

8. Compliance Monitoring Program

8.1 Introduction

Compliance monitoring is an important and major 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. To reach this end, the goals of the compliance monitoring program are as follows:

- Develop methods to streamline and maintain a cost effective field review compliance monitoring process.
- Provide relevant and accurate information to 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 landowners, regulators, 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 Environmental Protection Agency, 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.

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 focusing on RMZ 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, DNR has revisited the program design and 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 has not yet been completed. Initially, DNR provided appropriate training for the protocol to all field staff including DNR, Ecology, WDFW, and tribal participants. Training is ongoing as needed for new staff.

8.3 Highlights of the Compliance Monitoring Program

The 2007 field season was completed and a combined 2006-2007 report “Biennium 2006-2007 Compliance Monitoring Summary Report” has been published. A copy can be obtained at: http://www.dnr.wa.gov/BusinessPermits/News/Pages/nr09_060.aspx

The report summarizes two years of random assessments of compliance with state forest practices rules. The monitoring was conducted by more than 90 professional foresters, geologists and biologists from DNR, the Department of Ecology, Washington Department of Fish and Wildlife, several tribes and private natural resources consultants in survey teams of four or five members. Landowners were invited to attend the assessments.

The study sample represented 174 randomly selected approved forest practices applications. The results in the report pertain to riparian and road activities throughout the state. There were a total of 289 riparian activities and 234 road activities reviewed during the 2-year period. The conclusions of the report state “Statewide compliance during the study period was 87 percent for road activities and 75 percent for riparian activities. Average compliance for all activities was 80 percent with a lower confidence limit of 75 percent and an upper confidence limit of 86 percent.”

In seven cases, the monitoring teams found the noncompliance at a site was serious enough to refer it to a DNR region office for follow-up and possible enforcement consideration.

The study design for 2008-2009 continues to focus on RMZ rules for all typed waters (WAC 222-30) along with Road Construction and Maintenance rules (WAC 222-24). Additionally, an enhanced sample provides more detail for determining compliance with wetland rules.

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 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 any 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 Forest Practices HCP Annual Report.

A new stakeholder committee has been meeting periodically since March 2009 has adopted a name and charter 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.

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 the 2001 forest practices rules on the ground. Regional and specific information on rule elements will be available as field data increases.

Another biennial report will be written following the end of the 2009 field season. The publication is expected to be released mid to late 2010. Currently the program is reviewing emphasis areas and protocol changes for the 2010-2011 field seasons.

As a result of findings in the 2006-2007 report, the compliance monitoring program will be considering a training effort directed at the Timber, Fish and Wildlife groups within the DNR regions. The training will cover specific key points to help improve rules compliance. In general, an emphasis will include outreach and training as a means to increase compliance of forest practices rules.

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 Ecology and WDFW 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. The DNR program manager and program field coordinator positions implement the compliance monitoring program.