

Construction Stormwater Permit

Forest road exemption

Use this guidance to determine whether the construction of certain forest roads is exempt under the Clean Water Act [40 CFR § 122.3(e)] and do not require coverage under the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) General Stormwater Permit for Construction Activity (NPDES permit). This fact sheet is a companion to the guidance developed by the Minnesota Board of Water and Soil Resources to determine the proper use of the forestry exemption under the Minnesota Wetland Conservation Act (Minn. R. ch. 8420, subp. 7). Minnesota Wetland Conservation Act Guidance Paper 2004-01 can be found at www.bwsr.state.mn.us/wetlands/wca/forestryguidance.pdf.

Background

Construction activity that disturbs one or more acres of land requires coverage under the NPDES permit. Construction activity includes practices such as clearing, grading, and excavation. This fact sheet clarifies the use of the silvicultural exemption outlined in the Clean Water Act [40 CFR § 122.3(e)] for the construction of forest roads.

General considerations

Forest roads constructed primarily for silvicultural activities are exempt from the need to obtain NPDES permit coverage. Forest roads constructed for multiple uses (e.g. rural residential access, hunting access, general recreation) are outside the scope of the exemption and require permit coverage. The following examples are a clear misuse of the silvicultural exemption. When the construction of a road is proposed for silvicultural activity with knowledge that it will result in:

- Conversion of forested land to residential development.
- Conversion of forested land to commercial development.
- Conversion of forested land to industrial development.
- Clearing and grubbing of forested land that results in a use other than future silvicultural activity.

For less obvious determinations, owners or operators of construction activities may contact the Minnesota Pollution Control Agency Stormwater Program.

Contact us

Please call the Stormwater Hotline at 651-757-2119, or toll-free at 800-657-3804.