

**Anticipated Questions on  
Revisions to Stormwater Regulations to Clarify that an NPDES Permit is not Required for Stormwater  
Discharges from Logging Roads**

**Is the EPA revising existing regulations at this time?**

Yes. The EPA is revising its Phase I stormwater regulations to clarify that stormwater discharges from logging roads do not constitute stormwater discharges associated with industrial activity and that National Pollutant Discharge Elimination System (NPDES) permits are not required for these stormwater discharges. This notice modifies language in existing stormwater regulations to clarify that, for the purposes of assessing whether stormwater discharges are “associated with industrial activity,” the only facilities under Standard Industry Classification (SIC) code 2411 that are “industrial” are: rock crushing, gravel washing, log sorting, and log storage. This revision clarifies, contrary to the Ninth Circuit’s decision in *Northwest Environmental Defense Center v. Brown (NEDC)*, 640 F.3d 1063 (9th Cir. 2011), that discharges of stormwater from silviculture activities other than the four activities identified above do not require an NPDES permit.

**Is the EPA proposing to regulate stormwater discharges from forest roads at this time?**

Not at this time. In response to the partial remand under *Environmental Defense Center v. US EPA*, 344 F.3d 832 (9th Cir. 2003), the Agency continues to review available information on the water-quality impacts of stormwater discharges from forest roads, which include logging roads, as well as existing practices to control those discharges and is considering a range of options to address such discharges, which could include designating a subset of stormwater discharges from forest roads for regulation under the Agency’s section 402(p) rulemaking authority. The EPA believes that the broad range of flexible approaches under section 402(p)(6) may be well-suited to address the complexity of forest road ownership, management, and use.

**Why is the Agency issuing this notice now?**

The EPA has issued this notice in response to *Northwest Environmental Defense Center v. Brown*, 640 F.3d 1063 (9<sup>th</sup> Cir. 2011), which addressed the question of whether stormwater discharges from certain logging roads require NPDES permits. This revision clarifies the status of the discharges like the ones at issue in the *NEDC* case.

**Has the Agency changed its position on how to treat discharges from forest roads?**

EPA maintains its consistent position of over 30 years that stormwater discharges from thousands of miles of forest roads can be effectively addressed by best management practices (BMPs). Discharges from forest roads can seriously degrade forest streams and rivers, but these discharges can be successfully controlled through BMPs, such as grading and seeding road surfaces and designing road drainage structures to discharge runoff in small quantities to off-road areas that are not hydrologically connected to surface waters.

**How is “point source” defined by the Clean Water Act?**

The Clean Water Act defines “point source” as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.” 33 U.S.C. 1362(14).