

Do I Need a Permit for . . .

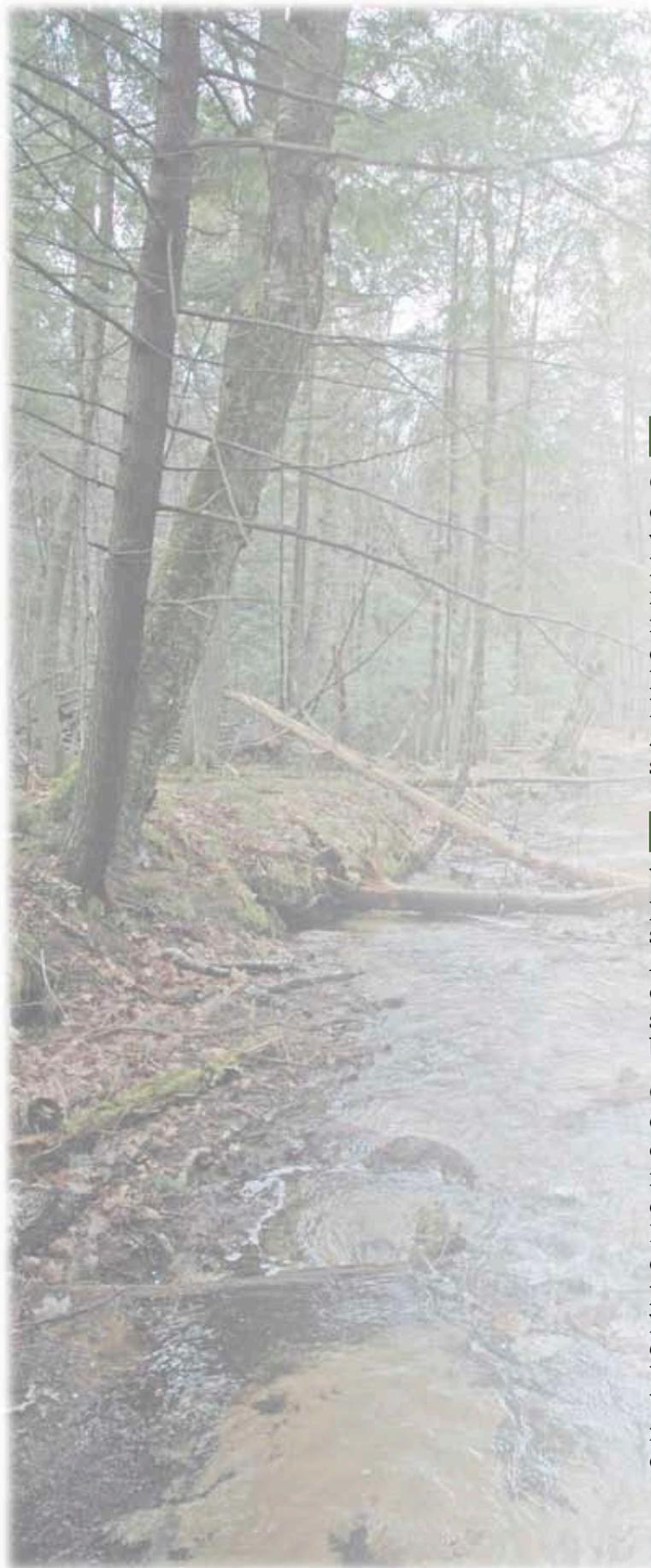
. . . Building a Forest Road?

Woodland owners use forest roads to access their property – with logging trucks during timber harvests or with ATVs during deer season. How you plan to use your forest road will determine what regulations apply and what design, location or construction standards you will need to meet for your forest road. It is important to make sure that all permits and notifications are properly filed to avoid any potential regulatory or legal problems.



When building a forest road, five common areas of regulation that may affect your project are:

- ✓ Zoning ordinances
- ✓ Chapter 30 stream crossing permits
- ✓ Chapter 30 grading permits
- ✓ Storm water permits
- ✓ Wetland permits



Zoning Ordinances

County, city, village and town zoning ordinances can affect a forest road project in number of ways. It is your responsibility to know your local ordinances and what regulations you need to follow. Acquiring access off of a local road, grading, and placing fill in a floodplain or wetland are examples of activities that may have standards and permit requirements in local zoning ordinances. Contact your local zoning office to learn more about permit standards and the permitting process.

Chapter 30 Stream Crossing Permits

You will need a DNR Chapter 30 stream crossing permit if you install a structure for a road or skid trail to cross a navigable lake or stream. A waterway is navigable if it has a defined bed and banks and it can float a canoe or other small recreational craft on a regularly recurring basis (even if only during spring snowmelt).

Chapter 30 permits are divided into 3 categories – exempt activities, general permits and individual permits. Exempt activities do not require a permit if you can meet certain design, location and construction standards. For stream crossings, replacing a 24-inch diameter culvert and replacing a previously permitted culvert are exempt activities. If you are uncertain whether you qualify for an exemption, you are advised to submit an Exemption Determination Request (EDR). The EDR will confirm if your culvert replacement is exempt. Obtaining this confirmation can help avoid violations of state law.

Chapter 30 Grading Permits

General permits are available for culverts, fords, clear span bridges and temporary in-stream crossings. If certain design, construction, and location standards are satisfied, a decision on a general permit can be received within 30 days.



A DNR Chapter 30 grading permit is needed when road construction disturbs more than 10,000 square feet of land on the bank of a lake or stream. Disturbances include the addition, removal or redistribution of soil. Depending on the waterbody, the bank may extend 75 to 300 feet from the ordinary high water mark.

For grading activities, the DNR provides both a general permit and an individual permit.

If your crossing does not qualify for a general permit, you can apply for an individual permit. Decisions on individual permits may take up to 3 months or longer to receive.

Contact your local DNR Water Management Specialist if you have question about your road project. Permit applications and instructions are available on the DNR's web-site.

If you have questions about stream crossing permits, contact your local DNR Water Management Specialist. Contacting staff with questions before you start your project can help avoid problems later. Permit information and application materials are available on the DNR's web-site.



Storm Water Permits

A DNR storm water permit may be required when constructing a forest road. If the road is used solely for silvicultural purposes, such as tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control, it does not require a storm water permit.



Maintaining an existing forest road also does not require a storm water permit, if the road is used, again, solely for silvicultural purposes. This silvicultural exemption requires that all applicable Forestry Best Management Practices (BMPs) be implemented and maintained to control any soil erosion or sedimentation and to prevent any damage to water quality.

If you will be using the forest road for multiple uses, like ATV trails or a cabin access, the road construction will require a storm water permit if one or more acres of land is disturbed. The easiest way to ensure that forest roads are only used for silvicultural purposes is by gating the road entrance.

Maintenance of multi-use forest roads do not require a storm water permit if less than five acres of land is disturbed. If five or more acres of land is disturbed while maintaining a multi-use forest road, a DNR storm water permit is required. Maintenance activities include grading the road surface and clearing ditches.

If several different segments of a multi-use forest road are being constructed or maintained at the same time, you should contact your local DNR Storm Water Specialist to determine if a storm water permit is required.

Permit applications and instructions are available on the DNR's web-site.



Wetland Permits

The excavation and placement of any material, like road fill, in a wetland requires a permit from the US Army Corps of Engineers (USCOE) and the DNR.

For forest roads, there is a silvicultural exemption in Section 404(f)(1)(E) of the Clean Water Act that provides:

“Except as provided in paragraph (2) of this subsection, the discharge of dredged or fill material ... for the purpose of construction or maintenance of ... forest roads, ... where such roads are constructed and maintained, in accordance with best management practices, ... is not prohibited by or otherwise subject to regulation under [sections 404, 301(a) or 402].”

Section 404 requires that 15 federal BMPs for the construction and maintenance of forest roads must be followed to qualify for the silvicultural exemption. Section 404 also requires that the wetland is not changed by the road and that the flow of water through the wetland is not impaired or reduced by the road. It is also important to remember that the silvicultural exemption only applies when the primary use of the road is for normal silvicultural purposes.

This list covers the 15 federal BMPs in lay language. For the exact language of the law, contact USCOE staff for your area.

- Limit the number, length and width of roads and skid trails to minimum necessary to accomplish the landowner's objective.
- Locate roads outside riparian management zones (RMZs) except at stream crossings.
- Road fill must be bridged, culverted or otherwise designed to prevent restriction of expected flood flows.
- Properly stabilize and maintain road fill during and after road construction to prevent erosion.
- While building a road with fill material, minimize the use of road construction equipment in the wetland area that lies outside of the boundaries of the road fill.
- Minimize disturbance of vegetation while designing, constructing and maintaining roads.
- Correctly design, construct and maintain wetland road crossings to avoid disrupting the migration or movement of fish and other aquatic life.
- Use fill from upland sources whenever feasible.
- Place fill in a way that does not take or jeopardize the continued existence of a threatened or endangered species or adversely modify or destroy the critical habitat of such species.
- Avoid placing fill in breeding and nesting areas for migratory waterfowl, in spawning areas, and in wetlands if practical alternatives exist.
- Fill shall not be placed near a public water supply intake.
- Fill shall not be placed in areas of concentrated shellfish production.
- Fill shall not be placed in waterbodies or on land regarded as part of the National Wild and Scenic River System.
- Use fill free from toxic pollutants in toxic amounts.
- Completely remove all temporary fills and restore the areas to its original elevation.



Examples of situations where a forest road would not qualify for the silvicultural exemption include:

- ⊘ A forest road is used for both silvicultural purposes and as a recreational ATV trail.
- ⊘ A forest road is to be used to build and access a cabin after the timber harvest.
- ⊘ The forest road design does not provide for cross drainage into a portion of the wetland.
- ⊘ An upland access route is available for the forest road as an alternative to crossing the wetland.

If you believe your forest road will qualify for the silviculture exemption, it is advised that you obtain confirmation from the USCOE or the DNR. Obtaining confirmation will help avoid a potential violation of federal or state law. It is recommended that you receive this confirmation before conducting any work you believe is exempt.

If your forest road requires a permit, you will need to complete the Wetland Water Quality Certification application materials. Application materials are available on the DNR web-site. Submit the application to both the USCOE and the DNR.



Wisconsin Forestry Best Management Practices for Water Quality

Always be sure to follow Wisconsin Forestry Best Management Practices (BMPs) when planning, building and maintaining forest roads. Using BMPs can help to limit any erosion or sedimentation associated with forest management activities. Categories of BMPs include forest roads, skid trails, timber harvesting, riparian management zones, and wetlands.

Examples of some BMPs that may affect your road project include:

Planning, Location, and Design

- Use existing roads when they provide the best long-term access.
- Select road locations that allow for drainage away from the road.
- Minimize the number of stream crossings.
- Design, construct and maintain stream crossings to avoid disrupting the migration or movement of fish and other aquatic life.

Road Construction and Drainage

- Design and construct roads to remove water from road surfaces to keep the road dry and structurally sound.
- Compact the road base material or allow it to settle before using the road to reduce the amount of water that soaks into it.

Wetlands

- Whenever practical, avoid locating roads and landings in wetlands; otherwise use extreme caution.
- Whenever possible, forest management activities in wetlands should occur on frozen ground during winter to minimize rutting.
- Construct upland road approaches to wetlands so that the surface runoff is diverted away from the road so the runoff does not enter the wetland.
- Provide adequate cross drainage to minimize changes to natural surface and subsurface flow in the wetland.

Additional Sources of Information

Additional information on the topics discussed in this publication is listed below. DNR publications are also available from your local DNR Service Center or by calling (608) 267-7494.

General

- A Landowner's Guide to Building Forest Access Roads, USDA Forest Service Publication #NA-TP-06-98: <http://www.na.fs.fed.us/spfo/pubs/stewardship/accessroads/accessroads.htm>
- Wisconsin's Forestry Best Management Practices for Water Quality Field Manual, DNR Publication PUB-FR-093: <http://dnr.wi.gov/org/land/forestry/usesof/bmp/bmpfieldmanual.htm>

Stream Crossings

- DNR Waterway Permit Application Materials: <http://dnr.wi.gov/org/water/fhp/waterway/index.htm>
- Forest Management Practices: Crossing Options Series, University of Minnesota Extension Service Publications #1-16: <http://dnr.wi.gov/org/land/forestry/Usesof/bmp/bmpownerguides.htm#4>



Grading

- DNR Chapter 30 Grading Permit Application Materials: <http://dnr.wi.gov/org/water/fhp/waterway/grading.shtml>



Storm Water

- DNR Storm Water Permit Forms and Manuals: <http://dnr.wi.gov/org/water/wm/nps/stormwater/constrforms.htm>
- DNR Storm Water Management Technical Standards: <http://dnr.wi.gov/org/water/wm/nps/stormwater/techstds.htm>
- Forest Management Practices: Managing Water Series, University of Minnesota Extension Service Publications #1-13: <http://dnr.wi.gov/org/land/forestry/Usesof/bmp/bmpownerguides.htm#3>

Wetlands

- USCOE, St. Paul District: <http://www.mvp.usace.army.mil/regulatory/>
- DNR Wetland Water Quality Certification Application Materials: <http://www.dnr.state.wi.us/org/water/fhp/waterway/wetlands.shtml>
- Forested Wetlands: Functions, Benefits and the Use of Best Management Practices, USDA Forest Service Publication #NA-PR-01-95: http://www.na.fs.fed.us/spfo/pubs/n_resource/wetlands/index.htm



The purpose of this publication is to inform, not to advise. It is recommended that you seek professionals knowledgeable about the specifics of your woodland and applicable regulations prior to implementing any forest management activities on your property.

This publication is available from Wisconsin Department of Natural Resources, Division of Forestry, PO Box 7921, Madison, WI, 53707.

For additional information, call (608) 267-7494 or visit our web-site at: www.dnr.wi.gov/org/land/forestry

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This publication is available in alternative format upon request For additional information, call (608) 267-7494.

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