

Michigan Environmental Screening BMPs for massasauga

Eastern Massasauga (=rattlesnake)

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Environmental Screening for Eastern Massasauga Rattlesnake in Michigan

March 14, 2017

Background

The Eastern Massasauga Rattlesnake (EMR) is listed as a threatened species under the U.S. Endangered Species Act (Act). The Act protects the EMR and their habitat by prohibiting “take” and may require agencies to coordinate with the U.S. Fish and Wildlife Service (Service) before authorizing or funding an activity affecting the species. To streamline coordination, the Service’s Michigan Ecological Services Field Office has developed a set of Best Management Practices (BMPs) for specific activities potentially impacting EMR in Michigan. These BMPs are voluntary and just one of the ways that compliance with the Act may be achieved.

Projects may...

- have no effect to EMR and no need for additional ESA compliance considerations.
- have potential for adverse effects, but use BMPs to avoid adverse effects (i.e., “not likely to adversely affect” EMR) or minimize the adverse effects.
- use surveys to confirm probable absence of EMR (contact the Service for survey guidance).
- use “Informal Consultation” with Service (for actions requiring a Federal permit or funding).
- use “Formal Consultation” with Service (for actions requiring a Federal permit or funding).
- develop a Habitat Conservation Plan and seek an ESA permit, if adverse effects cannot be avoided.

For activities not listed in the BMPs, please contact the Service for project-specific recommendations. In some cases implementation of BMPs may not be sufficient to avoid all adverse impacts to EMR and additional consultation with the Service may be required. The Service can assist planners in determining whether adverse effects are likely as a result of proposed projects, and whether implementation of BMPs is sufficient to remove the risk of adverse effects.

Additional information on compliance with the Act can be found:

For Federal actions/section 7 consultation:

<https://www.fws.gov/midwest/Endangered/section7/s7process/index.html>

For non-Federal actions:

<https://www.fws.gov/midwest/endangered/permits/index.html>

For questions or comments you may contact the Service below:

U.S. Fish and Wildlife Service

Michigan Ecological Services Field Office

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Definitions

Active Season: The active season begins in the spring when snakes emerge from hibernation, generally when maximum air temperatures are above 50°F, and ends in the fall when EMR have returned to their hibernacula and temperatures are consistently below 45°F. In Michigan, the active season is generally April through October. The active season dates will vary by location and weather. **Contact the Service for project-specific dates based on location when work in EMR habitat is planned near the start or end of the active season.**

Affecting hydrology: We consider “affecting hydrology” to include projects that are likely to appreciably change the elevations of surface water upstream or downstream, or in the local ground water (as estimated pre-project vs. post-project). The concern is for changes to local hydrology (e.g., creating new ditches, creating a new impoundment) that might harm EMR hibernating at or near ground water, or actions that significantly alter available suitable habitat either through flooding or drying of EMR wetlands.

Hibernacula: Areas suitable for EMR to overwinter. For most EMR populations, the locations of hibernacula are not known, but these areas are critical to protect. Unfortunately, we lack information on how to reliably identify these areas. EMR usually hibernate below the frost line in crayfish or small mammal burrows, tree root networks or rock crevices in or along the edge of wetlands or in adjacent upland areas with presumably high water tables (areas where the soil is saturated but not inundated). Following egress from hibernacula in the spring, EMR typically remain aboveground in the vicinity for a week or two, and return to these areas in the fall for several weeks prior to entering hibernation. Surveys in the spring (shortly following egress) or fall (prior to ingress) when snakes are congregating in the vicinity may help identify these important areas. Maintaining stable hydrology of these areas is important during the inactive season.

IPaC: “Information for Planning and Conservation” is a project planning tool available on-line to the public that streamlines the Service’s environmental review process.

EMR Habitat: “Eastern Massasaugas have been found in a variety of wetland habitats. Populations in southern Michigan are typically associated with open wetlands, particularly prairie fens, while those in northern Michigan are known from open wetlands and lowland coniferous forests, such as cedar swamps. Some populations of Eastern Massasaugas also utilize open uplands and/or forest openings for foraging, basking, gestation and parturition (i.e., giving birth to young). Massasauga habitats generally appear to be characterized by the following: (1) open, sunny areas intermixed with shaded areas, presumably for thermoregulation; (2) presence of the water table near the surface for hibernation; and (3) variable elevations between adjoining lowland and upland habitats.” From Michigan Natural Features Inventory (Website: mnfi.anr.msu.edu)

Tier 1 Habitat: Areas known to be occupied by EMR or highly likely to be occupied by EMR.

Tier 2 Habitat: Areas with high potential habitat and may be occupied by EMR.

Within the known range: EMR can occur throughout the Lower Peninsula and on Bois Blanc Island in Mackinac County. Areas within the known range but outside of Tier 1 and Tier 2 are considered less likely to be occupied. EMR is highly secretive and cryptic in nature, and can persist in low densities, which makes them difficult to detect. Further, there are extensive areas of the state that have never been surveyed. It is likely that there are additional and yet-unknown occurrences throughout the Lower Peninsula of Michigan. Mapped habitats are subject to change based on new information identifying current Tier 1 and 2 areas as unsuitable, or based on discovery of new EMR occurrences.

EMR Environmental Screening Step-wise Process

Step 1. Determine if EMR may be present in the action area

- ✓ Determine whether the project is in potential EMR habitat using <https://ecos.fws.gov/ipac>
 - o You can search for your project location and define the action area by drawing a polygon or uploading a shapefile.
 - o IPaC will give you a list of species that may be present in the area you identified. If you click on the thumbnail for EMR, it will tell you if your project is within Tier 1 or Tier 2 habitat, or within the known range of EMR. If EMR is not listed, you do not need to consider this species. Effects to other listed species should also be considered; contact the Service if you need assistance.
 - o If EMR is listed, it does not necessarily mean that the entire action area is potential habitat, only that some potential habitat is within the action area entered. For large-scale (e.g., county-wide or multi-county projects) consider coordinating the Michigan Ecological Services Field Office for direct assistance.

If your project is within the known range of EMR, including Tier 1 or Tier 2 habitat, continue to step 2:

Step 2. Determine if the project has the potential to affect EMR

Projects have no effect on EMR when...

- ✓ There is no suitable EMR habitat in the project area and no potential impact off-site (e.g., water discharge into adjacent EMR habitat). If project site conditions are determined to be wholly unsuitable for EMR (e.g., project is in regularly mowed turf grass, row crop, graveled lot, existing building, or industrial site), it is not suitable EMR habitat.
- ✓ The project occurs within suitable habitat, but the action will have absolutely no effect on the habitat or EMR.
- ✓ In suitable EMR habitat, but the site is entirely unoccupied by the species. This is typically confirmed through surveys (contact the Service for more information). In some cases it may be easier to assume EMR are present and use BMPs than to conduct surveys for the species.

For projects where there is a potential for effects to EMR, continue to the section of the document as follows:

For Tier 1 Habitat Page 5

For Tier 2 Habitat Page 6

Within the range of EMR Page 7

For projects with a combination of Tier 1 and Tier 2 habitat, follow the instructions for Tier 1.

Tier 1 Habitat

Tier 1: Project will not affect EMR if all of the following apply:

1. Project will not result in any changes to suitable EMR habitat quality, quantity, availability or distribution, including changes to local hydrology
2. If EMR are present in the project area, they are not likely to have any response as a result of exposure to the action or any environmental changes as a result of the action
3. Project includes all General Best Management Practices:
 - a. Use wildlife-safe materials for erosion control and site restoration (see Erosion Control Resources side panel). In Tier 1 habitat, immediately eliminate use of erosion control products containing plastic mesh netting or other similar material that could entangle EMR.
 - b. To increase human safety and awareness of EMR, those implementing the project should first watch MDNR's "60-Second Snakes: The Eastern Massasauga Rattlesnake" video (available at https://youtu.be/-PFnXe_e02w), or review the EMR factsheet (available at https://www.fws.gov/midwest/endangered/reptiles/eam_a/pdf/EMRfactsheetSept2016.pdf or by calling 517-351-2555.
 - c. Require reporting of any EMR observations, or observation of any other listed threatened or endangered species, during project implementation to the Service within 24 hours.

Tier 1: Project Not Affecting EMR Coordination

Recommendation: No pre-project coordination with Service needed. Document the steps above for your records.

Tier 1: All Other Projects: For any other projects in Tier 1 habitat that may affect EMR or its habitat, contact the Service for assistance in evaluating potential impacts. Best Management Practices (starting on page 8) are included for many actions to help with project planning, but may not be sufficient to avoid all adverse impacts. The Service can determine whether additional measures are necessary after a project-specific review.

Erosion Control Resources

There are a variety of products that can be used for soil erosion and control requirements. These products may incorporate plastic mesh netting to help maintain form and function. This plastic netting has been demonstrated to entangle a wide variety of wildlife from birds to small mammals. In Michigan, soil erosion control netting has resulted in the documented mortality of a number of imperiled amphibian and reptile species including the EMR and the Eastern Fox Snake (State Threatened).

Several products for soil erosion and control exist that do not contain plastic netting including net-less erosion control blankets (for example, made of excelsior), loose mulch, hydraulic mulch, soil binders, unreinforced silt fences, and straw bales. Others are made from natural fibers (such as jute) and loosely woven together in a manner that allows wildlife to wiggle free. For more information regarding wildlife-safe erosion control measures contact the [USFWS Michigan Ecological Services Field Office](#).

Tier 2 Habitat

Tier 2: Project is not likely to adversely affect EMR if all of the following apply:

1. Project does not impact more than 1 acre of wetland habitat and includes all applicable activity-specific BMPs (starting on page 8), and
2. Project will not appreciably affect hydrology
3. Project includes all General Best Management Practices:
 - a. Use wildlife-safe materials for erosion control and site restoration (See Erosion Control Resources side panel, page 4). In Tier 2 habitat, eliminate the use of erosion control products containing plastic mesh netting or other similar material that could ensnare EMR as soon as is feasible but no later than January 1, 2018.
 - b. To increase human safety and awareness of EMR, those implementing the project should first watch MDNR's "60-Second Snakes: The Eastern Massasauga Rattlesnake" video (available at https://youtu.be/-PFnXe_e02w), or review the EMR factsheet (available at <https://www.fws.gov/midwest/endangered/reptiles/eama/pdf/EMRfactsheetSept2016.pdf> or by calling 517-351-2555).
 - c. Require reporting of any EMR observations, or observation of any other listed threatened or endangered species, during project implementation to the Service within 24 hours.

Tier 2: Project Not Likely to Adversely Affect EMR Coordination Recommendation: Informal consultation with Service for actions requiring a Federal permit or funding. For non-Federal projects, document the steps above for your records, but no pre-project coordination with the Service needed.

Tier 2: All Other Projects: Coordinate with the Service for a project-level review to determine potential impacts and whether additional conservation measures are needed to avoid adverse effects.

Within the known range of EMR

For projects within the known range of EMR, but outside of Tier 1 and Tier 2 habitat:

To help ensure your project is unlikely to affect EMR:

1. Project applies the General Best Management Practices:
 - a. Use wildlife-safe materials for erosion control and site restoration (See Erosion Control Resources side panel, page 4). By January 1, 2019, eliminate the use of erosion control products containing plastic mesh netting or other similar material that could ensnare EMR (within the known range but outside of Tier1 or Tier 2 habitat).
 - b. To increase human safety and awareness of EMR, those implementing the project should first watch MDNR's "60-Second Snakes: The Eastern Massasauga Rattlesnake" video (available at https://youtu.be/-PFnXe_e02w), or review the EMR factsheet (available at <https://www.fws.gov/midwest/endangered/reptiles/eama/pdf/EMRfactsheetSept2016.pdf> or by calling 517-351-2555).
 - c. Require reporting of any EMR observations, or observation of any other listed threatened or endangered species, during project implementation to the Service within 24 hours.
2. Project will not have significant impacts to dispersal, connectivity, or hydrology of existing EMR potential habitat, i.e., filling less than 1 acre of wetland habitat or converting less than 20 acres of uplands of potential EMR habitat (uplands associated with high quality wetland habitat) to other land uses.

Within the Known Range, but Outside Tier 1 or 2 Coordination Recommendation:

Document the steps above for your records and no pre-project coordination with the Service needed. If you cannot implement the General Best Management Practices contact the Service for assistance in evaluating potential impacts.

Activity-Specific Best Management Practices

For Tier 1, BMPs are included; however, even with implementation of the BMPs, project-specific review may be needed to determine whether they are sufficient to avoid all adverse impacts

- In Tier 1 habitat, contact the Service regarding the potential applicability of surveys to determine EMR absence in suitable habitat. In Tier 2, surveys can be conducted to confirm the presence of suitable habitat and/or the presence/probable absence of EMR. If onsite habitat is determined to be wholly unsuitable via desktop analysis (e.g., entirely mowed lawn, row crop, graveled lot, and industrial site), then it can be classified as unoccupied and the BMPs will not be necessary.
- Minimize work in Tier 1 and Tier 2 EMR habitat. When feasible, do not route new construction projects, such as pipelines, facilities, or access roads, through potential EMR habitat. Implement the use of wildlife-friendly corridors (e.g., oversized culverts) into new road design to maintain or enhance habitat connectivity.
- Projects should be designed to minimize the potential for disturbance to EMR during project activities.

Maintenance Activities (includes nominal modifications to existing roads and infrastructure)

1. Ground Disturbing Activities

a. All

- i. No known EMR hibernacula are destroyed or disturbed at any time of year. Because these areas are often not known:
 1. For Tier 1: contact the Service to determine whether adverse impacts are likely as a result of ground disturbing work in Tier 1 habitat.
 2. For Tier 2: when operating in potential hibernation areas (e.g., EMR wetlands and adjacent areas with crayfish burrows, rodent holes, small mammal burrows, etc.), work is conducted well within the active season (June – August) to avoid when snakes are likely to be present. During this time, they are most likely to be able to move out of the way of disturbance and have greater chances to find alternative hibernation sites. Destroying potential hibernacula may still impact snakes indirectly. Potential hibernation areas should be avoided to the extent possible.

b. Grading

- i. When working during EMR active season, use exclusionary fencing to separate EMR habitat from the work site to prevent EMR from accessing the disturbance area. For example, in linear projects exclusionary fencing should run parallel to the disturbance, creating a barrier to snake movement. Each end of the exclusionary fencing should be angled away from the area of disturbance to direct snakes traveling along fencing away from the site. The

exclusionary fencing will typically be traditional silt fence that is set up outside of all areas of disturbance and other types of fencing (i.e., snow fence used to delineate the work zone). Do not use fencing materials that can entangle or injure snakes.

- ii. Any areas using exclusionary fencing should first be “cleared” by a qualified individual¹ before beginning construction activities. Fencing should be installed a minimum of 1 day before construction activities occur and walked weekly to ensure the integrity of the fence. If snakes are seen within the work zone, activity should stop until the snake can be safely moved, and the fence examined for breeches.
 - iii. Revegetate all disturbed Tier 1 and Tier 2 habitat with appropriate plant species (i.e., native species or other suitable non-invasive species present on site prior to disturbance). Monitor all restoration plantings for proper establishment and implement supplemental plantings as necessary to ensure restorations are of equal to or better habitat quality than previous conditions.
 - iv. In Tier 1 and Tier 2, avoid spread of invasive species into EMR habitat by following best practices. This includes inspecting and cleaning equipment and vehicles between work sites as needed to avoid the spread of invasive plant materials.
- c. Trenching
- i. In Tier 1 and Tier 2, avoid trenching in EMR wetlands when possible. In Tier 1, if open trenching is required install exclusionary fencing (follow measures 1(b)(i)-(iv)) and ensure the area is clear prior to trenching.
- d. Fill
- i. In Tier 1 and Tier 2, ensure all imported fill material is free from contaminants or invasive species could affect the species or habitat through acquisition of materials at an appropriate quarry or other such measures.
 - ii. In Tier 1 and Tier 2, use exclusionary fencing around the area to be filled and have the site “cleared” prior to placing fill by a qualified individual (as in 1(b)(i)-(ii)).
- e. Ditching
- i. For Tier 1 and Tier 2, conduct work well within the active season (June-August) when snakes are not likely to be near hibernation sites and can escape disturbance, or contact Service for project specific recommendations.
 - ii. For Tier 1, use exclusionary fencing around the area to be cleared/graded and have the site cleared by a qualified individual prior to construction activities.
 - iii. For Tier 1, contact the Service for work greater than 200’ for project specific recommendations.

¹ A qualified individual is someone who has received training on the identification and life history of EMR.

2. Site Access with vehicles (both Tiers)

- a. Limit operating vehicles/equipment, clearing trees, etc., in EMR habitat to the inactive season when the ground is frozen. During this time, under these conditions, EMR are most likely underground and will not be impacted by these activities. When possible, use low-impact equipment such as light weight track mounted vehicles with low ground pressure. In Tier 1, if the ground isn't completely frozen (due to weather conditions during the inactive season or if working near seeps and springs that are less likely to freeze), or if working near potential hibernacula, manual access (on foot) may be required.
- b. Strictly control and minimize vehicle activity in known/presumed occupied EMR habitat to the extent possible. During EMR active season, speed limits at facilities and access roads (i.e., 2-track and gravel) in occupied habitat should be <15 MPH.
- c. In Tier 1 and Tier 2 habitat areas, drivers should be aware of the potential danger to the driver of swerving to intentionally drive over snakes as well as legal and conservation implications.

3. Heavy Equipment (both Tiers)

- a. Spill Prevention for oils/fluids
 - i. Site staging areas for equipment, fuel, materials, and personnel at least 100 feet from the waterway, if available, to reduce the potential for sediment and hazardous spills entering the waterway. If sufficient space is not available, a shorter distance can be used with additional control measures (e.g., redundant spill containment structures, on-site staging of spill containment/clean-up equipment and materials). If a reportable spill has impacted occupied habitat:
 1. Follow spill response plan;
 2. Call MDEQ and the National Response Center (800-424-8802), and the Service's Michigan Ecological Services Field Office (517-351-2555) to report the release.
- b. Do not use large equipment or perform earth-moving activities, water withdrawal and discharge for hydrostatic testing, or other activities that substantially affect the ground or water levels in potential EMR hibernacula areas. Avoidance measures may include, but are not limited to, re-routing of pipeline and appurtenance facilities, boring or drilling, and timing/weather-related restrictions. Measures will be determined on a site-specific basis, based on local habitat conditions, contact Service for more information.

4. Hydrology impacts (both Tiers)

- i. Water levels in known/presumed occupied habitats should not be artificially manipulated during the inactive season.

- ii. Where applicable, water levels should be allowed to flow naturally and not be artificially stabilized. This allows for the restoration of early successional habitats.

Habitat Management and Restoration

5. Vegetation Management

a. Mowing

- i. In Tier 1, mow during the inactive season.
- ii. For Tier 2, mowing is unrestricted during the inactive season. During the active season, follow daytime mowing restrictions and mow during times of day when snakes are less likely to be active (Figure 1). Increase mower deck height to >8 inches to reduce likelihood of injury to snakes. Higher deck height will reduce the risk of death or injury to snakes in the area.
- iii. In areas with turf grass or areas where trying to discourage EMR (e.g., in areas around buildings), mow regularly and keep grass relatively short (less than 4-6 inches) to reduce its suitability for EMR. If starting with longer grass (greater than 6 inches), mow during the inactive season initially, and then maintenance mowing can occur during the active season (as long as it is regularly maintained and kept shorter than 4-6 inches, so that EMR is unlikely to use those areas). Unmaintained/longer grass may be used by snakes and make them vulnerable to mortality during the next mowing event.

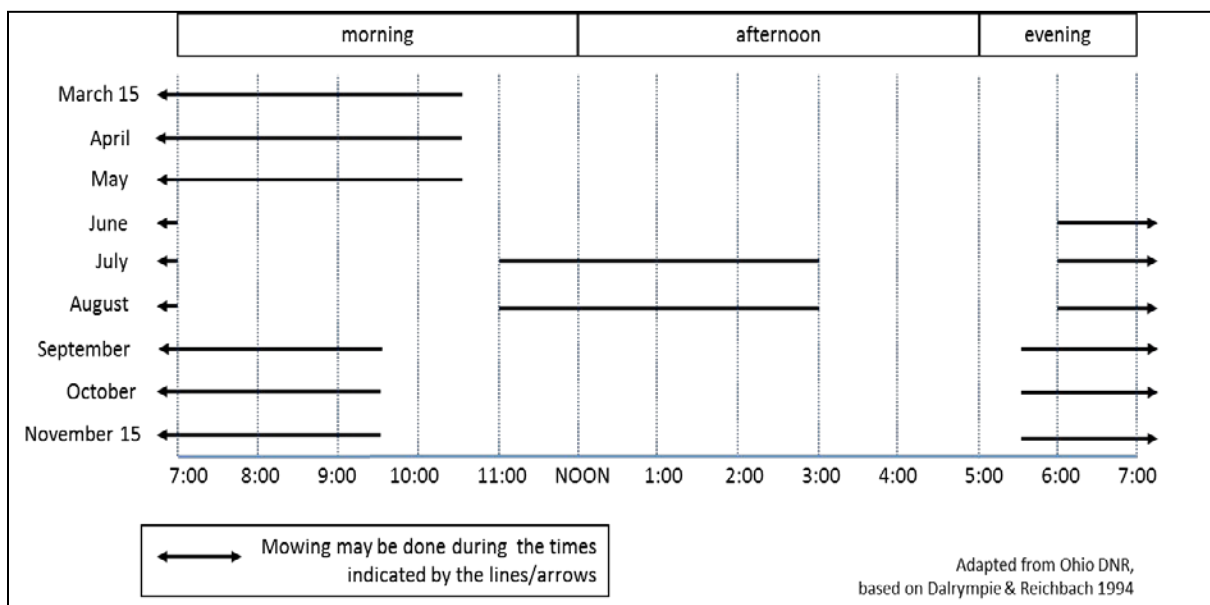


Figure 1. EMR Active season mowing schedule (NiSource Biological Opinion, page 273, USFWS 2015)

b. Cultivation (e.g., disking)

- i. In Tier 1 habitat, disking should be limited to the inactive season, and areas within 50 m of known or potential hibernacula should be avoided. In Tier 2, disking can occur in the active season if area is mowed during the inactive season and maintained shorter than 4-5 inches.

c. Brush/Tree Removal

- i. In Tier 1, conduct brush or tree removal in known/presumed EMR habitat during the inactive season, when the ground is frozen (such that soils can be left undisturbed).
- ii. Use low impact harvest methods in Tier 1 and Tier 2 wetlands to cut and remove individual trees. This includes using low-impact equipment such as light weight track mounted vehicles with low ground pressure. In Tier 1, if the ground isn't completely frozen (due to weather conditions during the inactive season or if working near seeps and springs that are less likely to freeze), or if working near potential hibernacula, use hand tools and access site on foot.
- iii. In Tier 1 and Tier 2, do not burn brush piles during the active season. Dispose of brush offsite or leave in place.

d. Herbicides

- i. Follow all appropriate label instructions regarding which herbicide formulation to use in potential EMR habitat. Avoid spray drift beyond the target species/area (observing label instructions regarding optimal wind speed and direction, boom height, droplet size calibration, precipitation forecast, etc.).
- ii. Avoid broadcast applications of herbicides in Tier 1. Spot spraying or wicking can be used to control invasive plants in occupied habitat. If using broadcast spray in Tier 2, limit the area of exposure to less than half of the available EMR habitat to allow for untreated areas to provide potential areas of refugia from exposure. Contact the Service if you need help in determining this.

e. Prescribed burning (Tier 1 and Tier 2)

- i. Conduct prescribed burns during the inactive season before snakes emerge from hibernation. Walk the burn unit following the burn and report any dead or injured EMR to the Service within 24 hours. Burn only a portion (e.g., one-third) of available EMR habitat in any year to leave suitable cover for EMR and its prey.
- ii. Establish fire breaks using existing fuel breaks (roads, rivers, trails, etc.) to the greatest extent possible. Cultivation (disking or roto-tilling) of burn breaks will be minimized to the extent that human health and safety are not jeopardized. Cultivation and mowing to establish fire breaks will occur during the inactive season.

6. Erosion control

- a. Use wildlife-safe erosion control blankets (without plastic mesh netting in the layers of material) as required in the general BMPs. Remove all silt fence used for erosion control once soils are stable to reduce barriers to EMR movement.

7. Revegetation

- a. Revegetate all disturbed Tier 1 and Tier 2 habitat with appropriate plant species (i.e., native species or other suitable non-invasive species present on site prior to disturbance). Monitor all restoration plantings for proper establishment and implement supplemental plantings as necessary to ensure restorations are of equal to or better habitat quality than previous conditions.

8. Invasive species

- a. In Tier 1 and Tier 2, avoid spread of invasive species into EMR habitat by following best practices. This includes inspecting and cleaning equipment and vehicles between work sites as needed to avoid the spread of invasive plant materials.

9. Wetland restoration

- a. Restoring natural hydrology in areas that have been drained by tiling and ditching may greatly benefit EMR habitat. Conduct tile breaking or excavation well within the active season to avoid potential hibernacula. Have a qualified individual walk in front of the equipment to clear the area. Work with the Service for Tier 1 habitat to ensure no indirect adverse effects are expected as a result of restoration efforts.

10. Water-level manipulation

- a. Water levels should not be artificially manipulated during the inactive season to avoid impacts to hibernating snakes. Contact the Service in Tier 1 habitat when water levels will be manipulated during the inactive season or will result in significant alterations to EMR habitat during the active season.