



Training notes from the woods & the classroom

Updated: August 2010

Wetland Conservation Act Requirements and the Silvicultural Exemption Guidance for Loggers

The Wetland Conservation Act (WCA) requires a Contractor Responsibility and Landowner Statement Form be completed any time an activity would result in filling or draining of a wetland regardless of ownership, *even if the activity qualifies for an exemption under WCA*. Failure to complete and file the form is a misdemeanor.

Forest roads constructed for certain silvicultural activities (Minnesota Statutes 103G.2241, Subd. 7) are exempt from the requirement to obtain an approved replacement plan for wetland impacts. Those activities include:

- (1) temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activities do not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters; or
- (2) permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch, or tile line; filling is avoided wherever possible; and there is no drainage of the wetland or public waters.

This exemption is for roads constructed for the primary purpose of providing access for the conduct of silvicultural activities. At both the federal and state levels, “primary purpose” is defined as the primary use over time. Federal rules indicate that the primary use must be for silviculture, with only incidental other uses permitted. If a road or skid trail will be used for other activities after the timber sale or other forest management activity is complete, the road or trail is unlikely to qualify for the silvicultural exemption. The initial reason or purpose for building or creating the road or trail is not sufficient by itself to qualify for the exemption.

The following are examples of clear misuse of the forestry exemption when a road is constructed resulting in:

- Conversion of forested land to residential development
- Conversion of forested land to agricultural use
- Conversion of forested land to commercial development
- Conversion of forested land to industrial development
- Clearing and grubbing of forested land
- Construction of forest roads that have NOT limited impacts to the hydrologic and biologic characteristics of the wetland

Frequently Asked Questions (FAQs)

Q. I purchased a state timber sale that requires me to build an access road across part of a wetland. Since the road is being built on state land, do I need to complete and file a Contractor Responsibility and Landowner Statement Form?

A. Yes, a logger is required to complete and file the form any time an activity would result in filling or draining of a wetland regardless of ownership.

Q. If I am building a road using the silvicultural exemption, do I need to complete and file a Contractor Responsibility and Landowner Statement Form?

A. Yes, a logger is required to complete and file the form any time an activity would result in filling or draining of a wetland even if the activity qualifies for an exemption under WCA.

Q. Where can I get a copy of the form?

A. MLEP can provide you with a copy of the form. You can also download the form at: http://www.bwsr.state.mn.us/wetlands/forms/Contractor_Responsibility.doc

Q. How do I file the form?

A. For work in public waters (lake, watercourse, or public waters wetland), send the completed form to the DNR Regional Enforcement Office serving the project's area. See below for DNR regional office information. A map of DNR regions can be found on the DNR website at: http://files.dnr.state.mn.us/aboutdnr/dnr_regions.pdf

For work in any wetland that is not a public waters wetland, send the completed form to the WCA LGU with jurisdiction over the project area. The LGU is usually the County or SWCD, except in urban areas the City is often the LGU. Contact any of these local governments or BWSR for assistance. BWSR also maintains a list of LGUs on its website at: <http://www.bwsr.state.mn.us/directories/WCA.pdf>.

If it is not known if the wetland is a public waters wetland, send the completed form to both the DNR Regional Enforcement Office and the WCA LGU.

Department of Natural Resources Regional Offices

<u>Northwest Region:</u> 2115 Birchmont Beach Rd. NE Bemidji MN 56601 Phone: 218-308-2700	<u>Northeast Region:</u> 1201 E. Hwy. 2 Grand Rapids MN 55744 Phone: 218-327-4455	<u>Central Region:</u> 1200 Warner Road St. Paul MN 55106 Phone: 651-259-5800	<u>Southern Region:</u> 261 Hwy. 15 South New Ulm MN 56073 Phone: 507-359-6000
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Remember to keep a copy of the signed form for your own records.

Q. Is there a fee to file the form?

A. There is no fee to file the form. However, failure to do so is a misdemeanor punishable by up to a \$700 fine and 90 days in jail.

Contact Information

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