consistency reviews and provide an opportunity for comment prior to the final consistency determination.

ODNR will publish a policies summary and consistency guidance for state and local agencies and permit applicants. The guidance will provide detailed procedures for complying with the consistency requirement. This information and the technical assistance provided by agencies networked in the OCMP will assist developers and any state agencies that require permits or other approvals for their projects. The OCMP strongly encourages early coordination and preapplication consultation with the agencies that implement coastal management policies.

Within ODNR, OCM has the administrative responsibility for consistency reviews, using the existing interdisciplinary environmental review process. OCM may monitor individual projects during implementation and evaluate overall consistency performance by ODNR and state agencies.

Although not subject to the consistency requirement, projects for which state financial assistance is sought may benefit from the consistency process. State agencies providing financial assistance for projects that would directly affect the coastal area should provide the OCMP policies summary and consistency guidance to the project sponsor. In this way, the sponsor will be encouraged to consult with appropriate agencies to ensure consistency with coastal management policies.

By coordinating the rules and policies of agencies networked in the program, the OCMP will simplify and consolidate the regulation of activities in the coastal area consistent with the Ohio Coastal Management Law (O.R.C. 1506.02(A)(5)). Agencies of the state will benefit from consultation that will assist decision making and avoid potential conflicts between different authorities that bear on the same project or activity. The sponsors of projects that affect the coastal area will benefit as well. There will be fewer potential delays, and the predictability of decisions by agencies that exercise authority in the coastal area will be improved. The enhanced coordination in the OCMP improves the environment for local and regional economic development consistent with the protection and management of the state's coastal resources.

Consistency for State Projects

Each state agency has responsibility to certify and ensure that its own proposed projects are consistent with coastal management policies. However, the ultimate authority to determine consistency rests with the Director of ODNR. The director may concur with another state agency's or division's certification of consistency or object and require that a particular project not be implemented or approved unless it is modified to be consistent with OCMP policies. The denial of a state permit cited in Chapter 5 or a violation of state law cited as an enforceable policy would automatically be grounds for a determination by the director that the project or activity is not consistent with coastal management policies. State projects and activities that are subject to consistency review are listed at the end of this chapter. To the maximum extent practicable, the direct state activities and development projects shall be carried out in a manner consistent with all applicable policies whether enforceable or not.

The following procedure is to be followed by the agency responsible for a proposed state project:

1. Determine whether the project will directly affect coastal resources.
2. Determine which OCMP policies apply.
3. Consult as needed with other relevant state agencies.

4. Submit to ODNR (Consistency Coordinator, OCM), at least 90 days before final decisions are made by the agency or any participating agency, a notification that includes a consistency certification, location map and site plan, and a project description commensurate in detail with its size and scope.

The certification should read as follows: "I certify that the proposed project complies with and will be conducted in a manner consistent with the policies of the Ohio Coastal Management Program."

5. Provide additional supporting data and list all applications, approvals and denials received from state, local or federal agencies for all activities associated with the project. Document consultation and findings.

ODNR shall inform the state agency of its concurrence in or objection to the consistency certification in writing within 60 days of receipt of the notification described in item 4 above. ODNR may notify the agency within that time that the final response will be delayed and provide reasons for the delay. The extension period shall be 15 days or less. Additional extensions shall not be provided unless mutually agreed to between ODNR and the agency.

Upon completion of its review, ODNR will notify the state agency in writing that the proposed project is either consistent or inconsistent with policies of the OCMP. If found consistent, no further reviews by ODNR will be necessary. If found inconsistent, ODNR will clearly identify the rule, regulation, or policy the action does not meet and will recommend ways that the action should be modified, if possible, to ensure consistency. ODNR may also request additional information necessary to make its determination. Revised proposals shall be resubmitted to ODNR for determination of consistency. ODNR will notify the state agency and the agency(ies) with approval authority of its determination within 30 days of receipt of the revised proposal.

Consistency in Activities Requiring a State License, Permit or Other Approval

For a project or activity directly affecting the coastal area subject to the approval of any agency of the state, each state agency that has regulatory or other enforceable authority will review the project for consistency. The permitting agency assumes responsibility for notifying and clarifying to the applicant the OCMP consistency requirement and the applicable policies and authorities.

The following procedure is to be followed by the authorizing agency:

1. Determine whether the regulated activity will directly affect coastal resources.
2. Inform the applicant of the OCMP consistency requirements and request necessary documentation.

3. Review the application to ensure the activity contemplated is consistent with and will be conducted in a manner consistent with applicable coastal management policies.
4. Consult as needed with the applicant and with relevant state agencies.
5. Notify ODNR (Consistency Coordinator, OCM) as follows:
 - a. An agency that has not developed a Statement of Coastal Management Policies approved by ODNR (see following section on Mechanisms to Ensure State Consistency), shall notify ODNR of its finding that the proposed activity is or is not consistent with its enforceable policies at least 30 days before a final action is taken.
 - b. An agency that has developed a Statement of Coastal Management Policies shall notify ODNR if the proposed activity is found not to be consistent with coastal management policies at least 30 days before a final action is taken.
6. Notify ODNR in any case whether the project has met the agency's enforceable requirements (e.g., state agency intends to grant approval; agency intends to deny approval; agency intends to withhold approval until it meets standards or complies with rules).

For each proposed activity about which a state agency has notified ODNR pursuant to paragraph 5, ODNR will base its consistency determination upon the approvals of the state agencies enforcing the policies and authorities in the coastal management program document. Whenever a project does not meet the requirements of one or more state or local agencies that implement enforceable coastal management policies, the Director of ODNR will require that the project not be implemented until it is determined that it is consistent with the policies in the coastal management program document. Assurance from a state agency that its approval will be granted provided specific conditions or requirements are met could be the basis for a determination of consistency by the Director of ODNR, contingent upon the project adhering to those requirements.

ODNR will notify the applicant and the authorizing agency in writing of its consistency determination. In any determination of inconsistency, ODNR will clearly identify the rule, regulation or policy that the action does not meet and will recommend to the applicant in writing ways that the action should be modified, if possible, to ensure consistency. ODNR may request additional information necessary to make its determination. Revised proposals must be resubmitted to ODNR for determination of consistency. ODNR will make a new determination of consistency based upon the action of the agency enforcing the applicable policy. ODNR will notify in writing the applicant and the state agency(ies) with approval authority of its determination within 30 days of receipt of the revised proposal.

While all state agencies will participate in the consistency review process, each state agency is ultimately responsible for implementing only its specific authorities.

Mechanisms to Ensure State Consistency

Statements of Coastal Management Policies

The Ohio Coastal Management Act, in O.R.C. 1506.03, provides for discretionary development by each state agency of a statement of coastal management policies, subject to the approval of ODNR's director. ODNR recommends that, for appropriate classes of activities, a state agency develop a statement of coastal management policies. This statement must, at a minimum, be as stringent as the corresponding OCMP policy provisions. The OCMP encourages state agencies to develop statements of coastal management policies as a means to assure consistency and avoid case-by-case reviews of projects and activities that singly and cumulatively do not have the potential to cause significant impacts upon coastal resources. A statement must include:

1. A list of the agency's projects or activities that, if implemented or approved, would directly affect the coastal area (refer to Chapter 3) and that are determined by agreement between ODNR and the agency to be consistent with the policies of the OCMP;
2. A provision that incorporates the approved statement into the agency's administrative policies and decision-making processes; and
3. A provision for the annual review of consistency performance by ODNR, with revocation of approval if consistency performance is determined to be unsatisfactory.

OCM will consult at least annually with each agency using a statement of coastal management policies. OCMP staff will request information on the number and location of projects implemented under the statement. State agencies will be encouraged to provide information on consultations with agencies that enforce coastal management policies. OCM may select projects at random for on-site review and consult with other agencies that exercise applicable enforceable authorities.

ODNR will notify any agency whose approval is to be revoked, providing a written justification for the revocation. The revocation shall be effective 30 days after the date of notification. An agency whose statement of coastal management policies is revoked may submit for ODNR approval a new statement no earlier than six months after the revocation date.

Memoranda of Understanding

Several agencies networked in the OCMP have developed MOUs with ODNR to facilitate consultation and coordination and help ensure consistency (see Appendix E and Section 3 of this chapter, "Mechanisms for Networking the OCMP"). These MOUs address activities requiring case-by-case review and those exempt from review (categorical exclusions).

Early Coordination

ODNR will use early coordination meetings and "pre-application consultation" to communicate the requirements of the OCMP and to help ensure that an activity will be implemented in a manner consistent with the OCMP. OCMP policies and consistency guidance to be published by REALM may be used or adapted for use in grants manuals, procedural guides and other publications of state agencies that provide financial assistance or that regulate activities.

Interagency Consultation

Any state agency can use the Policies and Programs Coordinating Committee (PPCC) to coordinate project planning or to provide consultation in the planning or review of a project affecting the coastal area. To request such assistance, an agency representative should contact OCM's Consistency Coordinator. The PPCC will assist OCM in ensuring overall program consistency by monitoring select projects during implementation. This will help refine OCMP consistency mechanisms and assist in determining when categorical exclusions and case-by-case reviews are appropriate.

Conflict Resolution

Ohio's coastal management legislation requires all state agencies to "cooperate with the Department of Natural Resources in the implementation of the coastal management program" (O.R.C. 1506.02). This provision, and the provision requiring state consistency (O.R.C. 1506.03) greatly decrease the potential for conflict. Nevertheless, OCMP policies may lead to conflicts between parties with various rights and authorities. Therefore, the OCMP provides formal conflict resolution processes.

Conflicts between state agencies, or between ODNR divisions, over issues related to coastal management policies will be addressed initially by OCM upon request by a state agency or ODNR division. Upon receipt of a written request for mediation describing the activity or issue over which there is a serious disagreement, the Chief of the Office of Coastal Management will within 15 days schedule a meeting of the parties involved. If mediation efforts by OCM do not resolve the disagreement, the directors of the respective agencies, or chiefs of the respective divisions, will meet. If unresolved at that level, ODNR will refer the matter to the Office of the Governor for mediation, in the case of conflicts between agencies. OCM will refer unresolved ODNR conflicts to ODNR's director for mediation.

Ad hoc Cabinet Clusters related to specific issues (e.g., Energy Policy) may be used to resolve conflicts at the direction of the Governor. Ultimate resolution of interagency conflicts, however, rests with the Governor.

The formal MOUs between ODNR and the major networked agencies with relevant responsibilities in the coastal area include specific conflict avoidance and resolution components. The provisions in those MOUs shall take precedence over those stated above for the signatory agencies.

State agencies are encouraged to be proactive in managing problems to avoid serious disagreements requiring formal conflict resolution measures. Whether seeking to become more effective in managing conflicts, or desiring third party assistance in dispute resolution, state or local agencies may wish to seek the services of the Ohio Commission on Dispute Resolution and Conflict Management.

**State Activities and Development Projects;
Licenses, Permits and Approvals
Subject to State Consistency Requirements**

I. Direct State Activities and Development Projects

Department of Administrative Services, Office of the State Architect and Engineer

State capital improvement projects other than Ohio Department of Natural Resources and Ohio Department of Transportation.
Land acquisition and disposal.

Ohio Department of Natural Resources

Capital improvements projects.
Master land use plans.
Establishment of Lake Erie submerged lands preserves.
Land acquisition and disposal.

Ohio Department of Transportation

State highway projects.
Land acquisition and disposal.

II. Licenses, Permits and Approvals

Ohio Department of Agriculture

Permits for the use of pesticides and herbicides.

Ohio Environmental Protection Agency

Permits to Install for air sources.
Section 401 Water Quality Certifications.
National Pollutant Discharge Elimination System (NPDES) permits.
Injection well drilling permits.
Solid waste disposal plant and site permits.
Permits to Install for wastewater facilities.
Permits to Install for solid waste facilities.
Hazardous waste facility permit renewals and revisions.
Plan approvals for public water supply systems.

Ohio Department of Health

Marina construction and improvement plan approvals to ensure adequate sanitary facilities.
Registration of private water system contractors.

Ohio Department of Natural Resources

Submerged land leases.
Coastal erosion area permits.
Erosion control structure permits.
Offshore mineral removal from Lake Erie, permits and leases.
Water diversion permits.
Leases and licenses for use of state lands.
Permit for the recovery, alteration, salvage or destruction of abandoned property.
Permits for dams, dikes and levees.
Authorization for use of explosives or other deleterious substances in state waters
Oil and gas extraction permits.
Surface mining permits.

Public Utilities Commission, Power Siting Board

Certification of major utility facilities.

Hazardous Waste Facility Board

Installation and operation permits for new facilities and modifications.