

# 9. Compliance Monitoring Program

## 9.1 Introduction

Compliance monitoring is an important element of the Forest Practices HCP. One of the State'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) for regulators, landowners, consultants, and operators as suggested by non-compliance rates.
- Provide information for Forest Practices Rule and Forest Practices Board Manual revision if necessary.
- Provide results to the Services 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 within DNR 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 (Ecology) and Fish and Wildlife (WDFW), 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 for Compliance Monitoring Program improvement.

DNR has identified compliance improvement as a major goal of the DNR Strategic Plan in 2010. The information gained through the Compliance Monitoring Program (and through compliance and enforcement visits by Forest Practices Foresters) may highlight rule implementation issues that need attention. Over time, and by means of a thorough review of the factors contributing to potential non-compliance, DNR is developing a continuous feedback loop between compliance monitoring, field compliance/enforcement (Chapter 8) and Forest Practices training efforts to improve compliance with the Forest Practices Rules.

## **9.2 Compliance Monitoring Program Design**

In 2006, a State working group led by DNR completed a compliance monitoring program design (Washington DNR, 2010) focusing on Riparian Management Zone (RMZ) Forest Practices 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. Each of these program design elements has been revised to reflect current methods.

The Forest Practices Board (Board) recommended that DNR staff, 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 2008 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 the time of application 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 compliance monitoring reviews (2006-2007 sampling seasons) (Washington DNR, 2009). This change to the sampling approach is an effort to quantify the extent of the discrepancy. 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.

### 9.3 Highlights of the Compliance Monitoring Program

The *Biennium 2010-2011 Compliance Monitoring Summary Report* was published in April 2012. 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, WDFW, 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 2010-2011 focused on Riparian Management Zone (RMZ) Forest Practices 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 haul route compliance. An additional emphasis sample examined how well water type classification was being implemented in terms of consistency with Compliance Monitoring observations.

The sampling strategies evaluate 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 compliance rates for each of the rules observed were not significantly different than observed the previous biennium. Riparian prescription compliance rates remained about the same, varying between 43 percent and 95 percent as shown in the table below. Road-related compliance with approved Forest Practices Applications was 85 percent. The new haul route survey showed that 96 percent of existing haul routes sampled were compliant with sediment delivery standards.

#### 2010-2011 Riparian Prescription Compliance Rates from the Compliance Monitoring Program

Riparian Prescription type	Percent (%) Compliant	Number Observed
Western WA Type F or S No RMZ Inner Zone harvest	63	43
Western WA Type F or S No Entry RMZ	64	14
Western WA Type F or S DFC Option 1	43	7

<b>Riparian Prescription type</b>	<b>Percent (%) Compliant</b>	<b>Number Observed</b>
Western WA Type F or S DFC Option 2	58	24
Eastern WA Type F or S No Inner Zone	75	8
Eastern WA Type F or S No Entry RMZ	67	3
Statewide Type Ns	92	71
Statewide Type Np	87	68
Statewide Wetlands	95	37

The compliance team also sampled non-typed F or S waters recorded on the approved Forest Practices Applications to determine if the stream types observed by the compliance team were the same as stated on the Forest Practices Application. Findings showed 76 percent of non-fish bearing stream reaches observed by the compliance team were in agreement with the water type stated in the application.

The May 2011 Compliance Monitoring Action Plan, (a follow-up to the 2008/2009 Compliance Monitoring Report), is being implemented where budget allows (see 2011 FPHCP Annual Report for copy of Plan). The Compliance Action Monitoring Plan addressed:

- Water-type classification determinations
- Riparian non-compliance
- Riparian 20-acre exempt non-compliance
- Road non-compliance
- Type A wetland non-compliance

## **9.4 Future Plans for the Compliance Monitoring Program**

Currently the State is reviewing emphasis areas and protocol changes for the 2012 Compliance Monitoring field season. The State is working to be able to improve the results 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. Any new approaches will be reviewed by the Compliance Monitoring Stakeholder Committee for recommendations and changes.

A follow-up sample of 20-Acre Exempt parcels Riparian Management Zone harvests is being implemented in 2012 to determine if there has been improvement in compliance rates since the 2008-2009 report.

## **9.5 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 work with DNR in the compliance monitoring

efforts. The legislature reduced funding for the Forest Practices Program as a whole in the last two biennia and the Compliance Monitoring Program 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.