

Isolated Wetlands – Administrative Order

(1) Overview

Isolated wetlands are defined as wetlands not adjacent to or connected by surface water to navigable waters, such as rivers, lakes, or marine waters. These wetlands were removed from Section 404 jurisdiction by the U.S. Supreme Court in *SWANCC v. U.S. Army Corps of Engineers*.

Ecology has regulatory authority to protect wetlands under the State Clean Water Act, Chapter 90.48 RCW to prohibit the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, and other waters of the state. Isolated wetlands are considered waters of the state. Ecology may prohibit any activity that causes pollution.

Agency Issuing Permit/Approval – Washington State Department of Ecology.

Statutory Authority – [RCW 90.48](#).

(2) Permit/Approval Information

Permit/Approval Trigger – Activity that may cause pollution, including discharge of fill or other alteration of the physical, chemical, or biological properties of isolated wetlands.

Exempt Activities – None.

Types of Permits/Approvals – Ecology issues Administrative Orders for isolated wetlands.

Permit-Approval/Pre-application Coordination – To set up a pre-application conference, contact the appropriate [Ecology Transportation Liaison](#). A pre-application meeting requires the project description, size and category of wetland(s) and amount of impact and any information on proposed mitigation if available. For wetland technical assistance, contact your region/mode biologist or Doug Swanson at 360-705-7405 or e-mail swansod@wsdot.wa.gov.

Before starting the application process for a project with isolated wetlands, contact the WSDOT regional office environmental staff for guidance. Ecology provides information about [Isolated Wetlands](#) and a [focus sheet](#) on their website. For assistance on projects with isolated wetlands, contact a [401 Permit Coordinator or Wetland Specialist from Ecology](#).

Prerequisite Permits and Approvals – Ecology requires a jurisdictional determination from the Corps stating they do not have authority under Section 404 of the federal Clean Water Act to regulate the wetland in question. WSDOT may request a jurisdictional determination directly or submit a JARPA and receive the Corps determination as part of a larger project with both isolated and jurisdictional wetlands. For more information about jurisdictional determinations, contact the Corps Transportation Liaison.

Related Permits and Approvals

- Clean Water Act Section 404 (for wetlands under Army Corps jurisdiction)
- Clean Water Act Section 401
- Critical Areas Ordinances.

Interagency Agreements – None applicable.

(3) How to Apply

Application Form – To apply for an Administrative Order, submit the following to Ecology:

- A completed [JARPA form](#) (the form and instructions are available on the e-permitting website).
- Corps Jurisdictional Determination letter.
- [Isolated Wetlands Information Sheet](#) This form requires specific wetland information such as delineation data sheets, functions assessment, category rating forms, etc. .
- Mitigation Plan

Fees – None.

Public Notice – Not applicable.

Submitting the Application – Submit the application materials to the Ecology Transportation Liaison:

Transportation Liaison
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Processing Time – Approximately 60 days after submittal of an application that includes information outlined in the Isolated Wetlands Information Sheet and the jurisdictional determination from the Corps.

Agency and Public Review – There is no agency or public review of administrative orders for isolated wetlands. Ecology has an internal review process for administrative orders. SEPA review is not required to issue the order. However, if the isolated wetland impacts are part of a larger project requiring other permits or where jurisdictional wetlands are present, SEPA review is required for the project.

Appeal Process – An applicant may appeal the conditions of the administrative order to the Pollution Control Hearings Board.

(4) Post Permit/Approval Issuance

Permit/Approval Modifications – Design changes may affect the project’s impacts on wetlands. When design changes occur after permit issuance that affect isolated wetlands, consult with Ecology to determine if an Administrative Order modification is required.

Tracking Commitments – Ecology may include special conditions when issuing the Administrative Order. WSDOT may need to insert these conditions into the project contract and the construction notebook. See the WSDOT webpage for more information about [Tracking Commitments](#).

Construction Considerations –A Final Mitigation Plan must be reviewed and approved by Ecology before an AO will be issued. Follow the [Compliance Implementing Agreement between Ecology and WSDOT regarding Compliance with the state of Washington Surface Water Quality Standards](#). See the [Active Construction Resources procedures](#) on the WSDOT website for more information.

WSDOT developed the [Environmental Compliance Assurance Procedure](#) (ECAP) to recognize and rectify environmental non-compliance events during project construction. If your project doesn't comply with the Administrative Order conditions, follow the ECAP notification and resolution process. See the WSDOT webpage for more information about Construction Procedures.

Post-Construction Requirements – See the [Construction Completion procedures](#) (this webpage will be live soon) on the WSDOT website for coordinating as built submittals and wetland monitoring and reporting requirements, if applicable.