

# ROAD PERMITS - AN UPDATE

<http://www.fs.fed.us/r6/water>

Link to “Rules and Regulations”

404

USFWS

402

SILVICULTURAL EXEMPTION

EPA

COE

FEDERAL WETLANDS POLICY

NRA

EO 11988

401

303(d)

EO 11990

# Background

## Road Use

- 1% Silviculture
- 9% Administrative
- 90% Recreation

# Background

- Executive Orders
  - 11990 Wetland Protection
  - 11988 Floodplain Management
- Requirements
  - No practicable alternative
  - Includes all practicable measures
  - Determination of “practicable”
  - Early public involvement

# Background

- Federal Wetland Management

“Protecting America’s wetlands: a fair, flexible, and effective approach”

# Federal Wetland Management

- No net loss
- Regulatory guidance
- Increased non-regulatory
- Use a watershed approach
- Science based policy

# NRA - Road Permit Context

- Roads
  - Essential
  - Many benefits & ecological impacts
  - Address roads for:
    - Public support
    - Needed forest management

# Legal- Road Permit Context

- Clean Water Act
  - Section 101
  - Section 313
  - Section 303(d)

# Legal- Road Permit Context

- Clean Water Act
  - Section 401
  - Section 402
  - Section 404

# 402 – Silvicultural Point Sources

- Rock crushing
- Gravel washing
- Log storage
- Log sorting

# 402 – Silvicultural Point Sources

Currently, NPDES permits are NOT required for:

- Nursery operations
- Site preparation
- Reforestation
- Thinning
- Prescribed burning
- Pest and fire control

# 402 – Silvicultural Point Sources

Currently, NPDES permits are NOT required for:

- Harvest operations
- Surface drainage
- Road construction and maintenance from which there is natural runoff

# Road Permit Context

- Section 401
- Section 402
- **Section 404**

# 404 – Dredge / Fill Permit Administration

- Corps of Engineers
- EPA
- USFWS

# USCE Structure

- National
- Division/Region
- District

# What is a wetland?

- Ecological
- Jurisdictional

# Jurisdictional Wetland

- Soil
- Hydrology
- Vegetation

# Waters of the United States

## NOT

- Waste treatment systems
- Prior converted cropland

# Activities NOT requiring a permit

- Normal, ongoing silviculture
- Maintenance of dikes, dams, bridge abutments & approaches
- Construction of sediment basins
- State approved programs
- Construction, maintenance of farm, forest, and temporary mining roads

# 404 Permits

- Nationwide
- General
- Individual
- Silviculture exemption

# What Permit is Needed?

Does the planned activity:

- Include wetlands under section 404?
- Fall under categorical exemption?
- Qualify for national, regional, or programmatic permits and meet the conditions of the permit?

Require an individual permit and **actions will await** the required permit?

# Mandatory BMP's

- Prevent restriction of flood flows
- Stabilize fills and maintain erosion controls
- Minimize encroachment of vehicles and equipment

# Mandatory BMP's

- Minimize vegetation disturbance
- No disruption of migration & other life stages of aquatic life
- Borrow material from upland areas when feasible

# Mandatory BMP's

- Protect T&E species per ESA
- Avoid discharge into nesting areas for migratory waterfowl, spawning areas, and wetlands

# Mandatory BMP's

- No discharge in proximity of public water supply intake
- Discharge shall not occur in an area of concentrated shellfish production

# Mandatory BMP's

- Discharge shall not occur in a component of a Wild & Scenic river
- Discharge shall consist of suitable material & free from toxic pollutants in toxic amounts

# Mandatory BMP's

- Temporary fills shall be removed in their entirety and the area restored to its original elevation
- All roads, temporary or permanent, shall be located sufficiently from streams or other waterbodies

# Mandatory BMP's

- Minimize length and number of roads

# 404 Nationwide Permits

- Guidance for use in regulations
- More than one can be used

[www.usace.army.mil/inet/functions/cw/cecwo/reg](http://www.usace.army.mil/inet/functions/cw/cecwo/reg)

[www.fs.fed.us/r6/water](http://www.fs.fed.us/r6/water)

# 404 Nationwide Permits

- #3 Maintenance of bank protection
- #6 Survey activities
- #13 Bank stabilization
- #14 Road crossings

# 404 Nationwide Permits

- #18 Minor discharge
- #19 Minor dredging
- #26 Headwaters & isolated wetlands
  - 5 new nationwide permits
  - Modification of 6 other nationwide permits
  - Modification of 9 existing conditions
  - Three new general conditions

# Road Permits

## Summary & Recommendations

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