



VIOLATION: Normal flow of water in a wetland is blocked, creating ponding.

Forested Wetland Management

HARDWOOD CORNER

*By James P. Jeter, Registered Forester/BMP Coordinator
Alabama Forestry Commission*

Yes, this may be old news covered again; however, let me reassure you, it bears repeating. And if you own forested wetlands, operate in forested wetlands, or are thinking about buying forested wetlands, you better take the time to read this article and become very familiar with Section 6 (pages 17 through 21) of *Alabama's Best*

Management Practices for Forestry (BMP) manual.

I will not cover this section word-for-word, but I want to highlight the section's main points in an effort to save you the time of having to obtain an individual Section 404 permit from the U.S. Army Corps of Engineers (USACOE).

Wetlands

There are many types of wetlands; some are **not** wet all the time. To be delineated as a wetland, the area must meet

three criteria: hydrophytic vegetation, hydric soils, and wetland hydrology must be present on the same site. *The Clean Water Act of 1972 (CWA)* set the guidance for these wetlands. There is a manual for delineating jurisdictional wetlands, and then there are isolated wetlands. Jurisdiction for these wetlands is unclear at this time because the CWA is up for reauthorization, and who will win the battle of defining jurisdictional wetlands has not been decided. With that point of confusion stated, I tend to look at all forested

wetlands the same, to err on the conservative safe side.

Section 404 of the Clean Water Act requires that a permit be obtained from the USACOE before a discharge of dredged or fill material can be made in the wetlands. In forestry, this usually involves road construction and maintenance.

Section 404 Silvicultural Exemption – Most forestry practices are exempt from having to obtain a permit, if certain criteria are met and the practices are part of normal forestry activities. Let me warn you: this is a *forestry* exemption; recreational activities or uses are **not exempt**, a point being clarified in the court system every year.

Roads and stream crossings within wetlands and other waters of the U.S. **must** be constructed and maintained in accordance with the 15 mandated federal BMPs listed in the manual. Failure to meet or implement any one of these 15 federally mandated BMPs will invalidate your exemption from having to obtain a permit.

Forest Management Plan

Although wetland regulations do not require a written forest management plan, it is in the landowner's best interest to have one to document that operations are established, that BMPs are being implemented and effective, and that all activities are consistent with other Section 404 exemption criteria.

My reason for continuing to bring up this issue is this: I had much rather see you forewarned and asking for further guidance, than see you wanting help with remediation. If you have any questions dealing with forested wetlands and the silvicultural exemption, please contact me. This is 2013, not 1975; pleading ignorance and asking for forgiveness is no longer accepted by the regulatory agencies at any level, not to mention the court system.☹

FOR MORE INFORMATION:

The complete *Alabama's Best Management Practices for Forestry*, plus a "BMP Overview" video are both available online at: www.forestry.alabama.gov/afc_brochures.aspx

Email your BMP questions to Jim Jeter, BMP Coordinator with the Alabama Forestry Commission, at James.Jeter@forestry.alabama.gov or call him at (205) 333-1590.

