



OHIO

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
5,000,000	482,800	4,517,200	-90%

Ohio Wetlands: Palustrine wetlands such as swamps (forested wetlands), wet prairies (emergent wetlands), coastal and embayment marshes (emergent wetlands), peatlands (wetlands that have organic soils), and wetlands along stream margins and backwaters collectively are the most important Ohio wetlands. Lacustrine and riverine wetlands constitute only a small percentage of the State's wetland acreage.

<u>Summary</u>	<u>Individual Features</u>	<u>Regulation</u>	<u>Water Quality Standards</u>	<u>Mitigation</u>	<u>Monitoring and Assessment</u>	<u>Restoration</u>	<u>Public/Private Partnerships</u>
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SUMMARY

Overall Program:

Wetlands are included in the definition of waters of the state in Ohio Revised Code (ORC) 6111.01. Protection is provided for all wetlands under ORC 6111.04, the Wetland Antidegradation Rule under Ohio Administrative Code (OAC) 3745-1-54, the Section 401 Water Quality Certification Rules under OAC 3745-32 and for isolated wetlands under ORC 6111.02 through 6111.029. Ohio Environmental Protection Agency (Ohio EPA) administers the Section 401 program and the isolated wetlands permit program.

Innovative Features and New Programs/Initiatives

May 1, 1998 - Further revisions to antidegradation were effective as it applied specifically to wetlands. The revisions were incorporated into rule in OAC 3745-1-51 through -54. These "wetland rules" define categories of wetlands: Category 1 (low quality), Category 2 (medium quality), and Category 3 (highest quality) based the Ohio Rapid Assessment Method (ORAM), a methodology developed at Ohio EPA. The rules prescribe mitigation ratios based on wetland category type.

February 1, 2001 - ORAM Version 5 was finalized.

April 17, 2001 - Emergency rulemaking for isolated wetlands was initiated to ensure isolated wetlands were protected after the SWANCC v. Corp of Engineers decision.

July 17, 2001 - House Bill 231 was signed into law. The provisions of the bill were incorporated into ORC 6111.021 through .029. The isolated wetlands permitting program was established which outlines three levels of review:

1. filling a Category 1 or 2 isolated wetland of $\frac{1}{2}$ acre or less shall require a general State isolated wetland permit and be subject to Level 1 review;
2. filling a Category 1 or 2 isolated wetland of greater than $\frac{1}{2}$ acre but less than or equal to 3 acres shall require an individual state isolated wetlands permit and be subject to Level 2 review;
3. filling a Category 2 isolated wetland of greater than 3 acres or a Category 3 wetland shall require an individual state isolated wetlands permit and be subject to Level 3 review.

July 1, 2003 - Ohio EPA revised its Antidegradation Rule and referenced state isolated wetlands permits in OAC 3745-1-05(C)(5).

Current Activities - Revisions to the wetland water quality standards are being written and a web based Mitigation Clearinghouse is currently being developed.

Research Initiatives:

November 2001 - Vegetation Indices of Biotic Integrity for Wetlands was released.

April 2002 - Amphibian Index of Biotic Integrity for Wetlands was released.

July 2004 - Floristic Quality Assessment Index for Vascular Plants and Mosses for the State of Ohio was released.

July 2004 - Integrated Wetland Assessment Program Part 2: An ordination and classification of wetlands in the Till and Lake Plains and Allegheny Plateau regions was completed.

July 2004 - Integrated Wetland Assessment Program. Part 4: A Vegetation Index of Biotic Integrity (VIBI) and Tiered Aquatic Life Uses (TALUs) for Ohio Wetlands was completed.

August 2004 -Integrated Wetland Assessment Program: Part 9: Field Manual for the Vegetation Index of Biotic Integrity for Wetlands v. 1.3 was completed.

State Wetland Conservation Plan

The Ohio Wetlands Task Force was formed in August 1992 to begin discussing the formation of a State Wetland Conservation Plan. In February 1994, a Report and Recommendation was prepared.

No Net Loss/Net Gain Goal

Ohio Administrative Code (OAC) 3745-1-54 (B)(1) states:

“The wetland designated use shall be maintained and protected such that degradation of surface waters through direct, indirect, or cumulative impacts does not result in the net loss of wetland acreage or functions in accordance with paragraphs (D) and (E) of this rule.”

As a matter of practice through the avoidance, minimization and mitigation requirements of antidegradation, wetland losses must be minimized and replaced by at least a 1:1 ratio. Higher quality wetlands or wetlands that are more difficult to replace have replacement ratios of 1.5:1 or 2:1.

The intent is to maintain wetland acreage of similar or better quality, not to increase wetland acreage in the state.

INDIVIDUAL FEATURES

Regulation

Wetland Regulatory Statutes and Administrative Rules

Statutes:

ORC 6111.01 - Wetlands are included in the definition of waters of the state.

ORC 6111.020 through 6111.029 - Differentiation and permitting requirements for isolated wetlands.

ORC 6111.04 - Protection is provided for all waters of the state. A permit is required for discharges of other wastes (which includes dredge/fill materials) to waters of the state.

Rules:

OAC 3745-1-50 - Wetland definitions.

OAC 3745-1-51 - Wetland narrative criteria.

OAC 3745-1-52 - Narrative chemical criteria for wastewater discharges to wetlands.

OAC 3745-1-53 - Wetland use designation.

OAC 3745-1-54 - Wetland antidegradation rule.

OAC 3745-32 - Section 401 water quality certification definitions and rules required for discharges to waters of the state, including wetlands.

Wetland Definition and/or Delineation; Comparability with Federal Definition

Ohio EPA's wetland definition is the same as the U.S. Army Corps of Engineers (Corps) definition and is cited in OAC 3745-1-02.

Evaluation Methodology

Evaluation tools have been developed to assist in the evaluation of wetlands and can be used to determine quality of wetlands proposed to be impacted. This information, in conjunction with emphasis placed on avoidance and minimization of impacts as required by rule, helps us determine whether a project should be permitted and whether the impacts can be adequately mitigated. These tools include:

1. ORAM Version 5.
2. Vegetation Indices of Biotic Integrity for Wetlands.
3. Amphibian Index of Biotic Integrity for Wetlands.
4. Floristic Quality Assessment Index for Vascular Plants and Mosses for the State of Ohio.

Regulated and Exempted Activities

Any federally-regulated discharge of dredged or fill material or discharges of effluent from confined disposal facilities to waters of the state requires a Section 401 certification. Filling isolated wetlands, which are exempted from Section 404 permitting requirements, must be authorized by a general or individual isolated wetlands permit.

Special Provisions for Agriculture and Forestry

Certain silviculture practices exempted by the federal Clean Water Act and discharges to agricultural land exempted by the Corps under Section 404 do not require Section 401 certification. However, isolated wetlands which are no longer regulated through the Section 404 permit program are captured by Ohio EPA and require a general or individual isolated wetlands permit before discharging to waters of the state. Isolated wetlands created by previous coal mining activities are exempted from the provisions of Ohio Revised Codes Sections 6111.020 through 6111.029 if remining is proposed.

Penalties and Enforcement

Section 401 permitting staff works with the Corps and U.S. Environmental Protection Agency (EPA) on enforcement issues. Ohio EPA will generally consider the Corps and EPA evaluation of the situation and determination of what steps the federal government will take before deciding on how the State will address the violation. Ohio EPA may choose to initiate independent enforcement seeking civil and/or criminal penalties. For violations resulting in impacts to isolated wetlands, Ohio EPA proceeds independently from the Corps and EPA.

Enforcement action by Ohio EPA may be issuance of Administrative Orders or pursuit of a judicial consent decree and may include monetary penalties (up to \$10,000 per day), restoration, Supplemental Environmental Projects (SEPs) and mitigation.

Permit Tracking

Ohio EPA Division of Surface Water uses the Surface Water Information Management System (SWIMS) to track permitting activities for the Division.

State General Permit (PGP or SPGP) for 404

Ohio EPA has not authorized a statewide programmatic permit.

Assumption of Section 404 Powers

Ohio EPA has not assumed the Section 404 program and has not formally investigated this option.

Joint Permitting

Ohio EPA has no joint permitting procedures with the Corps or local governments.

Consolidated application procedures for coal mines have been developed with the Corps and the Ohio Department of Natural Resources (ODNR), the state agency responsible for implementation of the state mining laws.

Special Area Management Plans and Advanced Identification Plans

An Advanced Identification Plan was completed for an area that includes parts of Erie, Sandusky and Ottawa Counties.

Role of Local Governments

Local governments may comment on an application for a Section 401 water quality certification or request a public hearing. Local governments are also encouraged to adopt local ordinances to enhance protection of riparian setbacks.

Staffing

The 401 Water Quality Certification Section consists of one manager and six coordinators for the state, which includes one coordinator dedicated to Ohio Department of Transportation applications.

Water Quality Standards

Wetlands and Water Quality Standards

Ohio's Water Quality Standards (OAC 3745-1) were developed by Ohio EPA. These standards include definitions, numerical and narrative criteria, designated uses for streams, and an antidegradation rule. However, these rules primarily apply to streams and lakes. Specific wetland water quality standards were developed by Ohio EPA and placed in OAC Sections 3745-1-50 through 1-54.

Wetland Definition

Wetlands are defined in OAC 3745-1-02.

Designated Uses

Wetlands are assigned a designated wetland use in the Wetland Rules, OAC 3745-1-53.

Narrative and/or Numeric Criteria

Wetland narrative criteria are defined in OAC 3745-1-51.

Antidegradation Policy

Wetland antidegradation is outlined in OAC 3745-1-54.

Other

N/A

Staffing

The Wetlands Ecology Section has one manager and two wetland ecologists who conduct research, develop evaluation methodologies, and develop rules related to wetlands.

Mitigation

Mitigation Policy

Mitigation is required by rule for impacts to non-isolated wetlands (OAC 3745-54) and by statute for isolated wetlands (ORC 6111.02).

Non-Isolated Wetland Mitigation Requirements:

Mitigation ratios outlined in OAC 3745-1-54 are linked to wetland category, whether the wetland is forested or not, and whether the mitigation will be on-site or off-site. The ratios of mitigation requirements increase with higher wetland categories and if the impacted wetland is forested. There are also increased mitigation requirements for off-site mitigation. (Off-site would be greater than 1 mile from the impact.) Mitigation ratios range from 1.5:1 to 3:1. The mitigation category of wetland must be higher than the impacted wetland for Category 1 wetland impacts, and equal to or better than the quality of Category 2 and 3 wetlands.

Isolated Wetlands Mitigation Requirements:

Wetland Category 1 and 2 non-forested - mitigate 2:1 at a mitigation bank.

Wetland Category 2 forested - mitigate 2.5:1 at a mitigation bank.

All other isolated wetland impacts are mitigated at the same ratios outlined in OAC 3745-1-54.

Mitigation Banks

The Mitigation Banking Review Team (MBRT) is comprised of the Corps, EPA, U.S. Fish and Wildlife Service, USDA Natural Resources Conservation Service (NRCS), ODNR and Ohio EPA. The Corps serves as team leader of the process and has final decision authority in the drafting of the MBRT agreement, required for all projects.

There are 12 mitigation banks in Ohio which are all privately owned.

In Lieu Fee Program

N/A

Ad Hoc Arrangements

N/A

Mitigation Database

Ohio EPA does have a database to track mitigation losses and gains related to the permitting process. We also have two wetland ecologists and interns who have been studying the success/failure of mitigation projects.

Staffing

No additional staff for mitigation.

Monitoring and Assessment

Mapping/Inventory

ODNR developed a statewide inventory of wetlands based on satellite imagery. This was a joint project with the NRCS for Swamp buster implementation.

Ohio EPA is using geographic information system (GIS) to locate Section 401 water quality certification and isolated wetlands permit projects.

A Status and Trends Report is prepared annually for wetland impacts and mitigation acreage. The last report was completed on December 10, 2004 and is available on the Ohio EPA, Division of Surface Water web site. This report is intended to satisfy the reporting requirements specified in ORC 6111.025(C), which applies to the isolated wetlands only. In order to provide a more complete picture of the impacts generated by permitting activities in the state, information regarding individual 401 water quality certifications that address impacts to non-isolated wetlands, streams and lakes has been included. Information regarding projects covered under the NWPs has also been included in this report.

Wetland Classification and Assessment

ORAM Version 5 is used to evaluate wetlands before they are impacted. It is not a recommended tool to evaluate mitigation wetlands, however, it is useful in making some observations of quality in mitigation wetlands.

Wetland bioassessment techniques are being developed at Ohio EPA. Vegetative and Amphibian Indices have been developed to use as assessment tools. The following are links to the assessment tools:

Floristic quality assessment index (FQAI) for vascular plants and mosses for the State of Ohio (PDF 2917K). Contact John Mack for copies (614-644-3076 or john.mack@epa.state.oh.us).

Amphibian Index of Biotic Integrity (AmphIBI) for Wetlands.

Vegetation Indices of Biotic Integrity (VIBI) for Wetlands: ecoregional, hydrogeomorphic, and plant community comparisons with preliminary wetland aquatic life use designations.

Overall Wetland Gain and Loss Tracking System

Ohio EPA tracks gains (through mitigation) and losses of wetlands through the Section 401 water quality certification and isolated wetlands permitting programs.

Staffing

No additional staff for monitoring and assessment.

Restoration

Program Description

N/A

Restoration Program Goals

N/A

Eligibility Criteria

N/A

Restoration Database

N/A

Staffing

No additional staff for restoration.

Public/Private Partnerships

Acquisition Program

N/A

Public Outreach/Education

Staff in the 401 Water Quality Certification Section and Wetland Ecology Section periodically gives presentations about the permitting program and wetland evaluation methods. The wetland ecologists conduct formal training sessions to consultants and governmental staff on the use of the ORAM Version 5 assessment.

Tax Incentives

N/A

Technical Assistance

Staff in the 401 Water Quality Certification Section provides technical assistance when requested by applicants for Section 401 water quality certification or isolated wetland permits.

Other Nonregulatory Incentives for Private Landowners

ODNR/Division of Wildlife assists landowners in restoring wetlands on private property.

Wetland Training and Education

Staff in the 401 Water Quality Certification Section and Wetland Ecology Section periodically gives presentations about the permitting program and wetland evaluation methods. The wetland ecologists conduct formal training sessions to consultants and governmental staff on the use of the ORAM Version 5 assessment.

Watershed Planning

The Division of Surface Water's Section 319 program occasionally approves projects that involve wetland restoration. Ohio EPA's Division of Environmental and Financial Assistance also provides technical assistance and funding for environmental improvement projects, including wetland restoration in connection with construction and modification of wastewater treatment plants.

Special Problems

N/A

Coordination

N/A

Contact Person(s)

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Contact Points

Guidebooks, Brochures, Websites, Other Educational Materials

Fact Sheets:

Section 404
Section 401
Wetlands and Water Quality
Pre-Application Guidelines
401 Application Primer
Projects and Activities of Concern
ORAN V.5 Users Guide
VIBI for Wetland Final Report

Web sites:

401 Certifications, Isolated Wetlands Permits
<http://www.epa.state.oh.us/dsw/401/401.html>

Wetland Bioassessment Program -
<http://www.epa.state.oh.us/dsw/wetlands/WetlandEcologySection.html#Reports>

401/Wetland Section
<http://www.epa.state.oh.us/dsw/contacts.html>