

You May Need a Permit for This

Water Quality in Alabama and Assorted Topics of Interest

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Have you ever heard of the acronym **MS4** . . . Municipal Separate Storm Sewer System? What in the world is this, and why does it involve me as a landowner?

Polluted stormwater runoff is commonly transported through Municipal Separate Storm Sewer Systems (MS4s), from which it is often discharged untreated into local water bodies. To prevent harmful pollutants from being washed or dumped into an MS4, operators must obtain an NPDES (National Pollutant Discharge Elimination System) permit and develop a stormwater management program.

Phase I, issued in 1990, requires medium and large cities – or certain counties with populations of 100,000 or more – to obtain NPDES permit coverage for their stormwater discharges.

Phase II, issued in 1999, requires regulated small MS4s in urbanized areas to obtain NPDES permit coverage for their stormwater discharges, as well as small MS4s outside the urbanized areas that are designated by the permitting authority, the Alabama Department of Environmental Management (ADEM).

Usually, Phase I MS4s are covered by individual permits, and Phase II MS4s are covered by a general permit. Each regulated MS4 is required to develop and implement a stormwater management program (SWMP) to reduce the contamination of stormwater runoff and prohibit illicit discharges.

One of the main control measures is “Construction Site Runoff Control.” How does this affect the private forest owner and logging? ADEM rules require some specific silvicultural-related activities/operations to obtain permit coverage. Additionally, normal silvicultural timber harvesting (logging) conducted in advance of, or in support of, a planned construction activity is regulated as a pre-construction activity that requires permit coverage prior to timber harvesting commencing. Timber harvesting sites and small construction stormwater sites that do not implement and maintain appropriate, effective best management practices (BMPs) to treat/control pollutant discharges (thereby resulting in unpermitted discharges of pollutants) are in violation of ADEM regulations and/or the Alabama Water Pollution Control Act, regardless of specific permit coverage requirements/exemptions.

Construction, as defined, means any land disturbance or discharges of pollutants associated with, or the result of: building; excavation; land clearing; grubbing; placement of fill; grading; blasting; reclamation; areas in which construction materials are stored in association with a land disturbance, or handled above ground; and other associated areas including, but not limited to, construction site vehicle parking, equipment or supply storage areas, material stockpiles, temporary office areas, and access roads. Construction also means significant pre-construction land

disturbance activities performed in support, or in advance, of NPDES construction activity including, but not limited to, land clearing, dewatering, and geological testing.

This is of particular interest if your land is located within the boundaries of an MS4. The NPDES-implementing regulations reference that certain normal silvicultural practices are not required to obtain NPDES permit coverage provided that (1) they are normal silvicultural practices, (2) the practices do not cause or contribute to a violation of water quality standards, (3) the discharges do not constitute a significant discharge of pollutants, and (4) effective best management practices (BMPs) are implemented and maintained to prevent/minimize pollutant discharges (see the AFC publication Alabama’s BMPs for Forestry manual).

As you can see, water quality protection is not voluntary; it is the law. The practices you choose to implement water quality protection are for you to voluntarily choose between.

If you are implementing silvicultural practices within an MS4, you may be asked to prove your activity is part of a normal, ongoing silvicultural activity – not construction – to keep from having to obtain an NPDES permit. This can also apply outside of an MS4 area.

And another permit for that . . .

Do you own timberland that is adjacent to a state highway/right-of-way (ROW)? If so, did you know that if you need to access your property with a new entrance such as a new logging road, and you are entering from the state highway and crossing the state ROW, you need to get a permit from the state department of transportation (ALDOT)? Do you also know where the property line for the state ROW is located? Do not assume that the entire ROW has been cleared! (You know what ASSUME stands for.)

The reason I bring this to your attention is the fact that I have received numerous calls from logging crews that were told that they needed to stop working to obtain a permit – which usually takes several days. The entrance must be of a specific design and in a safe location. I also know of a couple instances where ALDOT timber was harvested by mistake and restitution is being sought. If you are not sure about your particular situation, please consult your area ALDOT office/engineer.

If I have completely confused you on either of these topics, please call me at (205) 333-1590, ext. 19, or write to me with your questions at James.Jeter@forestry.alabama.gov or the AFC’s Northwest Regional Office, 8135 McFarland Boulevard, Northport 35476.☎

Sources: water.epa.gov/polwaste/npdes/stormwater/Municipal-Separate-Storm-Sewer-System-MS4-Main-Page.cfm
www.adem.state.al.us/alEnviroRegLaws/default.cnt