

## **Chapter 102 Timber Harvesting Activities**

### **Frequently Asked Questions (FAQ) Draft March 6, 2019**

#### **Background**

Timber harvesting activities involve the planning, cutting and harvesting of trees, skidding logs to landing areas and then sorting them and loading them on transports to go to sawmills, pulp mills and other processing facilities. A timber harvest activity will follow common silvicultural practices and may consist of clearcutting, shelter wood cutting, group selection, single selection, seed tree cutting, patch cut, or retention cutting. Timber harvesting activity is considered an earth disturbance activity in Pennsylvania under the Clean Streams Law because the activities involved in moving the product from the stump to the mill disturbs the forest floor, exposes soils and may cause erosion problems. To minimize potential for accelerated erosion, an erosion and sediment control (E&S) plan must be developed and implemented at the site of the timber harvest activity. Proper planning is essential to the timber harvest to ensure that the installation and maintenance of all E&S best management practices (BMPs) are practical and effective. Chapter 102 permit coverage may also be required for timber harvest activities under certain circumstances. This document will answer the common questions that are received regarding timber harvest activities and proper erosion and sedimentation controls.

Nothing in this document affects regulatory requirements. The interpretations herein are not an adjudication or a regulation. There is no intent on the part of the Department of Environmental Protection (DEP) to give the interpretations in this document that weight or deference. This document provides a framework within which DEP and delegated county conservation districts (District) will exercise administrative discretion in the future. DEP reserves the discretion to deviate from the interpretations in this document if circumstances warrant.

#### **FAQ #1: What is a timber harvest activity?**

A timber harvest activity is defined as an earth disturbance activity including the construction of skid trails, logging roads, landing areas and other similar logging or silviculture practices. Because similar silviculture practices are part of the definition, an earth disturbance activity that is undertaken to prepare an area for reforestation would meet the definition of a Timber Harvest Activity under 25 Pa. Code § 102.1.

#### **FAQ #2: What is the difference between skid roads and skid trails?**

A haul road is often referred to as a skid road. The main difference between a haul road and a skid trail is the degree of preparation for its use. Haul roads should be flagged, cleared and graded according to the specifications of Chapter 14 of the [\*Erosion and Sediment Pollution Control Program Manual\*](#) (DEP Document No. 363-2134-008). Skid trails are used to transport logs from the stump to the haul road. Skid trails are usually not graded and need only minimal clearing. Both haul roads (skid roads) and skid trails are considered earth disturbance and would count toward the sum of total earth disturbance for the timber harvest project to determine whether a permit is required or not.

Many times, the person conducting the timber harvest activity may not be certain where the location of the skid trails will be until the timber harvest begins; however, the skid trails should be shown on an E&S Plan for planning purposes. After the skid trails are established, the person conducting the earth disturbance activity would then update the locations of the skid trails on the E&S Plan.

**NOTE 2.1** – If the actual location of the skid trails results in an increase to the planned earth disturbance activity and the new total proposed earth disturbance is at least 25 acres, the person proposing or performing the earth disturbance activity should cease all earth disturbances and contact DEP or the local county conservation district. An E&S Permit would be required prior to restarting the earth disturbance activity.

### **FAQ #3: When do I need a permit for a timber harvest activity?**

If the earth disturbance associated with the timber harvest activity will be **25 acres or greater** in size permit coverage under an **Erosion and Sediment Permit** (E&S Permit) is necessary before the earth disturbance activity may begin (in accordance with 25 Pa. Code § 102.5(b)). Since during a timber harvest activity the entire site is not disturbed, as is typical in other forms of construction and development, the earth disturbance for timber harvest activities consists of the construction of skid trails, haul roads, and landing areas. If the cumulative total of those areas is 25 acres or greater the person proposing the project will need to apply for an E&S Permit.

**EXAMPLE 3.A** – A person proposes a timber harvest activity on 300 acres. They design the skid trails, haul roads, and log landing areas and the cumulative earth disturbance is 30 acres. An E&S Permit will be required to be obtained since the cumulative earth disturbance exceeds 25 acres.

**EXAMPLE 3.B** – A person proposes a timber harvest activity on 225 acres. They design the skid trails, haul roads, and log landing areas and the cumulative earth disturbance is 22.5 acres. An E&S Permit will not be required since the cumulative earth disturbance does not equal or exceed 25 acres.

### **FAQ #4: I will be performing a timber harvest activity on a very large property, which will be broken down to multiple phases. These individual multiple phases will be less than 25 acres of earth disturbance each. Am I required to obtain a permit?**

When a person proposes a timber harvest activity he or she will identify on a plan map the area of the timber harvest. In some cases, this may involve several different tracts of land or phases that

may be contiguous or separated, and that may be harvested at different times. However, once the person proposing the timber harvest activity has identified the tracts to be harvested, that becomes the timber harvest activity. The person proposing the timber harvest will have to calculate the earth disturbance (all skid trails, haul roads and landing areas) for the entire activity as identified, and if it equals or exceeds 25 acres, permit coverage under an E&S Permit is required.

**EXAMPLE 4.A** – A person proposes a timber harvest operation on 1,000 total acres that are divided into 10 separate tracts of land consisting of 100 acres each. The tracts will be logged at different times. The person proposing the timber harvest must plan out their skid trails, haul roads and landing areas for all 10 tracts, which in this example will be 10% of each tract.  $100 \times 10 \% = 10$  acres per tract  $\times$  10 tracts = 100 acres of cumulative earth disturbance for the entire “life of the project,” and permit coverage would be necessary since it exceeds 25 acres.

**FAQ #5: I am beginning to develop my timber harvest plan. However, I do not know how much earth disturbance will occur. What can I do to properly plan if I need a permit?**

It has been the Department’s experience that a traditional timber harvest activity will conservatively disturb 10% of the entire area to be harvested. Therefore, if the total area to be harvested is 250 acres or greater, it is recommended that an E&S Permit be obtained for the activity.

The final determination of whether a permit would be required cannot be made until the entire earth disturbance has been identified for the timber harvest activity. The E&S Plan must be developed before any earth disturbance activity begins.

**FAQ #6: How do I obtain an E&S Permit if I need one?**

A person proposing earth disturbance for a timber harvest activity that requires permit coverage should submit an [application for an E&S Permit](#) to the conservation district office where the project site is located. The only exceptions are Forest County, where the application would be submitted to the DEP Northwest Regional Office, and Philadelphia County, where the application would be submitted to the DEP Southeast Regional Office. The applicant package for an E&S Permit must contain all of the required information identified in the application checklist.

If the timber harvest activity will take place in two different counties the permit application should be submitted to the district office with the most disturbance proposed, as they will take the lead on the review.

The district will review the permit application to ensure it is complete. After the application is deemed complete the district will conduct a technical review of the E&S Plan to ensure it meets the minimum regulatory requirements. After the E&S Plan is deemed adequate, the District will notify the DEP Regional Office that the permit may be issued. The E&S Permit is issued by the DEP Regional Office. The permit is valid for 5 years from the date of issuance and special conditions specific to the proposed site may be added to the E&S Permit.

### **FAQ #7: After I receive my E&S Permit what must I do?**

When you receive your E&S Permit you should read over the permit terms and conditions and note the expiration date of the permit. Check to see if any special conditions have been added to the permit in Appendix A. A pre-construction meeting is required unless you have been notified otherwise in writing by the district or DEP. The permittee must schedule the pre-construction meeting and must provide at least 7 days' notice of the meeting to the district, DEP, co-permittees, operators, and licensed professionals or designees responsible for the earth disturbance activity. You may also need to prepare a Preparedness, Prevention and Contingency (PPC) Plan, which is a written plan that identified emergency response to any potential discharge of pollutants, other than sediment during the earth disturbance activity. For further information regarding PPC Plans see the document "Guidelines for the Development and Implementation of Environmental Emergency Response Plans", DEP Policy # 400-2200-001, April 2001. A copy of the E&S Permit, the E&S Plan, and the PPC Plan must be kept on-site and available during the earth disturbance activity. After the earth disturbance activity begins you must implement the E&S Plan. The district may conduct a site inspection of the project site to ensure compliance with the regulations and these inspections may be unannounced.

### **FAQ #8: What E&S BMPs would be used on a timber harvest site?**

Due to the nature of the earth disturbance on a timber harvest activity, the E&S BMPs may be different from those used in a typical construction site. The earth disturbance on a timber harvest activity consists of the skid trails, haul roads, and log landing areas. Careful planning as to the location of those is critical in minimizing impacts. Persons proposing a road system should ensure that they only construct as much a road system as necessary; avoid steep grades and follow contours; ensure roads are crowned or use in-sloped surfaces to aid in drainage; be aware of soil types and their limitations; avoid springs, seeps, wetlands and other poor drainage areas; provide buffer areas to stream corridors; minimize stream crossings; limit the size and duration of the timber harvest; and carefully plan the use of water control structures as part of the road system when using broad based dips, water bars, culverts and ditches. Additional Guidance regarding E&S BMPs can be found in the [Erosion and Sediment Control Program Manual](#) (DEP Document ID 363-2134-008, March 2012, Chapter 14 Timber Harvesting). The [Erosion and Sediment Control \(E&S\) Plan Template for a Timber Harvesting Operations](#) (DEP Document ID 3800-FM-BCW0539) may be used to develop the E&S plan.

### **FAQ #9: What post-construction stormwater management planning and BMPs are required for a timber harvest site?**

Timber harvest sites are typically restored at the end of the activity to a condition of meadow in good condition or better. In restoring the site, the road system and log landing areas would be regraded to their original contour; soils scarified and de-compacted to apply seeding; ditch relief culverts removed and replaced with water bars or broad-based dips; temporary stream crossings removed; and all disturbed areas seeded and mulched. It is recommended erosion control blankets be used to stabilize areas within 50 feet of stream channels and wetlands. A restoration activity that meets the requirements of 25 Pa. Code § 102.8(n) is not required to perform a post-construction stormwater management (PCSM) analysis. A Site Restoration Plan can be used for

the PCSM Plan and may be included as part of the E&S Plan. The act of restoring the disturbed area and de-compacting the soil is viewed as a PCSM BMP.

**FAQ #10: What do I need to do when the project is finished?**

When the timber harvest activity is complete the operator should ensure the disturbed area (i.e., skid roads, hauls roads, and log landing areas) is permanently stabilized (minimum uniform 70% perennial vegetative cover) and remove all temporary E&S controls and stream crossings.

If an E&S Permit was required, the permittee must complete and submit the Notice of Termination (NOT) form to the district. The permittee should indicate on the NOT that a site restoration plan is being used, and the permittee is exempt from filing the legal instrument for PCSM BMPs. The district will ensure the NOT form is correctly completed and will schedule an inspection of the site. If the site is in compliance, the permittee will receive a letter stating the permit is terminated. If any problems are found in the inspection the permittee will receive a letter noting the deficiencies and will be asked to resubmit their NOT after the deficiencies have been corrected. Until written notice is received from the district that the permit is terminated the permit terms and conditions still apply.

**FAQ #11: What do I do if I don't need permit coverage?**

Timber harvest sites that do need permit coverage must still develop and implement a written E&S Plan (per 25 Pa. Code § 102.4(b)(2)) for the site that must be kept on-site during the timber harvest activity. However, in some cases, local municipal ordinances may require district review and approval of the E&S Plan prior to the start of earth disturbance activity. Check with the local municipality as to their requirements before starting any earth disturbance activity.

If upon complaint or inspection, the district or DEP may require the E&S Plan to be submitted for review and approval.

As identified in FAQ #7 above, DEP, in cooperation with the Pennsylvania Department of Agriculture, has developed an E&S Plan Template for Timber Harvesting. This document will be useful for those operators of a timber harvest activity in developing an E&S Plan for sites that do not require an E&S Permit.

**FAQ #12: What if a timber harvest activity will be accomplished prior to a land development activity?**

If, in preparation for a land development (or other earth disturbance activity), a timber harvest activity will occur, then the timber harvest activity will be regulated in and of itself. This means that the timber harvest activity would not be considered part of the common plan of development or sale related to future construction and would not be subject to a National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Associated with Construction Activities (NPDES Permit) for future construction. However, if the earth disturbance associated with the

timber harvest activity is 25 acres or greater, then the timber harvest activity would be required to obtain an E&S Permit.

Clearing and grubbing (cutting of trees and stump removal) is not considered a timber harvest activity or part of a timber harvest activity. Earth disturbance associated with clearing and grubbing would require coverage under an NPDES Permit, if the disturbance will be at least one acre. Clearing and grubbing in advance of a land development project would be considered part of the common plan of development or sale.

**FAQ #13: What other permits may I need for the project?**

It is typical in timber harvest activities that some of the haul roads, skid trails, and log landings may obstruct or encroach upon a body of water or watercourse. Proper permits under DEP's Chapter 105 Dam Safety and Waterway Management regulations (e.g., a GP-7 for temporary stream crossing) must be obtained. Note that these permits may require the review and approval of an E&S Plan. If an E&S Permit is not required, Chapter 105 permits must still be obtained. It is recommended to contact the DEP Regional Waterways & Wetlands Program regarding Chapter 105 permitting. The contact information for DEP's regional offices can be found by visiting DEP's website, [www.dep.pa.gov](http://www.dep.pa.gov) and selecting "Regional Resources".