



## Thoughts on AMP Draft Revisions ~ December 2012

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High quality water is Vermont's premier forest product. The Vermont Department of Forests, Parks, and Recreation has recently completed a review of its approved management practices for maintaining water quality on logging operations and has published draft AMP revisions that will be presented to the legislature in January, 2013. The revisions warrant very careful review.

The Clean Water Act (CWA) of 1972 was designed to clean up this nation's waters. The idea was to bring back clean, clear, cold, highly-oxygenated waters to the maximum practical extent. The CWA required developers to go through an extensive process to obtain a discharge permit. For a variety of reasons, forest management operations did not have to obtain a permit as long as the forest access networks were designed, constructed, maintained, and closed according to state-adopted best management practices (BMPs).

In 1987 Vermont adopted what were called "Acceptable Management Practices" (AMPs) that would serve as the key ingredients for the management of roads, skid trails, log landings, stream crossings, and riparian zones. Vermont adopted 24 practices to guide forest access network steepness, surface erosion control structure types and installation frequency, buffer distances, and stream crossing methods. If properly used in a well-designed access system, sound research had demonstrated that the AMPs would protect water quality in managed forests even in the event of disruptive storm events. Therefore, it was reasonable to assume that if the approved AMPs were used fully

and well then no discharge permit would be required to protect water quality in Vermont's working forests.

Though the practices were effective, the legislature recognized that the AMPs were very costly to build and to maintain. They also recognized the high level of variability in harvesting sites, extent, and equipment. To give landowners the flexibility required, the law stated that full compliance with the practices was not required as long as the discharge of waste into the waters of the State was avoided.

In other words, landowners could employ their own methods for maintaining water quality on logging operations or even just cross their fingers and hope. However if their practices -- or crossed fingers -- failed to prevent stream sedimentation, woody debris discharges, or elevated stream temperatures, the landowners would be responsible for the water pollution they created.

This approach had and still has a fairly significant drawback in that it places the burden of proof squarely on the public to prove that its waters have been polluted. Identifying severely eroded access networks was not enough. Actual stream sedimentation, woody debris deposition, or temperature elevation resulting directly from the timber harvesting had to be documented.

Being that most water pollution resulting from timber harvesting can be attributed to storm events, the detection of actual water pollution based on citizen complaints is not particularly effective. More monitoring of compliance and/or water quality impacts is needed.

Also, though many of the AMPs were quite specific, some of the AMPs had language that could be interpreted in a variety of ways. This made establishing the cases of discharge and failure to comply fully with the AMPs very challenging.

In April of 2012 Vermont Family Forests proposed a variety of ways to address the shortcomings of the AMPs as seen from the

public's perspective. These recommendations were based on the assumption that the people of the State of Vermont wanted to successfully limit water pollution from timber harvesting operations even during periodic storm events.

VFF's recommendations included:

- Reducing vague language in the AMPs;
- Avoiding risky practices such as brushed fords;
- Developing consistent compliance assessment protocols;
- Developing GIS tools that would assist landowners to identify and avoid sensitive areas such as steep slopes, shallow soils, and riparian zones;
- Adopting *Conditional Management Practices* (CMPs) and *Optional Conservation Strategies* (OCS) that would give landowners even more options and encourage leaving forests alone on steep slopes, in riparian zones, and in other fragile areas; and
- With the notable exception of publicly-subsidized operations, landowners could still elect not to comply fully with the AMPs but the penalties resulting from a discharge would be borne by them.

In December 2012 the Vermont Department of Forests, Parks, and Recreation published draft recommendations that will be presented to the legislature in the upcoming session. These will eventually be reviewed through an extensive public involvement process.

The draft recommendations maintain and clarify many of the existing AMPs. However, they:

- Allow steeper skid trails, truck roads, and log landings;
- Introduce more exceptions for complying with erosion control specifications when access is built in areas with adverse site conditions;
- Continue to permit questionable practices such as brushed fords; and

- Contain language that is open to different interpretations.

We are now in an age where disruptive storm events like Tropical Storms Irene and Sandy are increasingly frequent and where fresh water supplies are growing scarce. Flowing waters are publicly-held assets. It is one of the State's most important tasks to protect and to conserve them. Protecting high quality flowing waters has the additional benefit of concurrently protecting forest health.

**To conserve the health of Vermont's *working forests* and the quality of the waters that flow from them, the draft revisions to Vermont's AMPs will need further *re-working*. This process will continue when the legislature reconvenes in January.**