

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 rule 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. The program is staffed by this manager and a program specialist. The program relies on assistance from the Washington State Department of Ecology, Department of Fish and Wildlife, and the Tribes to assist with field assessments and data collection.

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, Department of Ecology, and Washington State Department of Fish and Wildlife completed a compliance monitoring program design focusing on Riparian Management

Zone rules for all typed waters and road activities. The program design also included a detailed protocol for field assessments, revised forms, and data collection templates.

The 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 who 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 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). 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 forest practices applications statewide. This is to assure representation of each region in the sample.

In addition, DNR has hired a professional statistician to refine the statistics. Work began on the program design revisions for 2009, and a draft was released in December 2008 for review; however due to staff changes, the revision process was not completed until early 2010 but was completed in time to apply to the 2010 sampling season. Refer to the [Compliance Monitoring Program Description](#) (DNR 2010) for the updated version.

8.3 Highlights of the Compliance Monitoring Program

The 2008 and 2009 field seasons have been completed and work is currently underway developing the “Biennium 2008-2009 Compliance Monitoring Summary Report”. Due to Agency budget reductions and unforeseen workload issues, this report isn’t scheduled for completion until late 2010. The 2006-2007 report ‘Biennium 2006-2007 Compliance Monitoring Summary Report’ can be found at:

http://www.dnr.wa.gov/Publications/fp_cm_biennial_report_06-07.pdf (DNR 2009).

These reports summarize results for a two year period 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, the Department of Ecology, Washington Department of Fish and Wildlife, and several Tribes 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 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.

A finer look at two smaller populations of forest practices applications took place in 2007-2008. The two populations involved forest practices applications with Alternate Plans and small forest landowner 20-acre exempt parcels. This concentrated effort (emphasis sampling) was made because these two groups of forest practices applications utilize rules that are different than the “standard” rules and the population of each forest practices application type is so small that it would take years to develop meaningful statistics about each group. These two rule groups occur in approximately 1.5 percent of submitted forest practices applications. The results from this study will be included in the 2008-2009 report to the Forest Practices Board and will be reported in the 2010-2011 Forest Practices HCP Annual Report.

A new stakeholder committee was chartered as of fall 2009. Per that Charter, *The purpose of the Compliance Monitoring Program Stakeholder Committee is to provide a forum for communication and information sharing among Forest Practices stakeholders and provide guidance and recommendations for the Forest Practices Board Compliance Monitoring Program.* This forum is expected to result in:

- Clarification of rule elements when questions arise.
- Consistent implementation of program protocols.
- Consensus recommendations from the committee on steps for Compliance Monitoring Program improvement.

The committee composition includes representatives of the Department of Natural Resources, Department of Fish and Wildlife, Department of Ecology, Tribes, Washington Forest Protection Association, and the Conservation Caucus.

As with past compliance monitoring efforts, the 2010 study design is focused on Riparian Management Zone rules for all typed waters (WAC 222-30) and Road Construction and Maintenance rules (WAC 222-24). At the time this report was written, compliance monitoring for the 2010 season had been 66 percent completed.

8.4 Future Plans for the Compliance Monitoring Program

The results of almost four years of field reviews have begun to provide a better picture statewide of the implementation of forest practices rules on the ground. Regional and specific information on rule elements will be available as field data increases.

Currently the program is reviewing emphasis areas and protocol changes for the 2011 field season. Expectations for 2011 include the addition of an active haul route observation protocol and implementing additional features resulting from the [2009 Clean Water Act Assurances Review of Washington’s Forest Practices Program](#) (Ecology 2009) such as water typing, shade, wetlands, haul roads and CMZs.

Expanding observations to detect reasons why events of non-compliance occur is a high priority to maintain program relevancy.

8.5 Funding

The Forest Practices program actively seeks state funding from the Legislature and support from the program's partners on an ongoing basis to effectively implement the Compliance Monitoring Program. DNR has received funds from the Legislature since 2005 which allows the Department of Ecology and the Department of Fish and Wildlife to assist DNR in the compliance monitoring efforts. The legislature fully funded the Compliance Monitoring Program for the 2009-2011 biennium when many other programs were reduced in funding or eliminated.