OHIO COASTAL MANAGEMENT PROGRAM POLICY 6 – WATER QUALITY

IT IS THE POLICY OF THE STATE OF OHIO TO MAINTAIN AND IMPROVE THE QUALITY OF THE STATE'S COASTAL WATERS FOR THE PURPOSE OF PROTECTING THE PUBLIC HEALTH AND WELFARE AND TO ENABLE THE USE OF SUCH WATERS FOR PUBLIC WATER SUPPLY, INDUSTRIAL AND AGRICULTURAL NEEDS, AND PROPAGATION OF FISH, AQUATIC LIFE AND WILDLIFE BY:

- I. <u>ASSURING ATTAINMENT OF STATE WATER QUALITY STANDARDS</u> <u>AND OTHER WATER QUALITY RELATED REQUIREMENTS (O.A.C. 3745-</u> 1) THROUGH:
 - A. CONTROLLING 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 (NPDES, SECTION 402 CWA, O.R.C. 6111.03);
 - B. ADMINISTERING 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 6111.044);
 - C. REGULATING DISCHARGE OF DREDGE OR FILL MATERIAL INTO SURFACE WATERS INCLUDING WETLANDS IN ACCORDANCE WITH SECTION 401 OF THE CLEAN WATER ACT (O.R.C. 6111.03);
 - D. <u>ESTABLISHING UNIFORM REGULATIONS REGARDING SOLID</u>
 WASTE DISPOSAL SITES AND FACILITIES (O.R.C. 3734.02 AND 3734.05);
 - E. PROHIBITING THE SALE OR DISTRIBUTION FOR SALE OF PHOSPHORUS-CONTAINING HOUSEHOLD LAUNDRY DETERGENTS IN THE LAKE ERIE BASIN (O.R.C. 6111.10);
 - F. PREPARING 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); AND
 - G. ADMINISTERING 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).

- II. COORDINATING, THROUGH THE LAKE ERIE COMMISSION, STATE AND LOCAL POLICIES AND PROGRAMS PERTAINING TO LAKE ERIE WATER QUALITY; REVIEWING, AND MAKING RECOMMENDATIONS CONCERNING, THE DEVELOPMENT AND IMPLEMENTATION OF POLICIES, PROGRAMS AND ISSUES FOR LONG-TERM, COMPREHENSIVE PROTECTION OF LAKE ERIE WATER RESOURCES AND WATER QUALITY THAT ARE CONSISTENT WITH THE GREAT LAKES WATER QUALITY AGREEMENT AND GREAT LAKES TOXIC SUBSTANCES CONTROL AGREEMENT (O.R.C. 1506.21).
- III. USING THE LAKE ERIE PROTECTION FUND (LEPF) TO ESTABLISH A FIRM SCIENTIFIC BASE FOR IMPLEMENTING A BASINWIDE SYSTEM OF WATER QUALITY MANAGEMENT FOR LAKE ERIE AND ITS TRIBUTARIES; SUPPORTING RESEARCH TO IMPROVE THE SCIENTIFIC KNOWLEDGE ON WHICH LAKE ERIE AQUATIC RESOURCE PROTECTION POLICIES ARE BASED (O.R.C. 1506.23).

Authorities and Administration

I. State Water Quality Standards

The State of Ohio is committed to maintaining and improving the quality of its coastal waters. Ohio EPA is the agency responsible for ensuring that state water quality standards are met. All water quality standards, enforcement procedures and authorities of Ohio EPA have been approved by the USEPA as being consistent with federal water quality goals established by the Clean Water Act (CWA). Ohio EPA adopted water quality standards and implementation procedures under the Great Lakes Initiative (GLI) on October 16, 1997. These rules became effective on October 31, 1997. USEPA determined that, with one exception, Ohio has adopted requirements consistent with the GLI. The one exception relates to procedures for determining reasonable potential and establishing water quality based effluent limitations for whole effluent toxicity (OAC 3745-33-07(B)). Effective September 5, 2000, the requirements of Paragraphs C.1 and D of Procedure 6 in Appendix F of the federal GLI regulation (40 CFR Part 132 shall apply to discharges within the Lake Erie drainage basin in Ohio.

Water quality standards set forth in O.A.C. Chapter 3745-1 establish minimum requirements for all surface waters of the state. Water quality standards consist of two parts: designated uses and numerical or narrative criteria designed to protect the uses. The water quality use designations are assigned to protect reproducing populations of fish, plants, and associated vertebrate and invertebrate organisms. Lake Erie itself is designated as Exceptional Warmwater Habitat, Superior High Quality Water, Public Water Supply, Agricultural and Industrial Water Supply, and Bathing Waters (O.A.C. 3745-1-31). Tributaries within the coastal area are designated for various uses as indicated in Table 2.

TABLE 2 - TRIBUTARY DESIGNATIONS

Stream Segment (in coastal area)	Use Designations													
		Aquatic Life Habitat							Water Supply			Recreation		
	S R W	W W H	E W H	M W H	S S H	C W H	L R W	P W S	A W S	I W S	B W	P C R	S C R	
Maumee River - I-75 to confluence with Maumee Bay - Perrysburg Bridge to I-75 - remaining segment within coastal area	*	∀ *							* *	* *		* *		
Portage River Toussaint River		*							*	*		*		
Sandusky River - Fremont Sewage Treatment Plant to confluence with Muskellunge Creek - remaining segment within coastal area		∀ *							*	*		*		
Huron River - East Branch/West Branch confluence to Lake Erie - bordering Dupont Marsh	+	++			++				++	++		+ +		
Old Woman Creek - Estuary - within boundaries of Old Woman Creek NERR - remaining segment within coastal area	A	* *							* *	* *		* *		
Vermilion River			*		\forall				*	*		*		
Black River		+			+				+	+		+		
Rocky River	+	+			+				+	+		+		

^{+ =} based on results of biological field assessment performed by Ohio EPA;

^{* =} based on 1978 Water Quality Standards;

o = based on justification other than the results of a biological field assessment performed by Ohio EPA;

Stream Segment (in coastal area)	Use Designations													
		Aquatic Life Habitat Wa							ter Sup	ply	Recreation			
	S R W	W W H	E W H	M W H	S S H	C W H	L R W	P W S	A W S	I W S	B W	P C R	S C R	
Cuyahoga River - Entirety of ship channel (Newburgh and South Shore (N&SS) RR bridge (RM 5.6) to mouth, including the old river channel)* - remaining segment within coastal area		+							+	+ +		+ +		
Chagrin River	*	+			+				+	+		+		
Grand River		*			A				*	*		*		
Ashtabula River		+			A					+		+		
Conneaut Creek			+		+				+	+		+		

SRW = State Resource Water; WWH = Warmwater Habitat; EWH = Exceptional Warmwater Habitat; MWH = Modified Warmwater Habitat; SSH = Seasonal Salmonid Habitat; CWH = Coldwater Habitat; LRW = Limited Resource Water; PWS = Public Water Supply; AWS = Agricultural Water Supply; IWS = Industrial Water Supply; BW = Bathing Water; PCR = Primary Contact Recreation; SCR = Secondary Contact Recreation.

^{*}June-Jan -- Limited Resource Water; Feb-May -- Fish Passage

O.A.C. 3745-1-05 outlines the state's antidegradation policy. Existing water uses in Lake Erie and its tributaries shall be maintained and protected, and degradation that would interfere with such uses is prohibited. Antidegradation is applied in situations where there is a requested authorization to increase the discharge of pollutants to a surface water body or otherwise significantly impact the physical habitat of a surface water body. Federal law allows states to permit increased discharges of pollutants up to the safe environmental levels (i.e., up to the water quality based requirements) provided that: 1) Federal technology requirements are still met; 2) there is public involvement in the decision-making process; and 3) the increased discharge is needed to accommodate important social or economic development.

A. Permits to Install and NPDES Enforcement

- 1. The Ohio EPA is authorized by O.R.C. 6111.03 to issue permits for the discharge of conventional pollutants, toxic pollutants, and nutrients to waters of the state, and the disposal or utilization of sewage sludge pursuant to the National Pollutant Discharge Elimination System (NPDES, Section 402, CWA) consistent with the State Water Quality Management Plan (Section 208, CWA). Limits set for permit issuance are based on Technical Support Documents (TSDs) that compile all background material for the planning regions and Water Quality Based Effluent Limit (WQBEL) reports that use the TSDs, toxicity test results and Wasteload Allocations (WLAs).
- 2. The Ohio EPA monitors, through monthly operating reports submitted by permitted dischargers, the quality of effluent discharged, tracks compliance with NPDES permits, and takes enforcement action against entities when necessary (O.R.C. 6111.03).
- 3. "Permits-to-install" (PTI) are issued for construction of new or expanded wastewater treatment facilities, sewers, and for disposal of sludge from wastewater treatment facilities (O.A.C. 3745-42-02).
- 4. Ohio EPA administers and enforces the publicly owned treatment works pretreatment program in accordance with the CWA pursuant to O.R.C. 6111.03. This allows the agency to apply and enforce pretreatment standards contained in O.A.C. 3745-3; approve or deny requests for publicly-owned pretreatment programs and oversee or implement such programs; and set the terms and conditions of permits as necessary to achieve compliance with O.R.C. Chapter 6111.
- 5. Ohio EPA regulates the discharge of toxics into publicly owned treatment works or waters of the state through NPDES permits. It may take enforcement action when necessary and enforces National Municipal Policy to ensure compliance by permittees with water quality standards as mandated by the 1981 amendments to the CWA (O.R.C. Chapter 6111). Ohio EPA recommends, identifies and assesses the impact of controls for the discharge of toxic materials to protect the public health and the environment from effects due to toxic chemical exposures via surface waters of the state.

The director may "issue, modify, or revoke orders to prevent, control, or abate water pollution" by requiring the construction of new disposal systems or modifying existing ones pursuant to O.R.C. 6111.03(H)(2). This refers to all sewage system and waste treatment works including all pipes, conduits, etc. used to conduct or collect a waterborne sewage or other waste to a point of disposal or treatment. Further, the director may modify terms or conditions of a permit consistent with the CWA to require the maximum use of technology furthering the elimination of wastes into waters of the state (O.R.C. 6111.031).

B. Injection Well Drilling Regulation

Ohio EPA administers a program established under O.R.C. 6111.043 and 6111.044 to regulate the injection of wastes into waters of the state. Class 1, 4 and 5 injection wells are regulated by Ohio EPA. When the director reviews permits under the program, the director must find before issuing a permit that the activity will comply with the CWA, the "Safe Drinking Water Act" and the State Clean Water Act (O.R.C. 6111). Unless otherwise authorized by the director, "no person shall drill a new well or convert an existing well for the purpose of injecting sewage, industrial wastes, or other wastes, without having obtained an injection well drilling permit issued by the director of environmental protection" (O.R.C. 6111.043 and O.A.C. Chapter 3745-34).

C. Section 401 Water Quality Certification

Any activity that requires a federal permit pursuant to Section 404 of the CWA or Section 10 of the Rivers and Harbors Act of 1899, or any other federal permit or license for an activity that may result in any discharge into navigable waters, must be consistent with the state's water quality standards (O.R.C. 6111.03). Rules that, in part, set forth criteria for Section 401 Water Quality Certification are contained in O.A.C. Chapter 3745-32 (See Appendix K for the entire text.) Policy 12 further describes OCMP policy on regulation of activities affecting wetlands through the 401 process.

D. Regulation of Solid Waste Disposal Facilities

Ohio EPA has established uniform regulations throughout the state governing solid waste disposal sites and facilities and requires issuance of licenses from local boards of health for disposal sites (O.R.C. s 3734.02 and 3734.05). Detailed plans for such sites, facilities and methods of operation must be approved by the Director of Ohio EPA prior to issuance of any permit (O.R.C. 3734.02). See Policy 31 for further details.

E. Regulation of Phosphorus-containing Detergent

Within the State Water Quality Management Plan, Ohio EPA has developed the Ohio Phosphorus Reduction Strategy for Lake Erie to quantify phosphorus loadings into Lake Erie from Ohio, and to identify those mechanisms that, if properly implemented, would reduce such loadings. Pursuant to the strategy, Ohio prohibits the sale and distribution for

sale of household laundry detergents containing more than 0.5 percent by weight of phosphorus in all Ohio counties in the Lake Erie watershed (O.R.C. 6111.10).

F. State Water Quality Management Planning

Ohio EPA prepares a State Water Quality Management Plan under provisions of the CWA, Sections 205(j), 208, 303 and 604(b). The plan is used to assess technical needs for pollution control and to identify institutional mechanisms necessary to enforce controls. It is a compilation of various reports addressing a number of issues related to protecting and improving Ohio's water quality. The plan incorporates reports that are prepared by Areawide Planning Agencies established under Section 208 and that address water quality management needs in their areas. It also includes the Phosphorus Reduction Strategy, 305(b) Water Quality Inventory, the Nonpoint Source Assessment and Nonpoint Source Management Plan, and Remedial Action Plans (RAPs) and others.

G. Funding Publicly Owned Wastewater Treatment Systems and Nonpoint Source Pollution Controls (O.R.C. 6111.037).

As the designated lead agency, Ohio EPA is authorized to administer the Water Pollution Control Loan Fund (O.R.C. 6111.036, 6111.037), in conjunction with the Ohio Water Development Authority (OWDA). This fund was established pursuant to the CWA of 1987 to provide financial assistance for publicly owned wastewater treatment systems and nonpoint source pollution controls. Provisions require the state to match every five federal dollars with one dollar from its own funds. The Water Pollution Control Loan Fund statute authorizes state funding of the program (O.R.C. 6111.036). Financial assistance from the fund is limited to projects appearing on a priority list that is prepared by the Director of Ohio EPA and that ranks projects principally on the basis of relative water quality and public health benefits and financial need of the applicant.

OWDA is responsible for certain financial matters pertaining to the State Revolving Loan Fund Program. These duties include distributing funds to contractors and receiving loan payments from communities, issuing revenue bonds, and offering financial advice. The loan payback period may not exceed 20 years, and interest rates are set by Ohio EPA through a public participation process. The revolving fund may use bonds issued upon the incoming interest payments of the initial loans to provide additional funding for future wastewater treatment projects. OWDA is also authorized to make loans and issue bonds unrelated to the State Revolving Loan Fund Program to raise the necessary local share of financing for these projects (O.R.C. 6121.03 and 6121.04).

II. Lake Erie Commission

The Lake Erie Commission plays a key role in ensuring coordination of state and local policies and programs pertaining to Lake Erie water quality. The commission makes recommendations concerning the development and implementation of policies and programs for long-term, comprehensive protection of Lake Erie water resources and water quality consistent with the Great Lakes Water Quality Agreement and Great Lakes Toxic Substances Control Agreement.

The commission, described in Chapter 4, operates under a work plan developed with public input and holds meetings quarterly. Meetings and records of the commission are open to the public. The broad-based representation on the commission and interaction with the public and interest groups facilitated by the agencies and the Ohio Lake Erie Office help to ensure the development of sound resource protection policies and the promotion of environmentally sustainable economic development.

III. Lake Erie Protection Fund

The Lake Erie Protection Fund (LEPF) is supported by payments from the Great Lakes Protection Fund (GLPF), the Lake Erie license plate program, Erie . . . Our Great Lake credit card program, donations and bequests. The GLPF, a regional trust fund established by the Great Lakes states, divides one-third of its net earnings among member states in proportion to their respective contributions.

Ohio uses these funds in grants to advance the goals of the Toxic Substances Control Agreement, the OCMP and the Great Lakes Water Quality Agreement. The Lake Erie Commission prepares and publishes a Lake Erie protection agenda describing proposed uses and priorities of the protection fund for succeeding state fiscal years. The Commission also regularly publishes a State of the Lake Report that documents the state's progress, deficiencies and goals in managing its Lake Erie resources. The Commission solicits proposals for water quality and ecosystem change research, monitoring, aquatic habitat restoration, coastal management initiatives implementation and other activities consistent with these goals.

(**NOTE**: Nonpoint sources of pollution such as construction site, mine and agricultural runoff also degrade water quality. Such sources are addressed in Ohio's Nonpoint Source Management Program, as explained in Policy 8. Regulations enforced by Ohio EPA to prevent and reduce water pollution resulting from airborne pollutants as well as from solid, infectious and hazardous wastes are detailed in Policies 30 and 31, respectively.)