

# 8. Enforcement

## 8.1 Introduction

Working in conjunction with forest landowners, timber owners, and operators, the Forest Practices Program staff are responsible for ensuring forest practice activities are conducted according to the Forest Practices Act and Rules, as well as the conditions of the approved Forest Practices Application/Notification. Region Forest Practices Program staff prioritize compliance inspections relative to the potential risk to public resources posed by the proposed activity. For example, landowners that propose substantial road construction in steep terrain—where there is potential for sediment delivery to a stream—will receive a higher level of compliance inspections, than a proposal that has limited road construction on gentle slopes that have no associated risk of sediment delivery to a stream.

Classifying a Forest Practices Application ranks the level of risk to a public resource and is therefore used as a tool for program foresters to determine the level of compliance inspections that will be conducted for a particular proposed activity. This targeted approach helps ensure the most effective and efficient use of a Forest Practices Foresters' time.

### Four classes of forest practices

- **Class I** –determined to have no direct potential for damaging a public resource.
- **Class II** –determined to have a less than ordinary potential to damage a public resource.
- **Class III** –determined to have an average potential to damage a public resource.
- **Class IV** –determined to have potential for a substantial impact on the environment – this is further evaluated dependent upon whether the proposal is **Class IV-General**, or **Class IV-Special** classification. Applications classified as IV-General are applications that are being converted from forestry to a different land use such as housing or agriculture.

Regardless of the classification, all forest practices activities must be performed in compliance with the Forest Practices Act and Rules. More detailed information on [forest practices classifications](#) can be found in WAC 222-16-050.

Compliance visits are an important part of the Forest Practices Forester's job. The information gathered during compliance visits and through the Compliance Monitoring Program (Chapter 9) is used to improve delivery of the Forest Practices Program. Improvement may include clarifying or modifying rule language, improving forms and processes, providing guidance documents or modifying board manuals, improving the administration of the rules, and preparing specific education and training opportunities. Field compliance visits will continually inform all these efforts aimed at improving compliance with the Forest Practices Rules.

When an activity has been found to be out of compliance with the Forest Practices Rule, program staff has several enforcement options available: informal conferences, Notices to Comply (NTC), Stop Work Orders (SWO), civil penalties, Notice of Intent to Disapprove, and criminal penalties.

The Forest Practices Act and the Board encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to public resources. It is also the Board's policy to use a progressive approach to enforcement that begins with consultation and voluntary efforts to achieve compliance while reserving civil penalties (monetary fines) for more serious infractions.

## 8.2 Enforcement Activity

Enforcement documents can be used for either violations or non-violations. Violations are forest practices activities that have damaged a public resource or violate a law or rule. Non-violations are situations where damage to a public resource has not occurred but the Forest Practices Forester has determined that damage is imminent if the activity or condition is not altered. An example would be an operator who does not have adequate road surface drainage on a haul road for use in the rainy season. The operator could be issued a non-violation Notice to Comply requiring the road be upgraded so it does not pose a threat to public resources during heavy rains. The following table shows enforcement activity between July 1, 2011, and June 30, 2012.

### Stop Work Orders and Notices to Comply Issued in Fiscal Year 2012

DNR Region	Stop Work Orders		Notices to Comply		Total
	Non-Violation	Violation	Non-Violation	Violation	
Southeast	0	0	8	10	18
Northwest	4	9	3	15	31
South Puget Sound	1	5	7	2	15
Northeast	1	5	3	13	22
Pacific Cascade	1	6	13	10	30
Olympic	3	6	4	14	27
<b>Total</b>	<b>10</b>	<b>31</b>	<b>38</b>	<b>64</b>	<b>143</b>

### Fiscal Year 2012 Enforcement Data Summary

\*Approved Forest Practices Applications

Number of current Forest Practices Application/Notifications (FPA/Ns) through June 30, 2012 (See chapter 4 for details)	10,569*
Number of Notice To Comply / Stop Work Orders issued for violations	95
Ratio of Notice To Comply / Stop Work Orders violations to total number of valid FPA/Ns (95/10,569)	0.9%

## Fiscal Year 2012 Enforcement Data Summary

\*Approved Forest Practices Applications

Number of Notice To Comply / Stop Work Orders issued for non-violations	48
Ratio of Notice To Comply / Stop Work Orders non-violations to total number of valid FPA/Ns (48/10,569)	0.5%
Total number of documents issued (violation & non-violation)	143
Ratio of all documents issued to total valid FPA/Ns (143/10,569)	1.4%

The table above compares the number of Notice to Comply and Stop Work Order documents issued in FY2012 to the number of current Forest Practices Applications through June 30, 2012. A comparison from the 2011 annual report shows a decrease of 30 NTC/SWOs issued, which breaks down to a decrease of 24 percent issued for violations, and a decrease of 10.6 percent issued for non-violations. The program is evaluating approaches to more fully utilize enforcement data to explain patterns and relationships, as well as inform compliance improvement efforts and training.

Although not all positions are full-time, the program has about 56 Forest Practices Program field staff statewide that enforces the Forest Practices Act and Rules and helps ensure compliance. Some forest practices positions were vacant due to budget reductions.

The majority of violations do not require additional enforcement action, such as issuance of a civil penalty or Notice of Intent to Disapprove. The decision to pursue this level of enforcement is made at the DNR Region level and a number of factors are taken into consideration such as:

- Failure to comply with the terms or conditions of a Forest Practices Application /Notification or Stop Work Order,
- The probability of more than minor harm to the environment,
- The extent of damage to the public resource, and
- Multiple violations of the same rule or law by the same landowner.

The table below shows the number of civil penalties and Notices of Intent to Disapprove that became a Final Order\* during FY2012.

### Fiscal Year 2012 Civil Penalties and Notices of Intent to Disapprove

Region	Civil Penalties	Notice of Intent to Disapprove
Southeast	0	0
Northwest	0	0
South Puget Sound	0	0
Northeast	0	0

<b>Region</b>	<b>Civil Penalties</b>	<b>Notice of Intent to Disapprove</b>
Pacific Cascade	0	0
Olympic	0	0
<b>Total</b>	0	0

\*Final Order occurs when all appeal processes have concluded.