

forest products, as well as allowing for post-harvest treatments such as prescribed burning or site preparation/regeneration practices.

To insure clarity between legal requirements and voluntary soil and water protection practices and guidelines described in this manual, the following symbols have been used:

All **voluntary practices** are denoted by the symbol “▶”.

All **legal requirements** are denoted by the symbol “”.

2. LAWS AND PERMITS

In addition to the BMPs and other types of management practices described in this manual, loggers, land managers and landowners should be aware of existing regulations relating to forest management and water quality protection. Most of these laws and regulations are listed in Appendix C, List of Applicable Laws in Michigan. This chapter summarizes certain permits related to water quality. For more information, please contact your local DEQ office.



Stream Crossings

When constructing a new or upgrading an existing stream crossing, there are three specific statutes of P.A. 451, 1994 Natural Resources and Environmental Protection Act (NREPA), that always apply. These are: Part 31, Water Resources Protection; Part 91, Soil Erosion and Sedimentation Control; and Part 301, Inland Lakes and Streams. For each part, there are a legal set of rules and regulations that apply. In certain cases, Part 303, Wetlands Protection and Part 305, Natural Rivers may also apply if a stream crossing occurs in a wetland environment or on a stream within the watershed boundary of a legally designated Natural River system.

To be in compliance with parts 31, 301 and 303, the responsible party must complete the DEQ/United States Army Corps of Engineering (USACE) "Joint Permit Application" (JPA) package. The JPA covers permit requirements pursuant to State and Federal rules and regulations for construction activities where the land meets the water and including streams and wetlands. These types of areas are often referred to as the land/water interface.

The JPA is available electronically for on-line submittal through the Michigan Timely Application and Permit Service (MITAPS). Visit: www.michigan.gov/jointpermit for more information about MITAPS, to download or view the JPA.

If you have questions regarding completing the JPA, or how to properly size and install a culvert, contact your local DEQ office. A DEQ office location map and staff contact information can be viewed at www.michigan.gov/deq.

Please note that a Part 91 permit, Soil Erosion and Sedimentation Control (see below) is usually required before constructing any roads or landings. Landowners or their designated representative should also note that a permit from the DNR, under Part 305, Natural Rivers may also be required if conducting forest management activities within one of the 16 designated Natural River systems.



Soil Erosion and Sedimentation Control Regulations

Part 91, Soil Erosion and Sedimentation Control (SESC), of the Natural Resources and Environmental Protection Act, PA 451, 1994, as amended (NREPA), has the primary intent of protecting the waters of the State from the deposition of sediment and wind erosion as the result of earth change activities during construction. Specifically, a Part 91 permit is required for those activities involving earth changes one or more acres in size or within 500 feet of a lake or stream.

When enacted, Part 91 was considered legislation that was primarily applied to regulate construction activities to protect the waters of the State. However, a legal review by the State Attorney General's office determined when that earth changes which occur when newly built forest access roads to and from the landing are constructed, earth changes for the purposes of installing landings, and other ancillary activities associated with logging require the landowner to obtain a Part 91 permit prior to constructing access roads or clearing an area for a landing(s).

Part 91 permit applications are obtained by contacting your local county enforcing agency (CEA). Such agencies may include the county drain commissioner's office, the county building department, or the county conservation district office. In some counties, there are multiple municipal enforcing agencies (MEA) that can issue part 91 permits. To locate the appropriate CEA or MEA for the county you are interested in, visit: <http://www.deq.state.mi.us/sesca>. Note, this may require that someone in your firm or agency receive training by DEQ regarding the plans, BMPs and inspections required to meet Part 91 law.

Note that the DNR is designated by DEQ as an Authorized Public Agency (APA). This means that the DNR does not need to obtain a Part 91 permit for earth change activities, but does have to follow those procedures that were approved by the DEQ to maintain their APA status.



Wetlands and Floodplains

Per Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), silvicultural and timber harvesting activities are exempt from obtaining a wetlands permit. Construction or maintenance of forest roads, or temporary roads for moving forestry equipment, is exempt, providing the roads are "constructed and maintained in a manner to assure that any adverse effect on the wetland will be otherwise minimized"

Any construction, fill or alteration of a floodplain of a river, stream, or drain which has a drainage area greater than or equal to 2 square miles will require a State floodplain permit under Part 31, Water Resources Protection, of the Environmental Protection Act, 1994 PA 451, as amended (NREPA). With respect to forest management, such projects include placement of fill for road construction, or installing a culvert or bridge. The applicant uses the Joint Application Package to obtain a floodplain permit.



Other Laws Affecting Forest Management

Michigan's forests are not only valued for their production of wood products, but also because they contain vital cultural and archaeological resources. They also provide critical habitat for rare, threatened and endangered plants and animals.

With respect to cultural and archaeological resource protection, Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), contains legislation that reserves for the State the exclusive right and privilege of exploring, surveying, excavating and regulating through its authorized officers, agents and employees, all aboriginal records and other antiquities, including mounds, earthworks, forts, burial and village sites, mines or other relics, and abandoned property of historical or recreational value found upon or within any of the lands owned by or under control of the State.

An archaeological site is a place where remnants of mankind's past are sealed in the soil. The scientific and historic value of a well-preserved archaeological site is far greater than the value of the artifacts found there. The exact location of artifacts in the ground, their spatial relationships to other artifacts, to soil composition, to bits of charcoal, bone or chemically distinct areas of soil are all clues that archaeologists can translate into a more complete picture of the past. Archaeological sites also preserve items that are fragile and can be easily recognized only by a specialist. These include tiny fragments of burned plant remains, pollen, charcoal suitable for radiocarbon dating, deteriorated bits of pottery or leather, and the traces left in the soil by hearth fires, refuse pits or privies.

Proper management of archaeological sites is guided by one overriding principle: avoid disturbing the soil. The following guidelines cover some common situations that land managers should keep in mind:

1. Grading or bulldozing of the site should be avoided whenever possible.
2. Pulling stumps, planting trees, laying utility lines and other activities requiring excavation of soil should be avoided.
3. Activities that will involve only the surface of the site, such as lawn seeding or laying woodchip trails, are acceptable.
4. Erosion control measures, if done carefully, will benefit the site, as long as soil disturbance is minimized.
5. In the case of historic foundation walls and similar structures, careful trimming of saplings and other vegetation growing within them will aid preservation of the site. In such cases, the roots should be left in place because attempts to remove them can damage fragile masonry.
6. Vandalism is a common cause of damage to sites. Sites in isolated locations should not be marked in any way. Unless a site is under responsible, direct care, anonymity is the best protection. In such cases, the site's exact location should be known only to the land manager or others directly responsible for the site. Sites in public view that can be checked regularly can be marked and interpreted for the public. In these cases, the combination of public inspection and public awareness minimizes the chances of serious damage to the site. An example of an isolated location is a forest accessible only by a two-track road.

In Michigan, threatened and endangered species are protected on both public and private lands. Part 365 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) states an individual may not harm or take threatened and endangered species. When it is uncertain if a threatened or endangered species occupies the area to be harvested, or timber harvest impacts are unclear, the landowner or other responsible party should contact the DNR and request an Environmental Review. The

process can be initiated in two ways: 1) The DNR Wildlife Division staff receive a written request for review of a proposed project; or 2) a proposed project site is reviewed on the Endangered Species Assessment website. In both cases, the location of the proposed project is compared with Michigan Natural Features Inventory (MNFI) data for locations of endangered or threatened species and other natural features (special concern species, exemplary natural communities, and geologic features). If a threatened or endangered species will be taken or harmed, an Endangered Species Permit, issued by the DNR, is required.

Those using the Endangered Species Assessment website can perform their own preliminary review and request a formal review (if necessary) directly on the website. Others can request an environmental review by sending a written request with the following information: Brief description of the proposed project.

- Brief description of the location (town, range, section, county).
- What is there now (buildings, type of vegetation, recent disturbance).
- Map of location clearly marked with major roads for reference.

You will receive a written response in approximately 3 to 4 weeks. Reviews are processed in the order they are received. **The DNR cannot give out location data or conduct reviews over the phone, all requests must be received in writing.** There is no charge for this service. Mail requests to:

ENDANGERED SPECIES SPECIALIST
WILDLIFE DIVISION
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
PO BOX 30444
LANSING MI 48909-7944
Phone: 517-373-1263; FAX: 517-373-6705



3. FUELS, LUBRICANTS AND SPILLS

Chemical releases in Michigan are potentially reportable under one or more of twenty-six different State and Federal regulations. Determining which regulations apply to a specific release can be an overwhelming task. The "Release Notification Requirements in Michigan" table, compiled by the DEQ Environmental Science and Services Division, is designed to help owners and operators of facilities in Michigan, including vehicles and farms, determine their potential notification and reporting requirements, in the event of a chemical release. Check your permits, licenses, registrations, pollution prevention plans, and local ordinances for additional release reporting requirements. Visit the DEQ website at www.michigan.gov/deq and type "spill/release reporting" in the Search field.

The remote locations that are typical of most forestry operations result in many on-site maintenance activities. The equipment operator must constantly guard against spills of fuels, lubricants or other toxic materials. Proper equipment maintenance, including routine checks of hoses and fittings, is the key to protecting surface water and ground water resources from the impacts of fuel and lubricant spills and leaks.

Common sense, care, proper planning and the anticipation of problems that may occur can eliminate or reduce potential water quality problems arising from spills.