

CHAPTER 7

FEDERAL CONSISTENCY

The Coastal Zone Management Act (CZMA) requires that federal actions reasonably likely to affect any land or water use or natural resource of the coastal zone, regardless of location, be consistent with approved state coastal management programs. Federal actions include:

- Federal agency activities and development projects;
- Private applicant activities that require federal licenses, permits or other forms of approval; and
- State and local government activities conducted with federal assistance.

A complete list of these federal activities is provided at the end of this chapter. Any change to the list of federal activities will be made using the program modification process described in Appendix O.

The OCMP is a comprehensive program. Besides using the policies and authorities embodied in the state coastal management law (O.R.C. Chapter 1506), the OCMP integrates other state rules, regulations and policies to protect uses and resources of the coastal area. These are the enforceable policies to be addressed by federal agencies and federal permit applicants in their consistency determinations and certifications. These authorities are described in Chapter 5 of this program document.

The consistency review process will be conducted and coordinated by ODNR, OCM. Consistency review findings will be developed with consideration of relevant comments and information supplied by other state agencies, areawide clearinghouses and local jurisdictions. Agencies needing guidance on policies or procedures regarding consistency review should contact the Consistency Coordinator, OCM.

Administrative procedures for implementing federal consistency requirements are described below for each category. Terms used herein are as defined in the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, federal regulations, 15 C.F.R. Part 930, which are incorporated by reference herein.

1. Consistency for Federal Agency Activities and Development Projects

The CZMA requires that "each federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs" (16 U.S.C. § 1456(c)(1)). The term "federal agency activity" means any function performed by or on behalf of a federal agency in the exercise of its statutory responsibilities but does not include the granting of a federal license or permit or the granting of federal assistance to an applicant agency. The term federal "development project" means a federal agency activity involving the planning, construction, modification, or removal of public works,

facilities, or other structures, and includes the acquisition, use, or disposal of any coastal use or resource.(15 C.F.R. 930.31).

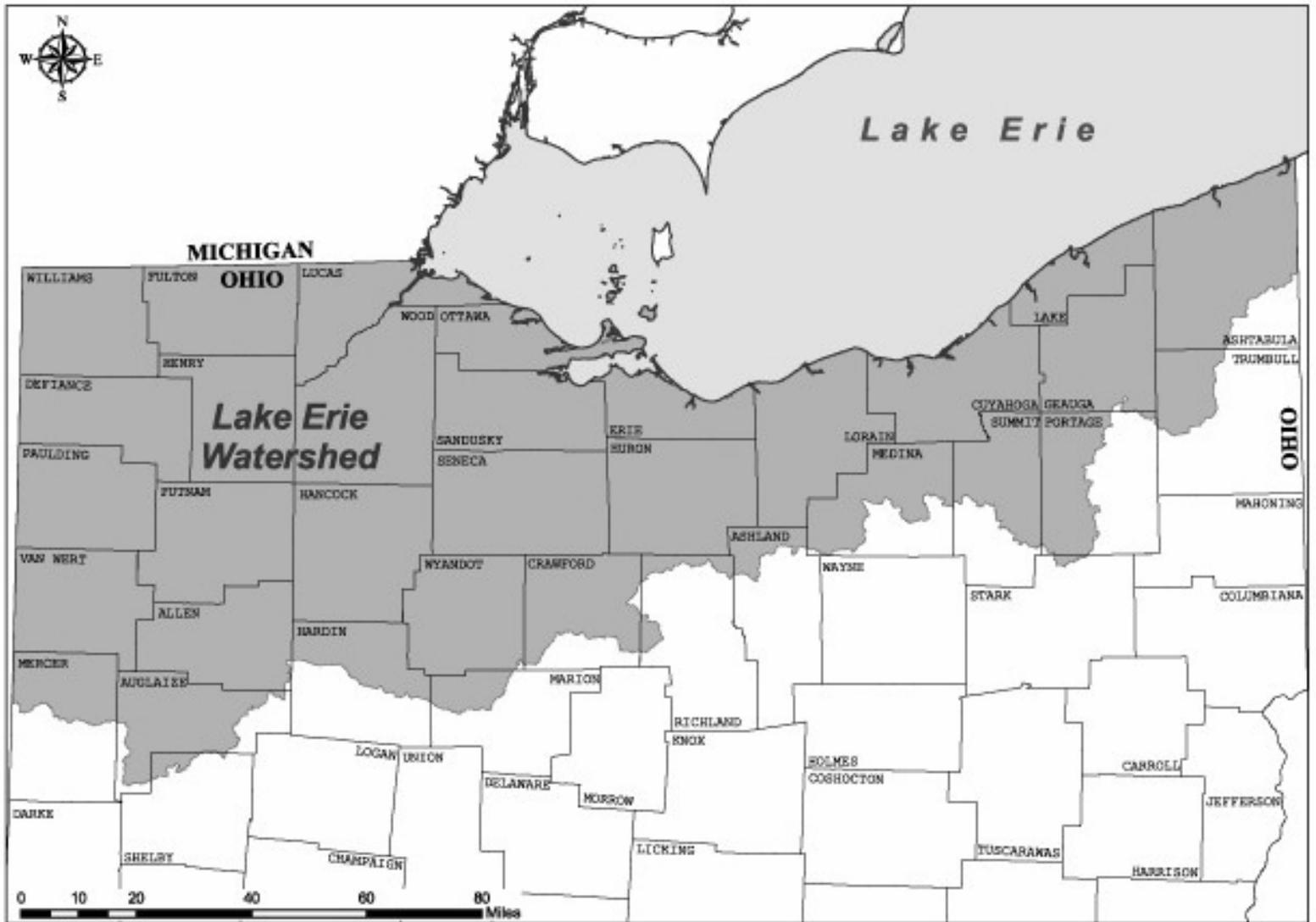
Federal agencies must review proposed actions, whether within or outside the coastal area, affecting any land or water use or natural resource of the coastal area, to determine that they are consistent with the OCMP. The determination provides Ohio with the opportunity to ensure that proposed activities are consistent to the maximum extent practicable with the OCMP. The consistency process also helps to maintain the necessary communication and coordination between all levels of government to ensure the wise management of coastal resources.

Consistency Determinations by Federal Agencies

It is the responsibility of all federal agencies, pursuant to 15 C.F.R. 930.36(a), to determine whether their activities affect Ohio's coastal area and are subject to consistency requirements. The OCMP and NOAA regulations consider all federal agency activities within Ohio's coastal area as defined in O.R.C. 1506.01(A) to be activities affecting the coastal area as defined in O.R.C. 1506.01(A). Each federal agency is responsible for reviewing all of its activities within Ohio's coastal area as well as all of its activities that are outside the coastal area but within the Lake Erie watershed in Ohio to determine whether they affect the coastal area. 15 C.F.R. 930.33. (See Figure 6.) The list of federal activities that are subject to consistency review is included at the end of this chapter. 15 C.F.R. 930.35(a). Other federal activities not listed at the end of this chapter will be monitored with the assistance of and consultation with state and local agencies participating in its intergovernmental review process. 15 C.F.R. 930.35(b).

Federal agencies shall submit to the Director of ODNR consistency determinations for all federal activities affecting any coastal use or resource of Ohio's coastal area. The Consistency Coordinator, OCM, will then initiate a formal public notice and comment process and conduct the state's consistency review of the proposal. Consistency reviews will incorporate ODNR's interdisciplinary environmental review, conducted by the Division of Real Estate and Land Management (REALM), and consultation with other agencies with responsibilities in the coastal area. As necessary, the Consistency Coordinator, OCM, will solicit and incorporate comments beyond those received through REALM's environmental review process into findings that will support the director's concurrence with or objection to the federal agency's consistency determination. Consistency determinations shall be submitted to ODNR at the earliest practicable time in the planning of the activity, but before the federal agency has reached a significant point of decision making in its review process. A consistency determination must be submitted to ODNR at least 90 days before federal approval of the activity, unless ODNR and the agency agree to extend the notification period beyond 90 days.

FIGURE 6



15 C.F.R. § 930.34. Procedures for requesting and agreeing upon an extension shall be in memoranda of understanding between ODNR and the respective federal agencies.

The consistency determination for a federal activity affecting the Ohio coastal area shall, pursuant to 15 C.F.R. § 930.39, include:

- A brief statement indicating whether the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the OCMP;
- A detailed description of the proposed activity and associated facilities; and
- Comprehensive data and information to support the federal agency's consistency statement.

If a federal agency determines that a proposed activity would affect the coastal area and be inconsistent with the OCMP, but compliance would otherwise be prohibited based upon requirements of federal law applicable to the agency's operations, the agency shall notify ODNR of its determination. Notification should be made through direct correspondence from the federal agency to the Director of ODNR when that determination is made. Pursuant to 15 C.F.R. § 930.32, the notification must clearly describe the proposed activity and cite and describe the applicable federal laws or authorities that limit the agency's compliance with the OCMP.

If more than one federal agency is involved in an activity or related activities in or affecting Ohio's coastal area, a single consistency determination should be submitted for all the agencies. In such cases, the federal agencies shall determine which agency shall prepare and submit the consistency determination. The consistency determination shall be transmitted to ODNR at least 90 days before final decisions are made by any of the participating agencies. The determination must indicate whether each of the proposed activities is consistent to the maximum extent practicable with the OCMP, and must include information on each proposed activity sufficient to support the consistency determination. 15 C.F.R. § 930.40.

If a federal agency decides that a consistency determination is not required, the agency shall notify ODNR of its decision as soon as possible, but at least 90 days before final approval of the activity, unless the federal agency and ODNR agree to an alternate schedule. The notification shall briefly set forth the reasons for the negative determination. 15 C.F.R. § 930.35(d).

Consistency determinations will be required for ongoing federal activities affecting the coastal area, other than development projects initiated prior to approval of the OCMP, which are governed by the statutory authority under which the federal agency retains discretion to reassess and modify the activity. Federal agencies shall provide consistency determinations to ODNR no later than 120 days after management program approval for ongoing activities listed or identified through monitoring as subject to consistency with the OCMP. 15 C.F.R. § 930.38(a).

A consistency determination will be required for major, phased federal development project decisions made following program approval for development projects initiated prior to program

approval. The federal agency responsible for the project shall consider coastal area effects not fully evaluated at the outset of the project. This provision shall not apply to phased federal decisions that were specifically described, considered and approved prior to program approval. 15 C.F.R. § 930.38(b).

The State of Ohio reserves the right to request a consistency determination from a federal agency for any proposed federal activity, regardless of location, that, in the opinion of ODNR, may affect any coastal use or resource of Ohio's coastal area. 15 C.F.R. § 930.33(5)(c). The OCMP will monitor federal activities not listed herein and will immediately notify the federal agencies of unlisted federal activities affecting the coastal area that require a review. If the OCMP receives notice of the proposed activity and does not provide notification within 30 days from notice of the license or permit application, that has been submitted to the approving federal agency, , otherwise the State agency waives its right to review the unlisted activity. The waiver does not apply in cases where the State agency does not receive notice of the federal license or permit application, . 15 C.F.R. § 930.54.

In cases where a federal agency will be performing a repeated activity, other than a development project, the agency may develop a general consistency determination. This general consistency determination may only be used in situations where the incremental actions are repetitive or periodic, substantially similar in nature, and do not affect the coastal area when performed separately. If a general consistency determination is issued, the federal agency must consult with ODNR on a periodic basis to discuss the action. 15 C.F.R. § 930.36(c).

If the federal agency has sufficient information to determine the consistency of a federal development project from planning to construction, only one consistency determination will be required. However, if decisions on a major development project will be made in phases based upon developing information, then a consistency determination will be required for each major decision. 15 C.F.R. § 930.36(d).

State Response

On behalf of the State of Ohio, ODNR shall inform the federal agency of its agreement or disagreement with the consistency determination within 60 days from receipt of the determination and necessary information, unless ODNR notifies the federal agency within that time that the state's final response will be delayed and provides the reasons for the delay. Federal agencies shall approve one request for an extension period of 15 days or less. Other extensions shall be negotiated between the parties, but are at the discretion of the federal agency. If no response or request for extension of time is received from ODNR within 60 days, agreement by the state shall be presumed. 15 C.F.R. § 930.41.

If Ohio objects to the federal agency's consistency determination, ODNR shall so notify the federal agency in a formal response, according to the schedule described above, and send a copy of the response to the Director, OCRM. The letter of objection shall include the rationale for the objection; describe specific points of inconsistency between the proposed activity and enforceable

policies of the OCMP; and describe alternative measures that, if implemented, would make the proposed activity consistent with the OCMP. If Ohio objects to the consistency determination based on a lack of necessary information from the federal agency, the response will describe the type of information needed to determine the consistency of the federal activity and contain an explanation supporting the need for this information. 15 C.F.R. § 930.43.

ODNR, in cooperation with each federal agency, will monitor federal activities to assure they are undertaken in a manner consistent, to the maximum extent practicable, with the approved program. If ODNR finds that an activity that was previously determined to be consistent with the approved program, or was previously determined not to be a federal activity affecting the coastal area but now appears to be inconsistent with the approved program, ODNR will promptly notify the appropriate federal agency. ODNR will include supporting information and a proposal recommending remedial action that will make the activity consistent with the approved program. If, after a reasonable time following a request for remedial action, ODNR maintains that disagreement exists, either party may request the secretarial mediation services provided for in 15 C.F.R. Part 930.45.

Mediation of Conflicts

In the event of a serious disagreement between Ohio and a federal agency regarding the consistency of a proposed federal activity affecting any coastal use or resource, either party may request the Secretarial mediation or OCRM mediation services provided for in subpart G. 15 C.F.R. § 930.44

2. Consistency for Activities Requiring a Federal License or Permit

Federally licensed or permitted activities include any authorization, certification, approval or other form of permission that any federal agency is empowered to issue to an applicant. 15 C.F.R. § 930.51. Federally licensed or permitted activities include renewals of and major amendments to federal license and permit activities either not previously reviewed by ODNR, or previously reviewed by ODNR but which are filed after and are subject to management program amendments not in existence at the time of the original ODNR review, or previously reviewed by ODNR but causing coastal effects different from those originally reviewed (15 C.F.R. § 930.51). Federal license and permit activities subject to consistency review for the OCMP are listed at the end of this chapter. The list includes those federal licenses or permits that are likely to affect any land or water use or natural resource of the Ohio coastal area. ODNR may also review federal license and permit activities outside the coastal area but which affect the coastal area. The area outside the coastal area within which ODNR will review license and permit activities is defined as the Lake Erie watershed in Ohio (see Figure 6). Only activities that reasonably can be expected to affect the Ohio coastal area would be reviewed. The list may be revised by the state following consultation with the federal agency and approval by OCRM if federal law creates additional licenses or permits, or if the state determines that other activities requiring a federal license or permit affect land and water uses of the coastal area. 15 C.F.R. § 930.53.

ODNR will monitor certain federal license and permit activities not on the list, and shall, within 30 days of receipt of the notice of application, notify the respective agencies, applicants, and the Director, OCRM, of such activities determined to affect the coastal area and that require state agency review. Otherwise, the state waives its right to review the unlisted activity.

The federal agency and applicant shall have 15 days from the receipt of ODNR's notice to provide comments to the Director, OCRM. The director shall issue a decision with supporting comments within 30 days of ODNR's notice. If the notice is disapproved by OCRM, the federal agency may approve the permit or license. If the notice is approved, the applicant shall amend the federal application by including a consistency certification and supporting information. ODNR's concurrence on the consistency certification will be conclusively presumed if ODNR does not object within six months of the original federal notice or within three months of the receipt of the applicant's certification and supporting information, whichever terminates last. 15 C.F.R. § 930.54.

Consistency Certifications

The applicant shall furnish to both the federal permitting agency and to ODNR a certification statement specifying that the proposed activity complies with and will be conducted in a manner consistent with the OCMP. To avoid additional paperwork burdens on federal permitting agencies and the public, the completed federal application will contain the coastal management consistency certification. The statement shall include the following: "The proposed activity complies with Ohio's approved coastal management program and will be conducted in a manner consistent with such program" (15 C.F.R. § 930.57). In the majority of cases, information required by the federal permitting agency and provided to ODNR by public notice and routine correspondence will be sufficient for consistency review purposes. A complete and satisfactory application will usually serve the requirement to furnish the certification and supporting information to ODNR (see Information Requirements for Permit Application below).

It is the responsibility of both the applicant and the permitting agency to be familiar with the OCMP. To facilitate the process, ODNR will provide a coastal management consistency form for inclusion in federal permit applications (e.g., Department of the Army, Section 10/404 permits) and distribute state coastal management policy information to applicants for federal permits or licenses. 15 C.F.R. § 930.56. Applicants and federal agencies should not presume project consistency based upon a state permit or license that may have been issued, but should examine the relevant policies of the OCMP.

Information Requirements for Permit Applications

If a federal license or permit application form provides sufficient information pursuant to the requirements of 15 C.F.R. § 930.58 for ODNR and the federal agency to ascertain whether the proposed activity is consistent with the OCMP, the completed application in addition to the consistency certification may suffice to initiate formal review by ODNR, once received. If the federal application does not require information meeting the requirements of 15 C.F.R. § 930.58, the applicant shall provide the following to ODNR:

- A detailed description of the proposed activity and its associated facilities, which is adequate to permit the assessment of possible coastal area impacts;
- A copy of the federal application and all supporting information supplied to the federal agency;
- A brief assessment relating the probable coastal area effects of the proposal and associated facilities to the enforceable policies of the OCMP;
- A brief set of findings indicating that the proposed activity, associated facilities and effects are all consistent with the OCMP. 15 C.F.R. § 930.58. Upon receipt by the applicant, ODNR shall provide assistance in formulating the required consistency assessment and finding.

Public notices of applications for federal permits or licenses, including the applicant's consistency statement, are also coordinated through an intergovernmental review process. Interested persons provide comments to the federal agency and may additionally forward comments to ODNR regarding the applicant's consistency statement. Copies of all comments received will be forwarded to ODNR for use in determining consistency with the approved program. 15 C.F.R. § 930.61. Thus, the existing public notice and comment procedures will be used to ensure public participation in the OCMP consistency certification review. The OCMP will ensure that additional public participation is provided for, if necessary, including public hearings.

ODNR will begin the formal consistency review process once ODNR receives a copy of the certification and necessary supporting information. ODNR will complete reviews within reasonable time periods afforded by routine public notices whenever possible. This should be the case for most permit actions. However, ODNR may take up to six months to respond to a certification. 15 C.F.R. § 930.63. Further, the improved coordination among ODNR and other agencies should improve the overall review time for more complex projects that may require several federal and state permits and authorizations. A request by ODNR for additional information or data beyond that required in 15 C.F.R. § 930.58 will not extend the commencement date of ODNR's review.

With respect to the Department of the Army's regulatory program, in addition to individual permits that require public notice, existing coordination procedures between the Buffalo District, COE and ODNR provide for alternate forms of authorizing activities having relatively minor impacts to coastal resources. These include Letters of Permission and general permits. ODNR recognizes the value of these abbreviated forms of coordination and will adhere to procedures involving shorter review and comment periods whenever possible. Additional notification procedures will be developed if necessary between the COE and ODNR to ensure that ODNR has knowledge of actions authorized by the COE that may also be subject to regulations or enforceable authorities of the state.

Within six months of the receipt of the applicant's consistency certification, ODNR shall notify the applicant and the federal agency whether it concurs with or objects to the consistency

certification. If no decision has been made within three months, ODNR shall notify the applicant and the federal agency of the status of the review and the reasons for the delay. If ODNR does not respond within six months, concurrence by the state shall be conclusively presumed. The federal agency may not approve the license or permit following receipt of the ODNR objection to the certification unless ODNR issues a concurrence or is conclusively presumed to concur, or if on appeal by the applicant, the Secretary of Commerce finds that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security. 15 C.F.R. § 930.65.

If ODNR objects to the applicant's consistency certification within six months, the objection by ODNR shall describe:

- a. How the proposed activity is inconsistent with specific enforceable policies of the OCMP; and
- b. Alternative measures (if they exist), which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the OCMP.

ODNR shall notify the applicant, federal agency and OCRM of its objection. The objection will include a statement informing the applicant of a right of appeal to the Secretary of Commerce, pursuant to the procedures described in 15 C.F.R. § 930, Subpart H. 15 C.F.R. § 930.63 and § 930.64.

Where possible, applicants shall consolidate related federal license and permit activities affecting the coastal area for ODNR review. ODNR will review these consolidated applications as a group to minimize duplication of effort and avoid unnecessary delays. An ODNR objection to one or more of the license or permit activities submitted for consolidated review shall not prevent the applicant from receiving those licenses or permits for activities found to be consistent with the approved program. 15 C.F.R. § 930.59.

Mediation of Conflicts

If a disagreement between a federal agency and the state regarding whether a listed or unlisted federal license or permit activity is subject to consistency review remains unresolved after discussions between the agency and the state, either party may seek mediation by the Secretary of Commerce as provided for in 15 C.F.R. § 930.55, described at the end of this chapter, and the applicant shall be notified of the mediation request. Pending final resolution of the conflict, the federal agency may not approve a license or permit application for an activity on the OCMP list or for an unlisted activity for which the Assistant Administrator, NOAA, has approved the OCMP's review request. 15 C.F.R. § 930.55.

The state shall request that the federal agency take appropriate remedial action in case of a federally licensed or permitted activity that was:

- a. Determined to be consistent with the OCMP but which ODNR maintains is being conducted in a manner different from that originally proposed, or has coastal effects different from those originally envisioned, and therefore is no longer consistent with the OCMP, or
- b. Determined not to be an activity affecting the coastal area, but which ODNR maintains is being conducted or has coastal effects substantially different from those originally envisioned, and therefore is not consistent with the OCMP. 15 C.F.R. § 930.66

The request shall include supporting information and propose recommended action, and a copy of the request shall be provided to the applicant. If ODNR is still in serious disagreement with the federal agency after a reasonable time for remedial action, either party may seek mediation by the Secretary of Commerce, as provided for in 15 C.F.R. Part 930, Subpart G.

3. Consistency for Federal Assistance to State and Local Governments

All applications by state and local governments or any related public entity, such as a special-purpose district, for federal financial assistance for projects affecting Ohio's coastal area must be reviewed for consistency with the OCMP by ODNR, pursuant to 15 C.F.R. Part 930, Subpart F. Federal assistance programs subject to the consistency requirement are listed at the end of this chapter. The list may be modified subject to the provisions of the Coastal Zone Management Act (CZMA). Pursuant to 15 C.F.R. § 930.98, ODNR may also monitor applications for federal assistance in areas outside of the coastal area but that affect the coastal area. The area outside the coastal area within which ODNR will monitor such applications is defined as the Lake Erie watershed in Ohio (see Figure 6).

Federal agencies shall notify ODNR of applications for federal financial assistance as listed. If ODNR determines the proposed project to be inconsistent with the OCMP, the state's formal objection will be provided within the standard 60-day review period, except for any programs requiring a 30-day review period, in which case ODNR will respond within that time limit. The state's objection shall describe:

- a. How the proposed project is inconsistent with specific enforceable policies of the OCMP, and
- b. Alternative measures (if they exist) that, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the OCMP.

ODNR may object based on the failure of the applicant to provide necessary information. If the state objects on grounds of insufficient information, the objection must describe the nature of the information requested and the necessity of having such information to determine consistency. The objection shall include a statement informing the applicant agency of a right of appeal to the Secretary of Commerce pursuant to 15 C.F.R. Part 930, Subpart H. ODNR shall then notify the applicant agency, the federal agency, and the Director, OCRM, of the objection (15 C.F.R. §

930.96). The federal agency may not grant the financial assistance if the state determines it to be inconsistent with the OCMP. If ODNR objects to a consistency certification, only upon appeal by the applicant and a finding by the Secretary of Commerce that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security may the federal agency approve the activity. 15 C.F.R. § 930.120, 930.97.

If ODNR determines that an application for federal assistance outside of Ohio's coastal area is subject to the consistency requirement, ODNR shall immediately notify the applicant agency, the federal agency, and the Director, OCRM. Any objection by ODNR to the proposed activity shall be made according to the schedule described above. The federal agency may not grant the financial assistance unless the state finds the project consistent with the enforceable policies of the OCMP or except as provided in 15 C.F.R. Part 930, Subpart H.

Mediation of Conflicts

If a serious disagreement between a federal agency and Ohio regarding whether a federal assistance activity is subject to consistency review remains unresolved after discussions between the agency and the state, either party may seek mediation by the Secretary of Commerce as provided for in 15 C.F.R. Part 930, Subpart G, described at the end of this chapter. Pending resolution of the conflict, the federal agency may not grant the federal assistance.

If ODNR objects to a proposed project, the federal agency may grant the assistance only upon appeal by the applicant agency and a finding by the Secretary of Commerce that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security. 15 C.F.R. Part 930, Subpart H.

ODNR shall request that the federal agency take appropriate remedial action in case of a federally assisted activity that was:

- a. Determined to be consistent with the OCMP but which ODNR maintains is being conducted in a manner different from that originally proposed, or has coastal effects different from those originally envisioned, and therefore is no longer consistent with the OCMP, or
- b. Determined not to be a project affecting the coastal area, but that ODNR maintains is being conducted or has coastal effects substantially different from those originally envisioned, and therefore is not consistent with the OCMP. 15 C.F.R. § 930.100.

The request shall include supporting information and propose recommended action, and a copy of the request shall be sent to the applicant. If ODNR is still in serious disagreement with the federal agency after a reasonable time for remedial action, either party may seek mediation by the Secretary of Commerce, as provided for in 15 C.F.R. Part 930, Subpart G.

Conflict Resolution

ODNR shall attempt to resolve the dispute directly with the federal agency in case of a dispute between a federal agency and Ohio regarding:

- A determination of whether a proposed activity affects the coastal area and therefore is subject to a consistency review; or
- A determination of the consistency with the OCMP of a proposed activity affecting the coastal area; or
- A determination of whether a listed or unlisted federal license or permit activity is subject to consistency review; or
- A determination that a federal assistance activity is subject to consistency review; or
- Actual compliance with the OCMP of an activity previously determined to be consistent,

If the dispute is not resolved at this level, either party may request informal negotiations by OCRM or formal mediation by the Secretary of Commerce, pursuant to the provisions of 15 C.F.R. § 930, Subpart G.

Federal Activities And Development Projects;
Licenses And Permits; And Assistance
Subject to Federal Consistency Requirements

I. Direct Federal Activities and Development Projects

A federal agency must provide ODNR with a consistency determination for any activity affecting any land or water use or natural resource of Ohio's coastal area whether or not the activity is on this list. The following list is provided to highlight those activities reasonably likely to affect the coastal area.

Department of Defense, Army Corps of Engineers

- Dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities and other projects with the potential to impact coastal lands and waters.
- Land acquisition or disposal for spoil disposal or other purposes.
- Selection of disposal sites for dredged material from federal harbors and navigation channels.

Department of Defense, Air Force, Army, and Navy

- Location, design, and acquisition of new or expanded defense installations (active or reserve status including associated housing, transportation or other facilities).
- Plans, procedures and facilities for handling storage use zones.
- Establishment of impact, compatibility or restricted use zones.
- Disposal of Defense property.

Department of Energy

- Prohibition orders.

Environmental Protection Agency

- Activities conducted under the Resource Conservation and Recovery Act (RCRA) of 1976.
- Activities conducted under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.

General Services Administration

- Acquisition, location and design of proposed federal government property or buildings, whether leased or owned by the federal government.
- Disposition of federal surplus lands and structures.

Department of the Interior, Bureau of Land Management

- Oil and gas leasing on federal lands.

Department of the Interior, Fish and Wildlife Service

- Management of National Wildlife Refuges; land acquisition.

Department of the Interior, National Park Service

- National Park Service unit management; land acquisitions

Department of Justice, U.S. Marshals Service

- Disposition of property acquired by the Marshals Service.

Department of Homeland Security, Coast Guard

- Location and design, construction or enlargement of Coast Guard stations, bases and lighthouses.
- Location, placement or removal of navigation devices that are not part of the routine operations under the Aids to Navigation Program (ATON).
- Expansion, abandonment, designation of anchorages, lighting areas or shipping lanes and ice management practices and activities.

Department of Transportation, Federal Aviation Administration

- Location and design, construction, maintenance and demolition of federal aids to air navigation.

Department of Transportation, Amtrak, Conrail

- Expansions, curtailments, new construction, upgradings or abandonments of railroad facilities or services, in or affecting the state's coastal area.

Department of Transportation, Federal Highway Administration

- Highway construction.

II. Federal Licenses and Permits

Department of Defense, Army Corps of Engineers

- Construction of dams, dikes, or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- Disposal of dredged or fill material into the waters of the U.S. pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

Federal Energy Regulatory Commission

- Licenses, renewals or amendments to licenses for nonfederal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e), and 15 of the Federal Power Act (16 U.S.C. 796 (11), 797 (11), and 808).
- Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824 a (b)).
- Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7 (c) of the Natural Gas Act (15 U.S.C. 717 f (c)).

- Permission and approval for the abandonment of natural gas pipeline facilities under Section 7 (b) of the Natural Gas Act (15 U.S.C. 717 f(b)).
- Regulation of gas pipelines, and licensing of import and export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- Exemptions from prohibition orders.

Environmental Protection Agency

- NPDES permits and other permits for federal installations, sludge runoff and aquaculture permits and all other permits pursuant to Sections 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- Permits pursuant to the Resource Conservation and Recovery Act (RCRA) of 1976.
- Permits pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.
- Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300 h-c).
- Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

Department of the Interior, Fish and Wildlife Service

- Fish and wildlife coordination (17 U.S.C. 661-667).
- Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153 (a)).

Nuclear Regulatory Commission

- Licensing and determination of the siting, construction and operation of nuclear generating stations, fuel storage, and processing centers pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

Department of Homeland Security, Coast Guard

- Construction of modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- Hazardous substances and materials (33 U.S.C. 419).

- Marine event permits (46 U.S.C. 454, 33 C.F.R. 100.15).

Department of Transportation, Federal Aviation Administration

- Permits and licenses for construction, operation or alteration of airports.

III. Federal Assistance

(NOTE: Numbers refer to the Catalog of Federal Domestic Assistance Programs.)

Department of Agriculture

- 10.025 Plant and Animal Disease and Pest Control
- 10.405 Farm Labor Housing Loans and Grants
- 10.901 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.760 Water and Waste Disposal Systems for Rural Communities
- 10.904 Watershed Protection and Flood Prevention Loans
- 10.420 Rural Self-Help Housing Technical Assistance
- 10.768 Business and Industry Loans
- 10.766 Community Facilities Loans and Grants
- 10.433 Rural Housing Preservation Grants
- 10.854 Rural Economic Development Loan and Grant Program
- 10.901 Resource Conservation and Development
- 10.904 Watershed Protection and Flood Prevention
- 10.906 Watershed Surveys and Planning

Department of Commerce

- 11.300 Grants for Public Works and Economic Development Facilities
- 11.302 Economic Development - Support for Planning Organizations
- 11.303 Economic Development - Technical Assistance
- 11.307 Economic Adjustment Assistance
- 11.405 Anadromous Fish Conservation Act Program
- 11.407 Interjurisdictional Fisheries Act of 1986
- 11.417 Sea Grant Support
- 11.419 Coastal Zone Management Administration Awards
- 11.420 Coastal Zone Management Estuarine Research Reserves
- 11.427 Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program
- 11.550 Public Telecommunications Facilities Planning and Construction

Department of Defense

- 12.101 Beach Erosion Control Projects
- 12.104 Flood Plain Management Services
- 12.105 Protection of Essential Highways, Highway Bridge Approaches, and Public Works
- 12.106 Flood Control Projects
- 12.107 Navigation Projects
- 12.108 Snagging and Clearing for Flood Control
- 12.109 Protection, Clearing and Straightening Channels
- 12.110 Planning Assistance to States
- 12.610 Community Economic Adjustment Planning Assistance for Joint Land Use Studies

Department of Housing and Urban Development

- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program

Department of the Interior

- 15.605 Sport Fish Restoration
- 15.611 Wildlife Restoration
- 15.614 Coastal Wetlands Planning, Protection and Restoration Act
- 15.616 Clean Vessel Act
- 15.630 Coastal Program
- 15.904 Historic Preservation Fund Grants-In-Aid
- 15.910 National Natural Landmarks Program
- 15.916 Outdoor Recreation – Acquisition, Development and Planning

Department of Transportation

- 20.106 Airport Improvement Program
- 20.205 Highway Planning and Construction
- 20.219 National Recreation Trails Program
- 20.500 Federal Transit – Capital Investment Grants
- 20.509 Formula Grants for Other Than Urbanized Areas
- 20.801 Development and Promotion of Ports and Intermodal Transportation

General Services Administration

- 39.002 Disposal of Federal Surplus Real Property

National Foundation on the Arts and the Humanities

- 45.007 Promotion of the Arts - State Programs
- 45.023 Promotion of the Arts - Local Programs

Department of Veterans Affairs

- 64.005 Grants to States for Construction of State Home Facilities

Environmental Protection Agency

- 66.001 Air Pollution Control Program Support
- 66.419 Water Pollution Control State and Interstate Program Support
- 66.432 State Public Water System Supervision
- 66.433 State Underground Water Source Protection
- 66.454 Water Quality Management Planning
- 66.456 National Estuary Program
- 66.458 Capitalization Grants for Clean Water State Revolving Funds
- 66.469 Great Lakes Program
- 66.500 Environmental Protection - Consolidated Research
- 66.600 Environmental Protection Consolidated Grants - Program Support
- 66.700 Consolidated Pesticide Enforcement Cooperative Agreements
- 66.701 Toxic Substances Compliance Monitoring Cooperative Agreements
- 66.801 Hazardous Waste Management State Program Support
- 66.802 Superfund State, Political Subdivision, and Indian Tribe Site-Specific Cooperative Agreements
- 66.804 State and Tribal Underground Storage Tanks Program
- 66.805 Leaking Underground Storage Tank Trust Fund Program

Department of Energy

- 81.041 State Energy Program
- 81.087 Renewable Energy Research and Development
- 81.121 Nuclear Energy Research, Development and Demonstration

Department of Homeland Security

- 97.012 Boating Safety Financial Assistance
- 97.029 Flood Mitigation Assistance