



Ohio Revised Code

Section 6111.024 Proposed filling of wetland subject to level three review.

Effective: September 5, 2012

Legislation: Senate Bill 294 - 129th General Assembly

(A) A proposed filling of a category 2 isolated wetland of greater than three acres or a category 3 isolated wetland shall require an individual state isolated wetland permit and be subject to level three review requirements established under division (B) of this section.

(B) Level three review shall apply to the filling of a category 2 or a category 3 isolated wetland described in division (A) of this section and shall require all of the following:

(1) All of the information required to be submitted with a pre-activity notice as described in division (B) of section 6111.022 of the Revised Code;

(2) A full antidegradation review conducted in accordance with rules adopted under section 6111.12 of the Revised Code;

(3) The submission of information indicating whether high quality waters, as defined in rule 3745-1-05 of the Administrative Code, are to be avoided by the proposed filling of the isolated wetland.

(C) The director of environmental protection shall issue or deny an individual state isolated wetland permit for the proposed filling of an isolated wetland that is subject to level three review not later than one hundred eighty days after the receipt of an application for the permit. The director shall not issue an individual state isolated wetland permit for the proposed filling of an isolated wetland that is subject to level three review unless the director determines that the applicant for the permit has demonstrated that the proposed filling will not prevent or interfere with the attainment or maintenance of applicable state water quality standards.

(D)(1) Notwithstanding division (C) of this section, the director also may deny an application for an individual state isolated wetland permit submitted under this section if the director determines that the proposed filling of the isolated wetland will result in an adverse short-term or long-term impact on water quality.



(2) The director may impose terms and conditions on an individual state isolated wetland permit issued under this section that are appropriate or necessary to ensure adequate protection of state water quality and to ensure compliance with this chapter and rules adopted under it.

(3) Prior to the issuance of an individual state isolated wetland permit under this section, or prior to, during, or after the filling of the isolated wetland that is the subject of the permit, the director may require that the applicant or permit holder perform various environmental quality tests, including, without limitation, chemical analyses of water, sediment, or fill material and bioassays, in order to ensure adequate protection of water quality.

(E) Mitigation for the proposed filling of a category 2 or a category 3 isolated wetland that is subject to level three review shall be conducted in the following preferred order:

(1) Reasonably identifiable, available, and practicable mitigation within the same watershed;

(2) Mitigation at a wetland mitigation bank with a service area that includes the location of the proposed filling of the isolated wetland.

(3) Mitigation at a wetland mitigation bank with a service area that is adjacent to the watershed in which the proposed filling of the isolated wetland is located, provided that the watershed is located within the same United States army corps of engineers district. If mitigation occurs in accordance with division (E)(3) of this section, the applicable mitigation ratio calculated under section 6111.027 of the Revised Code shall be multiplied by one and one-half.

(4) In-lieu fee mitigation;

(5) If there is a significant ecological reason that the mitigation location should not be limited to the watershed in which the isolated wetland is located and if the proposed mitigation will result in a substantially greater ecological benefit, in a watershed that is adjacent to the watershed in which the isolated wetland is located.

The director, at the director's discretion, may allow an applicant to deviate from the preferred order



established in division (E) of this section. If the proposed filling of an isolated wetland will be mitigated by in-lieu fee mitigation, an applicant shall provide documentation to the director that demonstrates that the applicant evaluated the mitigation alternatives established in divisions (E)(1), (2), and (3) of this section.