



Regulatory

Environmental Concerns

By Richard Hulcher
Field Operations Division

Alabama Department
of Environmental Management

To ensure the protection of Alabama's environment, programs have been designed and are managed by the Alabama Department of Environmental Management (ADEM). This responsibility includes the protection of water quality, and is accomplished through applicable state and federal statutes, state regulations, and permitting programs. Timber harvesting and related activities are regulated by ADEM, and this article gives a brief overview of laws and programs administered by the agency that directly or indirectly affect activities associated with the forestry industry.

To promote forestry BMP implementation, ADEM's Field Operations Division staff and the AFC staff work cooperatively conducting compliance assistance for forestry operators, performing routine evaluations of forestry activities statewide, and responding to citizen complaints in a timely manner. ADEM achieves voluntary implementation of BMPs where possible, requiring implementation through compliance assurance activities as necessary. In addition, ADEM staff will independently perform compliance inspections of forestry operations and initiate appropriate compliance activities as needed in order to ensure that effective forestry BMPs are implemented and maintained to ensure the protection of water quality.

ADEM and AFC Coordination

Working cooperatively to address the prevention and abatement of nonpoint source impacts to water quality during forestry operations in the state, ADEM and the Alabama Forestry Commission (AFC) have entered into a Memorandum of Agreement in order to provide the maximum benefit to Alabama citizens.

Pursuant to the Alabama Environmental Management Act and the Alabama Water Pollution Control Act, ADEM has the authority and responsibility to be the lead agency in the state in regard to environmental matters. ADEM also has the responsibility and authority pursuant to these laws to establish and enforce water quality standards and any other necessary rules and regulations for the protection of waters of the state. This information can be viewed at www.adem.alabama.gov/programs/water/guidance.cnt. The AFC is a resource agency that provides technical assistance to the forestry industry in the harvesting of timber and prevention of pollution from these activities.

Best Management Practices for Forestry (Timber Harvesting)

ADEM has a long-standing and continuing compliance program relative to the implementation of effective best management practices (BMPs) associated with timber harvesting activities, including road construction and material borrow areas.

For technical information related to pollution prevention in timber harvesting operations, please refer to Alabama's Best Management Practices for Forestry. This publication is available at www.forestry.alabama.gov/BMPIndex.aspx or www.adem.alabama.gov/programs/water/forestry.cnt.

Persons who have questions, wish to file a complaint related to BMP implementation or potential water quality impacts, or want to request additional information regarding water quality requirements relative to forestry timber harvesting operations, can contact the ADEM Field Operations Division.

Timber Harvesting in Wetlands and Sensitive Areas

Timber harvesting conducted in certain areas, including wetlands, may require permit coverage pursuant to §404 of the Clean Water Act (CWA) which requires the U.S. Army Corps of Engineers (COE) to regulate and permit dredge and fill activities in waters of the United States. The regulatory definition for waters of the United States is, "All waters covered by Section 10 of the Rivers and Harbors Act (RHA); all interstate waters and interstate wetlands; all other waters (of various types) which could be used in interstate commerce; all impoundments of waters of the United States; tributaries of the above waters; terri-

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torial seas of the United States; and wetlands adjacent to waters identified in this section.”

If timber harvesting activities will result in fill or dredge activities in wetlands or other waters of the United States, the COE should be contacted prior to commencing operations in order to determine if permit coverage is required.

Timber Harvesting in the Alabama Coastal Zone

Permitting and regulatory requirements for activities in the Alabama coastal zone are contained in ADEM Admin. Code Div. 335-8 (Coastal Area Management Program). Program rules and other information can be viewed at www.adem.alabama.gov/programs/coastal/default.cnt.

Common Problems Observed at Forestry Sites

1. Spilled fuel, grease, and other chemicals resulting in soil contamination.
2. Trash, garbage, used fuel/chemical containers, etc.
3. Logging debris deposited or allowed to enter stream.
4. Lack of or inadequate streamside management zones.
5. Improperly constructed/maintained stream crossings.
6. Significant sediment loss from poor location and maintenance of skidding trails and roads.
7. Too much distance between drainage turnouts, or turnouts not installed.
8. Lack of or inadequate seeding, mulch, and long-term revegetation of bare areas after logging is complete.

Environmental Compliance Assurance Considerations

Below are items/issues to consider prior to commencing timber harvesting and reforestation activities (not in any priority order).

1. Contact your local AFC office to obtain current information and requirements for timber harvesting activities.
2. Contact a registered forester.
3. Arrange for a professional pre-inspection, post-inspection, and as many inspections as needed during the activity to assure compliance.
4. Review Alabama’s Best Management Practices for Forestry.
5. Review the permitting/regulatory requirements of ADEM Admin. Code Div. 335-8 (Coastal Area Management Program) if your site is located in the Alabama Coastal Zone.
6. Contact the COE if you are harvesting timber in a wetland or your activities could impact wetland areas.
7. Ensure any contracts or agreements require effective BMPs to be fully implemented and maintained at all times.
8. Ensure that any contracts or agreements provide for properly constructed/maintained stream crossings and appropriate streamside management zones.
9. Conduct regular, daily if needed, self-inspections.
10. PROMPTLY repair/correct any BMP deficiencies or non-compliance issues as work progresses.
11. Remember that the operator/logger who conducts the work is primarily responsible for compliance. However, the

landowner, buyer/broker, or other person with decision-making authority or a financial interest is also responsible for compliance. All involved persons/entities may be subject to potential enforcement as appropriate.

12. Treat the property/streams as if it were your own back yard.
13. Private pond/lake construction including tree/stump removal may require National Pollutant Discharge Elimination System (NPDES) permit coverage.
14. Pre-construction logging and land clearing for subdivision or commercial development requires NPDES permit coverage prior to commencing logging.
15. Noncompliance is subject to ADEM enforcement, including administrative fines.
16. Be advised that the public can file a complaint electronically with ADEM at www.app.adem.alabama.gov/complaints/.

General Information and Current Discharge Permitting Requirements

Forest landowners, loggers, buyers, brokers, and other entities involved in timber harvesting are encouraged to stay informed regarding current and proposed regulatory requirements that may be applicable to their forestry activities.

It is recognized that the federal Clean Water Act (CWA) *currently* allows an exemption from federal NPDES stormwater permitting for construction activity intimately associated with certain silvicultural activities, provided effective forestry BMPs are fully implemented and regularly maintained. Normal silvicultural harvesting and related silvicultural construction practices (as described in 40 CFR Part 122) do not *currently* require permit coverage if they are conducted consistent with ADEM guidelines and ADEM-accepted forestry BMPs (as described in *Alabama’s Best Management Practices for Forestry*), and are not performed in advance of or in support of a regulated construction activity or development.

Currently, it is also recognized that certain material acquisition/borrow activity may be more reasonably defined as an extension of forest construction activity, thus making NPDES permit coverage unnecessary. Generally, small temporary mining/borrow areas for silvicultural local road construction are considered part of the silvicultural construction activity and are *currently* exempt from permit requirements, provided effective BMPs are fully implemented and regularly maintained. Generally, larger pits, pits open for a longer period, or pits used for purposes other than logging construction are considered surface mining and do require a permit.

The installation and expansion of these temporary, small borrow areas should be planned to minimize and control the migration of sediment from the pits. Organic debris generated from these pits must be disposed of outside of streamside management zones. Upslope runoff should be diverted around pits and discharged in a diffuse pattern.

Appropriate techniques should be employed to control erosion and sediment migration from mining/borrow pits, with non-active portions of these pits immediately closed and reclaimed. Structures such as drainage swales, gradient terraces, earth dikes, sediment traps, properly installed and maintained silt fences or stake hay bale rows, and soil retaining measures are examples of appropriate sediment control techniques. Temporary seeding, crimping, mulching, matting, hydro-seeding, permanent seeding,

and planting are examples of appropriate erosion control techniques.

Reclamation is accomplished by sloping pit banks and re-vegetating to recreate the natural runoff pattern as much as possible. Established erosion control measures must be used for reclamation. Such measures could include seeding and/or tree planting to establish permanent vegetative cover.

Forestry operators should keep records, including photo-documentation, as appropriate. The operator should maintain records regarding the location, size, begin-and-end dates, approximate amount of material excavated, personnel performing site inspections, and other relevant information.

ADEM Admin. Code r. 335-6-12-.11

Registration Requirements for NPDES Construction Sites

(1) Except as provided otherwise by this chapter, after March 1, 2003 or the effective date of this chapter, whichever date occurs later, new or continued operation of NPDES construction sites that have not submitted a complete and correct Notice of Registration (NOR) or application requesting coverage under a valid NPDES general permit, or individual permit, is prohibited. Except as provided otherwise by this chapter, after March 1, 2003 or the effective date of this chapter, whichever date occurs later, commencement of construction at proposed NPDES construction sites that have not submitted a complete and correct NOR acceptable to the Department, or have not been granted NPDES permit coverage under a valid NPDES general permit, or individual permit, is prohibited.

(6) Unless required by applicable federal law or State law, and provided the activity is not being conducted in support of, in conjunction with, or to prepare for NPDES construction activity as defined by this chapter, the following construction activities are not required to register under this chapter:

(a) Normal silvicultural harvesting and associated silvicultural construction practices conducted in accordance with rule 335-6-6-.03 and rule 335-6-6-.10 that are not planned or performed in immediate advance of, in support of, or as part of, a regulated construction activity or development.

1. For the purposes of this chapter, silvicultural construction includes certain temporary nonmetallic/noncoal material acquisition or borrow activity that is reasonably considered as an extension of forest road construction activity. Generally, small, temporary material borrow areas for silvicultural local road construction are considered part of the normal nonpoint source silvicultural activity, including but not limited to, timber harvesting, site preparation, tree planting, controlled burning, fertilization and are not required to register under this chapter provided the duration of the disturbance is minimized to the extent possible, but in all cases

is less than sixty (60) days, effective BMPs are fully implemented and regularly maintained to the maximum extent practicable prior to, during, and immediately after use of each completed increment of the borrow area until the site is reclaimed or effective stormwater quality remediation is achieved, and the total active, unreclaimed land disturbance is less than five (5) acres in size at all times;

2. In addition, in order for temporary material borrow areas for silvicultural local road construction to be considered part of the normal nonpoint source silvicultural activity not required to register under this chapter, the disturbance shall be conducted to ensure that borrow material is exclusively obtained for construction and periodic maintenance of forest roads utilized in silvicultural activities. The temporary disturbed area shall be continually graded and reclaimed to within a safe operating distance from any high-wall or steep slope and the temporary borrow area is used exclusively by a single operator within the scope of the operator's own operations. Re-establishment of permanent vegetative cover shall be accomplished immediately after active disturbance is completed for each disturbed increment, and the active non-graded, non-reclaimed area adjacent to the active high-wall shall not exceed one-half acre. The borrow area shall be located outside of streamside management zones and outside the designated 50-year flood plain and the site is located as close as practicable near scheduled road construction and maintenance activities to the extent that appropriate road fill material is available. Fuel storage tanks/containers shall not remain onsite unattended, dry/wet crushing/screening or other processing shall not be conducted, the borrow activity shall not result in a point source discharge to surface waters of the State, and the Department shall be notified immediately of any unpermitted discharges or non-compliant discharges in order to ensure the protection of water quality;

3. Road construction and maintenance shall be for support of normal nonpoint source silvicultural practices only. Material borrow activity for construction or maintenance of dual-use or multi-use roads used for silvicultural practices but which are also used incidentally for access to other types of activities or development is exempt. However, material borrow activity for construction or maintenance of dual-use or multi-use roads used primarily for access to other types of regulated non-silvicultural development, including but not limited to, marinas, barge/rail loading facilities, industrial/manufacturing facilities and subdivision developments, is not exempt and requires registration under this chapter.☹

Agency Contact Information

ADEM Field Operations Division
1350 Coliseum Boulevard
PO Box 301463
Montgomery, AL 36130-1463
Phone: (334) 394-4311
Fax: (334) 394-4326
Email: fieldmail@adem.state.al.us
Website: www.adem.alabama.gov

ADEM Field Operations Division
Mobile Branch - Coastal Section
(Mobile, Baldwin, & Washington counties only)
4171 Commander's Drive
Mobile, AL 36615
Phone: (251) 432-6533
Fax: (251) 432-6598
Email: coastal6@adem.state.al.us
Website: www.adem.alabama.gov

U.S. Army Corps of Engineers
Mobile District - Regulatory Branch
PO Box 2288
Mobile, AL 36628-0001
Phone: (251) 690-2658
Fax: (251) 690-2660
Website: www.sam.usace.army.mil/