

Ohio's Wetland Program

Presented by Anna Kamnyev,
Ohio EPA Wetlands Manager



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Ohio's....

- Authority for Wetland Protection
- Wetland Antidegradation
- Isolated Wetland Program
- Wetland Ecology Program



Ohio's Wetland Protection

- Ohio Revised Code (ORC) – State laws
 - 6111: Water Pollution Control
 - 3745.114 and 3745.113: Fees (\$200 application fee + \$500/acre of impacted wetland)
- Ohio Administrative Code (OAC) – State rules
 - 3745-1-50 through 3745-1-54: Wetland Water Quality Standards
 - 3745-32-01 through 3745-32-03: 401 Water Quality Certifications



Antidegradation Rule

OAC 3745-1-05(C)

- Developed in 1978, most recently updated in 2017
- Maintain and protect existing uses of water bodies
- Allows the director to authorize a lowering of water quality after consideration of alternatives, socio-economic issues, public involvement, and intergovernmental review



Wetland Antidegradation Rule

OAC 3745-1-54(D)

- Developed in 1998
- Avoidance
- Minimization
- Socio-economic justification required
- Compensatory mitigation



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Compensatory Mitigation

- Preferred order and location mirrors the 2008 federal mitigation rule
 - Mitigation bank
 - In-lieu fee program
 - Individual mitigation projects (permittee responsible)
- Must be conducted in accordance with 33 C.F.R. Part 332 (Federal Mitigation Rule) and OAC 3745-1-54
- Wetland mitigation ratios are provided in Ohio rule



Ohio Categories of Wetlands

OAC 3745-1-54 (C)

- Category 1
 - Poor condition
 - Very low species diversity
 - Dominated by Invasive Species



Ohio Categories of Wetlands

OAC 3745-1-54 (C)

- Category 2
 - Fair to Good condition
 - Moderate species diversity
 - Dominated by natives but invasive species may still be common



Ohio Categories of Wetlands

OAC 3745-1-54 (C)

- Category 3
 - Excellent Condition
 - High species diversity
 - Dominated by sensitive native species with invasive species rare or absent.



Wetland Assessment Tools

- Ohio Rapid Assessment Method (ORAM)
- Vegetation Index of Biotic Integrity (VIBI)
- Amphibian Index of Biotic Integrity (AmphIBI)



Wetland Mitigation Ratios

Table E-1

Category of wetland impacted	Wetland type	Minimum mitigation ratio	Wetland replacement category
1	Non-forested	1.5 : 1	2 or 3
	Forested	1.5 : 1	
2	Non-forested	2.0 : 1	2 or 3
	Forested	2.5 : 1	
3	Non-forested	2.5 : 1	3
	Forested	3.0 : 1	

ORC 6111.027 – For **isolated wetlands** mitigated at mitigation banks or in-lieu fee, Cat.1 and non-forested Cat. 2 are mitigated at a 2:1 ratio and forested Cat. 2 are mitigated at a 2.5:1 ratio. Other isolated wetland ratios are the same as jurisdictional wetland ratios shown above.



Ohio's Isolated Wetlands

- ORC 6111.02-6111.028

Wetland Category	Acres of Potential Wetland Impact	Public notice required?	Mandatory public hearing?	Review Period	Type of Permit
1 or 2	0.5 acres or less	No	No	30 days*	General Permit, Level 1
1	More than 0.5 acres	Yes	No	90 days*	Individual IWP, Level 2
2	More than 0.5 acres, up to 3 acres	Yes	No	90 days*	Individual IWP, Level 2
2	More than 3 acres	Yes	No	180 days*	Individual IWP, Level 3
3	Any impact	Yes	Yes	180 days*	Individual IWP, Level 3

Isolated Wetland Permit Submittal

- *Level One Requirements*
 - application form
 - wetland delineation
 - **Approved Jurisdictional Determination (AJD)**
 - wetland categorization (ORAM)
 - project description
 - description of acreage subject to filling
 - site photographs
 - mitigation proposal



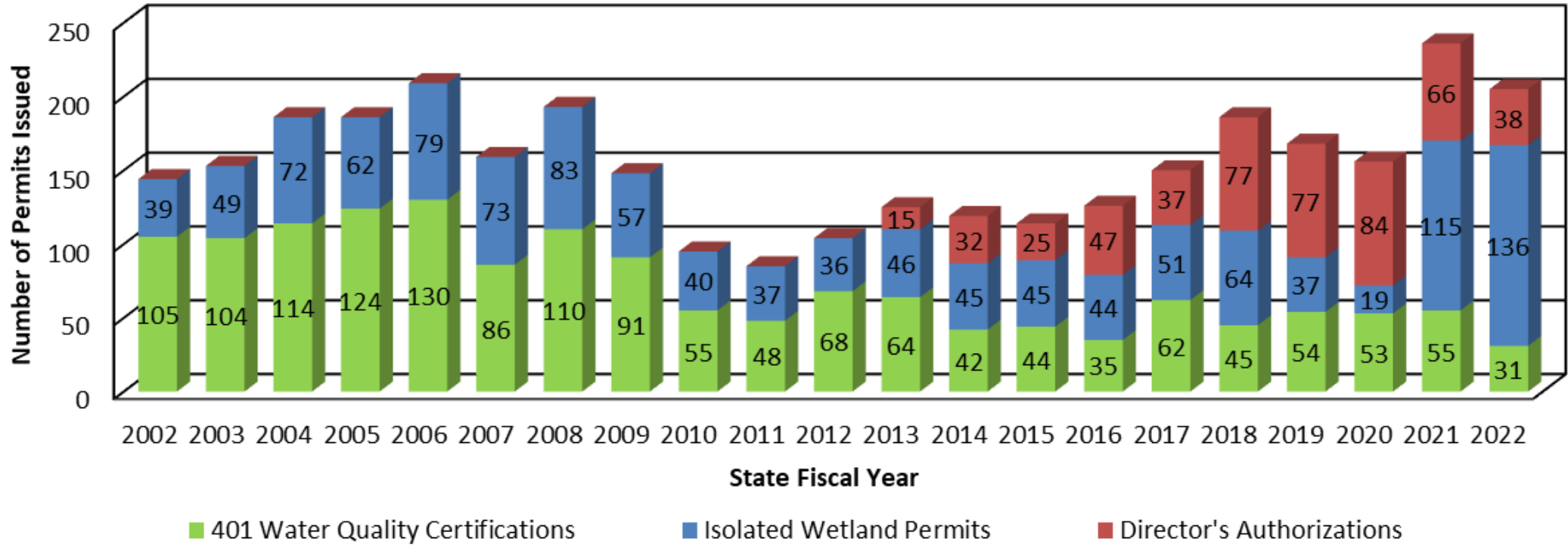
Isolated Wetland Permit Submittal

- *Level Two Requirements*
 - Level One submittal
 - Description of whether high quality waters are to be avoided.
 - Analysis of practicable *on-site* alternatives
- *Level Three Requirements*
 - Level One submittal
 - Description of whether high quality waters are to be avoided.
 - Full antidegradation review



Importance of Isolated Wetland Program

401 WQC and Isolated Wetland Permits
- Number of Granted Permits -



How Did We Get Here?



- January 2001 – US Supreme Court ruling in the Solid Waste Agency of North Cook County (**SWANCC**) case removes “isolated” wetlands from jurisdiction under the CWA
- April 2001 – Ohio EPA filed emergency rules to allow permitting impacts to isolated (non-jurisdictional) wetlands that were still Waters of the State
- July 2001 – Governor Taft signs HB 231 into law granting Ohio EPA authority to regulate activities in “isolated” wetlands



What is being done now?

- Challenges to the Program
 - AJD's/boundary verification
- Implications with Sackett
 - Staffing considerations
 - How to account for activities with minimal impacts that were previously authorized under a Nationwide Permit?
 - Consideration of state only mitigation options for isolated wetlands



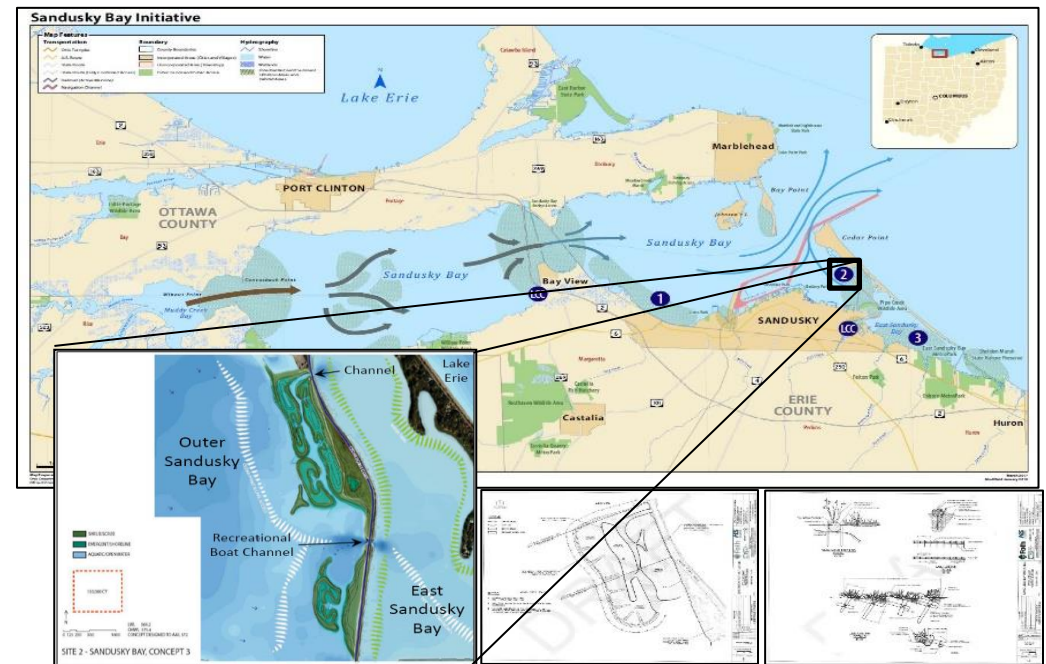
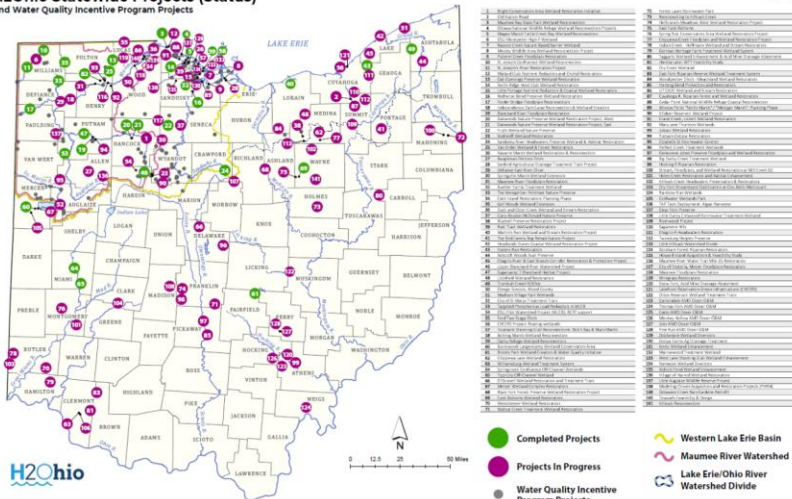


Mike DeWine
Ohio Governor



- Governor Mike DeWine’s comprehensive, data-driven water quality plan to reduce harmful algal blooms, improve wastewater infrastructure and prevent lead contamination
- “As a state, we are committed to helping farmers adopt the practices that can make a real difference. We will invest in creating more wetlands. And we will help communities improve their water systems and remove decrepit septic systems.”
- Ohio Department of Natural Resources

H2Ohio Statewide Projects (Status)
and Water Quality Incentive Program Projects



Wetland Ecology Program

- Research & Tool Development
 - Ohio Rapid Assessment Method (ORAM)
 - Vegetative Index of Biotic Integrity (VIBI)
 - Amphibian Index of Biotic Integrity (AmphIBI)
 - US EPA Wetland Development Grant for alternative methods
- Interagency Review Team (IRT)
- Ohio Invasive Plant Advisory Committee
- H2OH



Contact Information

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Questions?



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