

“Great Lakes Submerged Lands Policy & Management”

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Ms. Isely performed a comparative analysis of the eight Great Lakes states' coastal and Submerged Lands laws, regulations, and policies. This presentation recapped what she discovered.

- All 8 participate in CZMA and SLA
- The Public Trust Doctrine is handled differently in each state
- Recent challenges include: public access to shoreline; state management of Submerged Lands
 - o Michigan Supreme Court: Right to walk along shoreline given, between the high water mark and water's edge
 - o Ohio State Court case about ODNR right to lease lakefront property below the historical OHWM

She referenced the Great Lakes Commission Survey, 2002 – a summary of what GL states were doing about setbacks, submerged lands leasing and the boundaries of state bottomlands – and the ODNR questionnaire, 2005 – which queried information from GL coastal program managers meeting about state CZMPs, SL regulations and enforcement, and the public trust doctrine.

Over 6,000 linear miles of GL shoreline; programs must manage water resources, navigation, environmental conservation, property rights, and more.

- Leases, permits, setbacks are tools used; terms and costs vary broadly
- Some states have fixed setbacks, others do not
- Some allow grandfathered nonconforming structures, others do not

Definition of ordinary high water mark also varies with each GL state. Most do use ACOE definition exclusively, but combine that with a state definition. The management implications for this: variation in state statutes, regulations, and policies creates confusion for coastal managers, lakefront property owners, and the general public.

Encouraging managers to work together: reduce confusion and ambiguity; establish consistency in standards; look at the GL as single resource and share information, take regional approach, ask for federal assistance, etc.