

How Forestry is Regulated Under the Clean Water Act

The Clean Water Act (CWA) regulates forestry as a nonpoint source of pollution

- The Clean Water Act (CWA) defines two sources of water pollution – point and nonpoint sources.[1]
- Point sources are typically more confined and concentrated sources (e.g., waste discharge from a factory or a water treatment facility). Point sources discharging pollutants require National Pollutant Discharge System (NPDES) permits administered by the EPA directly or states with delegated EPA authority.
- Nonpoint sources are diffused sources that cover larger areas, such as rainwater runoff from managed forests and other land uses across a landscape. Nonpoint sources are regulated through best management practices (BMPs) and related state laws, regulations, and guidance.
- The distinction between point and nonpoint sources enables regulators to apply limited resources toward both point and nonpoint sources in the most effective manner.

Forestry is most effectively regulated as a nonpoint source

- Shortly after passage of the CWA, the EPA concluded forestry activities are nonpoint sources most effectively managed through best management practices (BMPs) established by the states rather than through federal permits[2].
- EPA was right. After 35 years, forestry contributes to impairment in just .5% of the nation's river and stream miles[3].

BMPs are effective at protecting water quality

- BMPs are drafted with EPA funding, guidance, and approval. They address such things as harvesting, planting, and roads.
- BMPs apply general science-based principles that are tailored to the specific conditions and needs within a state or region. For instance, Oregon's BMPs include guidance for roads in landslide-prone areas that is not relevant in states that do not have landslide-prone terrain.
- Ongoing studies show that BMPs are a widely used highly effective means of protecting water quality[4]. For example, since 1997, ongoing monitoring in the southern states shows continuous improvement in use and effectiveness of BMPs in that region[5].

[1] Forest management in wetlands is regulated separately under section 404 of the CWA.

[2] 41 Fed. Reg. 24709, 24710 (June 18, 1976).

[3] U.S. EPA. *National Water Quality Inventory Report to Congress*. Available at <http://water.epa.gov/lawsregs/guidance/cwa/305b/index.cfm>.

[4] Schilling, Dr. Erik. *Compendium of Forestry Best Management Practices for Controlling Nonpoint Source Pollution in North America*. Technical Bulletin Number 966. National Council for Air and Stream Improvement. September 2009.

[5] Southern Group of State Foresters. *Silviculture Best Management Practices Implementation Monitoring*. 2008.