

8. Compliance Monitoring Program

8.1 Introduction

Compliance monitoring is an important element of the Forest Practices HCP. One of DNR's responsibilities is to ensure that operators and landowners are complying with the Forest Practices Rules when conducting forest practices activities. According to WAC 222-08-160 (4), "DNR shall conduct compliance monitoring that addresses the following key question: 'Are forest practices being conducted in compliance with the rules?' DNR shall provide statistically sound, biennial compliance audits and monitoring reports to the Board for consideration and support of rule and guidance analysis. Compliance monitoring shall determine whether forest practices rules are being implemented on the ground. An infrastructure to support compliance will include adequate compliance monitoring, enforcement, training, education and budget."

The objective of the compliance monitoring program is to determine if forest practices are being conducted in compliance with the Forest Practices Rules *in effect at the time the activity was conducted*. To reach this end, the goals of the Compliance Monitoring Program are as follows:

- Develop methods to streamline and maintain a cost-effective field compliance monitoring process.
- Provide relevant and accurate information to the Board and the Adaptive Management Program (AMP) to modify or to clarify the rules in order to improve compliance.
- Identify opportunities to provide education (especially for complex Forest Practices Rules categories) for regulators, landowners, consultants, and operators as suggested by non-compliance rates.
- Provide information for rule and Forest Practices Board Manual revision if necessary.
- Provide results to the Services and the Washington State Department of Ecology, where applicable.

The framework for the Compliance Monitoring Program includes the following components:

- The results must be credible and defensible.
- The program will develop sampling methods, sample size, selection criteria, and reporting format.
- The sampling design will provide required information over time.
- The program must be sustainable, adjustable, easily understood, and manageable.

The program is administered by a Compliance Monitoring Program Manager and is staffed by this manager and a program specialist. The program relies on assistance from the Washington State Departments of Ecology and Fish and Wildlife, and the Tribes to assist with field assessments and data collection.

Additional guidance is provided by the Compliance Monitoring Stakeholder Committee which includes representatives of the DNR, WDFW, Ecology, tribes and tribal organizations, Washington Forest Protection Association, and the Conservation Caucus. This forum meets regularly and provides advice on:

- Clarification of rule elements when questions arise,

- Consistent implementation of program protocols, and
- Consensus recommendations from the committee on steps for Compliance Monitoring Program improvement.

8.2 Compliance Monitoring Program Design

In 2006, an internal working group led by DNR and consisting of representatives from DNR's Forest Practices Program, Ecology, and WDFW completed a compliance monitoring program design (Washington DNR, 2010) focusing on Riparian Management Zone (RMZ) rules for all typed waters and road activities. The program design also included a detailed protocol for field assessments, field form revisions, and data collection templates.

The Forest Practices Board recommended that the department, under the supervision of the Adaptive Management Program Manager, conduct a Technical Review of the program design. Five reviewers were selected that had operational monitoring experience and the report results were presented to the Board in February of 2008.

In response to the review, three significant changes to sampling were implemented for 2008-2009. The first was adding a protocol to capture observed differences between water type classification at approval and at the time of the compliance review. This was instituted at the request of the Forest Practices Board because of the frequency of perceived differences between the stream type approved as part of the Forest Practices Application and what was actually being seen on the ground during reviews (2006-2007 sampling seasons) (Washington DNR, 2009). The effort is an approach to quantify the extent of the issue. Secondly, compliance with the rules as they are applied on the ground is now assessed in addition to compliance with what was stated on the approved application; this allows a comparison of differences where the two are not the same. The third change was to modify the Forest Practices Application selection strategy to sample each DNR region proportional to their representation in the entire population of applications statewide. This is to assure representation of each region in the sample.

In addition, DNR contracted with a professional statistician to refine the statistics. The program design was revised for each sampling season 2009 through 2011 to accommodate emphasis samples and improve sampling effectiveness. In each case the statistician reviewed and approved the designs.

8.3 Highlights of the Compliance Monitoring Program

The *Biennium 2008-2009 Compliance Monitoring Summary Report* was published in February 2011. This and previous [biennial reports](#) summarize results for two-year periods in which randomly selected and approved Forest Practices Applications were assessed for compliance with the Forest Practices Rules. The monitoring is conducted by professional foresters, geologists and biologists from DNR, Ecology, state Fish and Wildlife, and several tribes and tribal organizations in survey teams of up to four or five members. Landowners are invited to attend the field assessments.

The study design for 2008-2009 focused on Riparian Management Zone (RMZ) rules for all typed waters (WAC 222-30) along with Road Construction and Maintenance rules (WAC 222-24) applied at the Forest Practices Application site. Additionally, the design also included a

sample for determining compliance with rules providing for wetland protection (WAC 222-30). Additional emphasis samples examined two smaller populations of applications: Alternate Plans and Exempt 20-Acre Parcels.

The sampling strategy evaluates each activity as a whole determining whether the activity was completely compliant or if any part of it was non-compliant. Compliance percentage rates were calculated dividing the number of compliant activities by the total number assessed as compliant or non-compliant. Additionally, those found non-compliant were assigned a severity rating of Minor, Moderate or Major, indicating the level at which enforcement action would be considered. All non-compliant activities, regardless of the severity rating, are included in the non-compliant total.

The results found that road-related compliance with approved Forest Practices Applications was 79 percent and riparian/wetland activities were 78 percent compliant with approved applications. The rates were not significantly different than observed the previous biennium. For the emphasis samples, Alternate Plans were determined to be 84 percent compliant, but the Exempt 20-Acre Parcel riparian harvests were 62 percent compliant. Both these activity types combined occur on fewer than 5 percent of all applications.

The compliance team also recorded water types to determine if the stream types observed by the compliance team were the same as the types recorded on the approved Forest Practices Applications. Findings showed about 31 percent of observed stream reaches by the compliance team had features that suggested disagreement with the water type stated in the application. The differences included differences in the width category of Type F streams and stream type categorization differences across all types.

The report resulted in DNR Forest Practices Division procedural changes in how DNR forest practices staff in the regions are to deal with Forest Practices Application approval and post-approval monitoring. See Appendix #5.

The 2010-2011 Standard Sample effort is again focused on Riparian Management Zone rules for all typed waters (WAC 222-30) and Road Construction and Maintenance rules (WAC 222-24). Additionally, emphasis samples will be implemented to assess the Water Type Classification differences following procedural changes instituted after the 2008-2009 report. Also newly implemented is a haul route assessment sample.

8.4 Future Plans for the Compliance Monitoring Program

Currently the program is reviewing emphasis areas and protocol changes for the 2012 field season. Program staff is working with sister agencies to be able to improve the characterization from compliant/non-compliant to yield more information about the nature of the activity compliance. Expanding observations to detect reasons why events of non-compliance occur is a high priority to maintain program relevancy. Any new approaches will be reviewed by the Compliance Monitoring Stakeholder Committee for recommendations and changes.

8.5 Funding

On an ongoing basis, the Forest Practices Program actively seeks state funding from the legislature and support from the program's partners to effectively implement the Compliance Monitoring Program. DNR has received funds from the Legislature since 2005 that allows the Departments of Ecology and Fish and Wildlife to assist DNR in the compliance monitoring efforts. The legislature reduced funding for Forest Practices as a whole in the last two biennia and Compliance Monitoring is sharing in those reductions. Participation grants have been cut and some emphasis sampling is being postponed to accommodate competing priorities in the Forest Practices Program.