



**DEPARTMENT OF  
NATURAL RESOURCES**

**OFFICE OF THE COMMISSIONER OF PUBLIC  
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December 2<sup>nd</sup>, 2021

The Honorable Bernard Dean  
Chief Clerk of the House  
338B Legislative Building  
Olympia, WA 98504

The Honorable Brad Hendrickson  
Secretary of the Senate  
412 Legislative Building  
Olympia, WA 98504

Dear Chief Clerk Dean and Secretary Hendrickson:

Please accept the enclosed report, submitted on behalf of Department of Natural Resources (department), as directed by the Legislature in the Sec. 310 (23) of the 2021-2023 Operating Budget (ESSB 5092, Chapter 334, Laws of 2021). The bill as passed directed the department, on behalf of the Forest Practices Board, to report to the natural resource policy committees of the Legislature on the progress of its projects, including progress made to address recommendations from the 2021 state auditor's report on the Adaptive Management Program. The first report is due December 1<sup>st</sup>, 2021, with a follow up report due December 1<sup>st</sup>, 2022.

Should you have any questions, please contact me at 360-486-3469 or [Brian.Considine@dnr.wa.gov](mailto:Brian.Considine@dnr.wa.gov)

Sincerely,

Brian Considine  
Legislative Director  
Office of the Commissioner of Public Lands

Enclosure: Legislative Report - Forest Practices Board Projects and State Auditor's Recommendations on the Adaptive Management Program

cc:

Members of the Senate Agriculture, Water, Natural Resources & Parks Committee  
Members of the House Rural Development, Agriculture & Natural Resources Committee

# Forest Practices Board Projects and State Auditor's Recommendations on the Adaptive Management Program

Prepared by  
Washington State Department  
of Natural Resources

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December 1, 2021



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# Introduction

This report provides requested information to the natural resource policy committees of the Washington State Legislature regarding the status of Forest Practices Board (Board) projects and progress made to address recommendations from the 2021 state auditor's report on the Forest Practices Adaptive Management Program (AMP).

The report was required through a proviso in the 2021-23 biennial operating budget (2021 [Engrossed Substitute Senate Bill 5092](#) Section 310 (23)), which states:

(23) Within amounts appropriated in this section, the department on behalf of the forest practices board must provide an update to the natural resource policy committees of the legislature on the progress of its projects, including progress made to address recommendations from the 2021 state auditor's report on the adaptive management program, by December 1, 2021, and December 1, 2022.

This is the first of the two reports required through this budget proviso.

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## Summary

### Progress on Board Projects

This report describes the status of two major Forest Practices Board efforts and implementation of the 21-23 biennium AMP research project work plan. In August 2020, the Board successfully adopted a prioritized two-year AMP research schedule and budget that the legislature fully funded at the requested \$16.1 million level for the 21-23 biennium. Over the biennium, the Board also considered and adopted eight completed AMP research projects, and has adopted fifty-five studies since the AMP began in 2001. All of this was done while operated safely during the COVID-19 pandemic to conduct its regular public meetings.

Over the life of the AMP, the legislature has consistently provided significant funding support to AMP projects that assess the effectiveness of the Forests and Fish Rules in protecting aquatic resources. The funding levels reflect the well-conceived projects included in the AMP Master Project Schedule by the program participants.

The first major Board effort is *consideration of adoption of a permanent administrative rule pertaining to establishing division points between segments of watercourses that provide fish habitat and those that do not*. This work is well underway. The Board is presently awaiting a recommendation from the Timber, Fish and Wildlife Policy Committee (TFW Policy Committee) on the single remaining unresolved component for the proposed rule: the characteristics of an “anadromous fish floor” (AFF). The AFF is the point in a stream below which anadromous fish (that migrate to and from salt water, such as salmon) are presumed to be present and, therefore, where use of electrofishing would be minimized. From the time the Board considers and acts on the AFF recommendation, approximately eighteen months are required to complete the series of necessary actions in the process of adopting a new permanent rule.

The Board is also focusing on overseeing completion of a number of AMP research studies that are *evaluating the effectiveness of rules that establish the size of riparian management zone buffers (buffers) required adjacent to perennial watercourses that are not fish habitat*. In 2018 the Board decided that action is warranted due to a

research study that showed temperature increases in streams protected by current rule-required buffers. The Board directed the TFW Policy committee to develop an appropriate Type Np buffer recommendation for the Board that minimizes or prevents temperature increases in streams protected by rule-required riparian buffers. That recommendation will be delivered to the Board in early 2022. If the Board then decides that rulemaking is warranted, Board staff will need twenty-four months to complete the series of rulemaking steps necessary before a new permanent rule can be put into effect.

The Legislature's support and funding for *the AMP's research program* is greatly appreciated, and the AMP is now using that funding to implement the Board-approved work plan for the 21-23 biennium. After the first three months of implementation, one of the eighteen individual studies that comprise the work plan had been completed (6 percent) and twelve others (67 percent) were assessed on-track. Two projects (11 percent) were lagging but were expected to be back on schedule by spring 2022. Three projects (17 percent) were identified as having significant issues that could impact progress as intended during the current biennium (Table 1).

With regard to the five of eighteen work plan projects that are not currently on schedule, AMP staff are actively working with the co-chairs of the Cooperative Monitoring, Evaluation and Research committee (CMER), committee members, and CMER's associated Scientific Advisory Groups to address the identified issues and barriers to intended progress. These efforts are assessed to have a reasonably high likelihood of bringing the remaining projects back on track by the time the second legislative report is due in December 2022.

### **Progress on addressing recommendations from the 2021 state auditor's report on the AMP**

In February 2021, the Forest Practices Board requested that the State Auditor's Office (SAO) produce a [performance audit](#) of the AMP. The report set forth eleven recommendations for the Board to consider to improve AMP decision-making and accountability.

The Board [unanimously adopted a plan of action](#) to address the recommendations, with actions segregated into three categories for lead responsibility:

- *Timber, Fish and Wildlife Leadership Engagement*: Over twenty years have passed since the passage of the Forest and Fish Act and its associated rules, and few leaders who originally participated remain active today. Public Lands Commissioner Franz has assumed an active leadership role and is convening a meeting before the end of 2021 of the principals of the caucuses that participate in the TFW environment including the AMP. The initial objective will be to renew relationships and commitments to the TFW process, then turn attention to the first two of the SAO recommendations.
- *Standing Board Committee Actions*: The Board's action plan directs initial work on SAO recommendations five and six (addressing committee decision-making) to the Adaptive Management Program Administrator (AMPA) and the co-chairs of TFW Policy and CMER. Initial work has been performed by the AMPA, and the co-chairs of TFW Policy are implementing a plan that will guide that committee's work and response to the Board.
- *Board Staff Actions*: As staff to the Board, DNR is assigned to perform initial work on all or portions of the remaining seven SAO recommendations (numbers 3, 4, and 7 through 11) that are primarily administrative in nature. Much of the work will be performed in collaboration with TFW Policy and CMER, and will ultimately go to the Board for consideration and decisions. Staff is presently utilizing existing resources to develop changes to technical guidance in [Board Manual Section 22](#) to act on three

of the SAO recommendations.

The Board's action plan identified a number of recommendations that would require additional resources to implement, so the Board asked DNR to submit a funding decision package to OFM for consideration in the Governor's 2022 supplemental operating budget. DNR did so (Appendix 1), requesting \$680,000 for FY2023 to address all or portions of the SAO recommendations that are directed at improving AMP program accountability, decision-making and transparency.

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## Rulemaking to Establish the Division between Fish- and Non-Fish Waters

One of the Board's primary areas of focus has been to consider adopting a permanent rule (and associated Board Manual technical guidance) to establish dividing point between segments of streams that provide fish habitat and those that do not. The Legislature's interest in this rulemaking is shown in a proviso in the [21-23 operating budget law](#) that requires DNR to report on this rulemaking progress before June 30, 2022 (see Section 310(23)). In compliance with this requirement, DNR will provide a detailed account of progress and status in the June 2022 report; this section simply highlights the background, current status and anticipated timelines.

This rulemaking effort is directed at addressing the Forests and Fish Report foundational goal for protecting fish habitat. The objective is to reduce reliance on electrofishing to identify the presence of fish, and establish an objective dividing point between fish- and non-fish habitats. These goals support the statutory objectives endorsed in the Forests and Fish Report and Forest Practices Habitat Conservation Plan.

### Background and Status

In 2016, the Board accepted several TFW Policy committee consensus recommendations for key elements to be included in the rule language, and directed DNR to file a Pre-Proposal Statement of Inquiry (CR-101). In 2017, the Board agreed to include in the rule additional water delineation methods and a new field protocol– the fish habitat assessment methodology (FHAM) – for delineating the upper extent of fish habitat while reducing electrofishing. The Board also decided that the remaining elements of the water typing system rule would be developed under the Board's direct guidance (rather than through CMER and the Policy committee).

In early 2018, the Board approved three Potential Habitat Break (PHB) alternatives and two anadromous fish floor (AFF) alternatives for analysis and possible inclusion in the water typing system rule. Later that year, recognizing numerous challenges to making progress on these items, the Board formed a water typing rule sub-committee (Committee) to lead discussions to resolve PHB metrics issues and develop a refined and, ideally, consensus-based AFF alternative. Between 2018 and October 2021, all outstanding issues *other than the AFF alternative* were resolved.

At present, the Board is expected to receive the Committee's recommendation for an AFF alternative at the February 2022 Board meeting. When the Board approves an AFF alternative and reaffirms that all other elements of the water typing system rule are complete, its next step is to direct DNR to prepare the water typing system rule information packet needed to take formal rulemaking through the filing of a CR-102 Rule Proposal. From the time the Board provides that direction to DNR, Board staff advises approximately twelve months will

be needed to complete the analyses and documents required for the rulemaking packet.<sup>1</sup>

After the filing of the CR-102, approximately six additional months of time are needed for public review and input before a new water typing system rule can be adopted. During that time, DNR would: conduct public hearings to invite comment on the rule proposal; consider public input and, prepare a concise explanatory statement responding to comments received on the rule proposal.

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## CMER Studies on Effectiveness of Rules Concerning Perennial Non-Fish Watercourses

Another of the Board's top priorities is completion of a number of CMER research studies evaluating the effectiveness of riparian management zone buffers required by rule to be retained adjacent to perennial watercourses that are not fish habitat (Type Np waters). Concerns have been raised that current buffer requirements may not meet federal Clean Water Act standards for temperature. The Board intends to determine whether existing rules need to be adjusted based on the research study results and a recommendation from TFW Policy. The Legislature's interest in this subject is signified by a proviso in the [21-23 operating budget law](#) that requires DNR to report on progress before June 30, 2022 (Section 310(25)). With the 2022 report due in seven months and further progress expected between now and then, this report simply highlights the current status and expected timelines; DNR will provide a more detailed accounting in the June 2022 report.

### Background and Status

The 2018 CMER *Type N Experimental Buffer Treatment Project on Hard Rock Lithologies (Phase I)* (Hard Rock) study demonstrated a slight temperature increase in Type Np waters flowing through streams managed under current forest practices riparian management zone (RMZ) buffers. The Board accepted TFW Policy's recommendation that action is warranted as a result of these findings, and approved TFW Policy's action plan for developing Type Np RMZ buffer alternatives for inclusion in a new or revised rule.

The Board's action plan recognizes, however, that five additional on-going CMER Type Np studies need to be completed to complement the Hard Rock study and better inform a Type Np buffer rulemaking proposal. Titles of the other studies are:

1. *Buffer Integrity – Shade Effectiveness (Amphibian);*
2. *Westside Type N Buffer Characteristics, Integrity and Function (BCIF);*
3. *Extensive Riparian Status and Trends Temperature Monitoring – Type N/F (Westside and Eastside);*
4. *Type N Experimental Buffer Treatment in Hard Rock Lithology - Phase II Extended Monitoring;* and
5. *Type N Experimental Buffer Treatment in Soft Rock Lithologies.*

Relying on final results<sup>2</sup> from the first three studies listed above and on preliminary results from the final two, a technical workgroup delivered a final report to TFW Policy in June 2021. TFW Policy is presently considering

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<sup>1</sup> The rulemaking packet will include five related documents: draft rule language; draft Board Manual Guidance; a Cost/Benefit Analysis; a Small Business Economic Analysis; and a State Environmental Policy Act analysis.

<sup>2</sup> Each study was approved by consensus by CMER and then TFW Policy, and subsequently presented and accepted by the Board.

that report and developing a Type Np buffer recommendation for the Board. TFW Policy anticipates delivering that recommendation to the Board in the first half of 2022. The timing of the recommendation is expected to coincide with the finalization of the two outstanding CMER Np buffer studies listed above (numbers 4 and 5).

At the November 10, 2021 Board Meeting, the Board voted to direct staff to prepare and file a CR-101 Preproposal Statement of Inquiry related to buffers on Type Np streams. Staff filed the CR-101 with the Code Reviser's Office on November 30, 2021 and anticipate the CR-101 will be published in the Washington State Register on December 15, 2021.

As indicated above, the Board anticipates receiving a Type Np buffer recommendation from TFW Policy and formally accepting the results of the final two Np buffer studies in the first half of 2022. Once the board approves the proposal, the next step for the Board is to direct DNR to prepare the Type Np buffer rule packet (with contents as described in the prior section) in advance of initiating formal rulemaking through filing a CR-102 - Rule Proposal.

When the Board initiates rulemaking, it will likely take eighteen months to prepare the rulemaking packet.<sup>3</sup> After that, the new rule would take effect about six months after the Board directs filing of a CR-102. During those six months, DNR would take the required rulemaking steps: conducting public hearings and public comment, reviewing comments received, and preparing a concise explanatory statement, after which the Board can adopt the rule.

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## Update on AMP CMER Research Program

### Background

The Salmon Recovery Act of 1999 ([ESHB 2091](#)) directed the Forest Practices Board ([Board](#)) to adopt rules consistent with the 1999 Forests and Fish Report ([FFR](#)), including rules for a scientifically based [AMP](#) used "... for evaluating the impacts of forest practices on aquatic resources." Revised Forest Practices rules consistent with the FFR and ESHB 2091, including the AMP, were adopted by the Board in 2001 (Washington State Forest Practices Rules, ([WAC 222-12-045](#))). In support of the AMP, the Board established the Cooperative Monitoring, Evaluation and Research ([CMER](#)) Committee to oversee research necessary to determine the effectiveness of contemporary Forest Practice Rules in meeting aquatic and riparian resource targets.

ESHB 2091 also directed the state to seek "federal assurances" from the appropriate agencies that the revised rules, including the AMP, were adequate to meet Endangered Species Act ([ESA](#)) and Clean Water Act ([CWA](#)) requirements. The Department of Natural Resources submitted the Forest Practices Habitat Conservation Plan ([FP HCP](#)) in late 2005 and received approval in the form of incidental take permits ([ITPs](#)) from the National Marine Fisheries Service and the U.S. Fish and Wildlife Service in June 2006. Similarly, the Washington Department of Ecology, through authority delegated by the U.S. Environmental Protection Agency, provided CWA assurances upon adoption of the 1999 FFR by the

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<sup>3</sup> The rulemaking packet will include five related documents: draft rule language; draft Board Manual Guidance; a Cost/Benefit Analysis; a Small Business Economic Analysis; and a State Environmental Policy Act analysis.



Legislature. This action was taken with the presumption the revised rules would either meet state water quality standards or put impaired water bodies on a trajectory to meet standards, and it is a key factor for providing landowners with regulatory predictability.

In May 2012, the DNR, Department of Ecology, Forests and Fish Conservation Caucus, and Washington Forest Protection Association announced that a settlement agreement had been reached to avert litigation over the state's programmatic FP HCP before the statute of limitations ran to challenge the FP HCP under the National Environmental Protection Act (NEPA). The issues addressed in the final agreement revolved primarily around covenants not to sue in exchange for clarification of a minimum program funding level and clearer enforcement language in federal agreements, firm commitments to a schedule of science and adaptive management projects, and an improved collaborative process in evaluating science information for implementation (known as the [2012 Settlement Agreement](#)<sup>4</sup>).

The Board approved the CMER Master Project Schedule (MPS) as a strategy to implement research projects through 2030 as a result of the 2012 Settlement Agreement. The schedule contains a comprehensive list of projects with budgets and timelines for completion. It is designed to carry out a long-term research plan developed by the CMER research committee, as prioritized through recommendations from TFW Policy to the Board. Following public input, the schedule was reviewed and adopted by the Board in May 2015. Since then, it has been updated annually.

The specific areas (“rule groups”) of research included in the MPS are:

- Fish habitat modeling to explore enhancing establishment of the regulatory break between fish- (Type F) and non-fish (Type N) waters;
- Effectiveness of Type F and Type N riparian prescriptions;
- Monitoring to evaluate status and trends of indicators of resource condition across lands covered by the FP HCP;
- Evaluation of landforms regulated as unstable slopes;
- Effectiveness of road best management prescriptions to reduce surface erosion; and
- Timber harvest effects on forested wetlands, remote mapping of wetlands, and effectiveness of wetland buffers.

It is important to note that research projects of this complexity typically take multiple years to complete, often crossing several biennia, particularly if they rely upon study designs requiring monitoring forest conditions both before and after the implementation of the treatment prescriptions being tested. The *Eastside Type N Riparian Effectiveness Project* is an example of such a study. This study is progressing within the proposed timelines and budgets but will take approximately six years to implement in the field. This level of scientific effort is essential to provide policymakers with high-quality results that can be confidently used to assess the effectiveness of forest practices rules.

### **Description and Status of 21-23 Biennium CMER Research Program**

With its adoption of the recommended MPS for the 21-23 biennium in August 2020, the Board asked DNR to request funding to carry out the program. The legislature provided funding consistent with DNR's request for

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<sup>4</sup> See 2012 Forest Practices Habitat Conservation Plan Annual Report - Appendix 6: the 2012 Settlement Agreement (beginning on page 21).

the 21-23 biennium. The program is funded at \$16.1 million for the biennium. Nearly two-thirds<sup>5</sup> comes from the Forest and Fish Support Account (FFSA), 27 percent comes from General Fund-State (GF-S), and 7.8 percent comes from the Model Toxics Control Operating Account (MTCOA) (Figure 1).

The [CMER Work Plan](#) presents an integrated strategy for conducting research and monitoring to provide scientific information to support the AMP. The overarching purpose is to inform CMER participants, TFW Policy members, the Board, and other interested parties about CMER research and monitoring activities. For the eighteen ongoing projects approved for FY 2022 and FY 2023, there are:

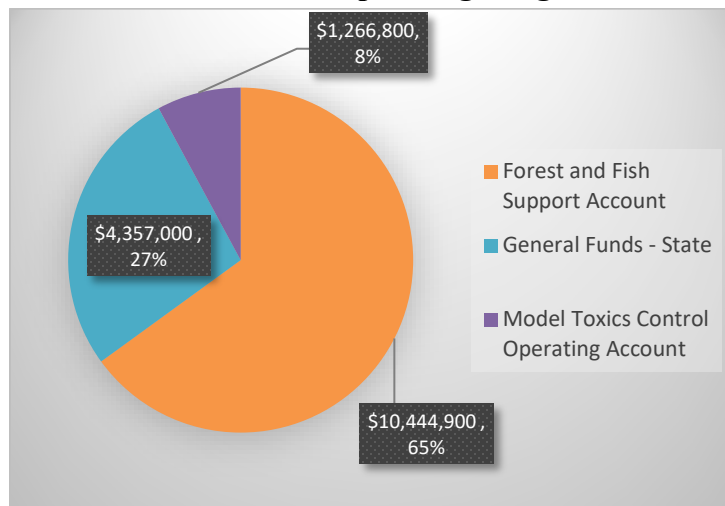
- two in the Stream Typing Rule Group;
- eight in the Type N Riparian Prescriptions Rule Group;
- three in the Type F Prescriptions Rule Group;
- two in the Unstable Slopes Rule Group;
- one in the Roads Rule Group; and,
- two in the Wetlands Protection Rule Group.

CMER projects cover a range of research topics related to the forest practices rules. The current CMER work plan includes 101 projects, including multiple phases of some projects. Original priority research topics were identified in 1999 in [Schedule L-1](#) of the Forests and Fish Report. Since then, the plan has been changed annually as existing projects have been completed and new ones added.

The Board-approved MPS for the 21-23 biennium includes eighteen projects and associated budgets. Table 1 lists these projects by Rule Group and summarizes individual project status as of September 30, 2021 (that is, the end of the first quarter of the 21-23 biennium).

As of September 30, 2021, one project (6 percent of the total) had been completed (*Project 2.6*) and twelve (67 percent) were assessed to have been progressing as were originally planned. Two projects (11 percent) were behind schedule but expected to be on track by spring 2022. Three projects (17 percent) have had significant issues that could impact progress as intended during the current biennium (Table 1).

**Figure 1: Fund sources and amounts for the AMP operating budget in the 21-23 biennium.**



<sup>5</sup> \$5,500,000 of the FFSA must be allocated for tribal participation in the overall Forest Practices Program (including the AMP) but for simplicity all has been included here for illustrative purposes.

**Table 1: Summary and status of the Board-approved CMER projects for the 21-23 Biennium.**

AMP PROJECTS BY RULE GROUP	PROJECT PROGRESS	COMMENTS
<b>1. Stream Typing Rule Group:</b> prescriptions for identifying fish-bearing and non-fish-bearing streams. <a href="#">WAC 222-16</a> provides the rule context. Projects funded in the 21-23 biennium include:		
1.1. Default Physical Criteria Assessment Project	ON TRACK	
1.2. Evaluation of physical features that define fish habitat in forested landscapes/potential habitat break validation study	ON TRACK	
<b>2. Type N Rule Group:</b> prescriptions for identifying non-fish-bearing streams and management of adjacent riparian areas. <a href="#">WAC 222-30</a> provides the rule context. Projects funded in the 21-23 biennium include:		
2.1. Type N Experimental Buffer Treatment Project in Hard Rock Lithologies - Amphibian Demographics/Channel Metrics	ON TRACK	
2.2. Type Np Hard Rock Phase III – Amphibian Demographics	ON TRACK	
2.3. Type N Experimental Buffer Treatment in Hard Rock Lithologies (temperature, sediment, vegetation, litterfall)	ON TRACK	
2.4. Type N Experimental Buffer Treatment in Soft Rock Lithologies	ON TRACK	
2.5. Eastside Type N Riparian Effectiveness Project (ENREP)	ON TRACK	
2.6. Extensive Riparian Status and Trends Monitoring – Temperature, Type F/N - Westside	COMPLETED	
2.7. Extensive Riparian Status and Trends Monitoring- Vegetation, Type F/N- Westside and Eastside	CONCERNS	The TFW Policy extensive monitoring work group has put this project on hold.
2.8. Riparian Characteristics and Shade Response Study	CONCERNS	Delays have occurred within the Riparian Scientific Advisory Group (RSAG) of CMER on the study design. The study design is ready for Independent Scientific Peer Review (ISPR). Further delays after ISPR would make it difficult to implement the project as intended this fiscal year. The CMER dispute resolution process may need to be invoked to resolve issues and bring the project back on track.
<b>3. Type F Riparian Prescriptions:</b> prescriptions for managing fish-bearing streams and adjacent riparian areas. <a href="#">WAC 222-30</a> provide the rule context. Projects funded in the 21-23 biennium include:		
3.1. Eastside Timber Habitat Evaluation (ETHEP)	ON TRACK	
3.2. Westside Type F Riparian Effectiveness Prescription Monitoring Project	DELAYED	Completion of the project exploratory report has delayed the project. The principal investigator and the project team are expediting the completion of the exploratory report. The project is expected to be on back on track by spring 2022.
<b>4. Unstable Slopes Rule Group:</b> prescriptions for identifying and managing areas potentially susceptible to mass wasting/erosion processes. <a href="#">WAC 222-24</a> , -30 provide the rule context. Projects funded in the 21-23 biennium include:		
4.1. Unstable Slope Criteria Project	ON TRACK	

AMP PROJECTS BY RULE GROUP	PROJECT PROGRESS	COMMENTS
4.2. Deep-Seated Landslide Research Strategy Project	DELAYED	Study design development is four months behind schedule. The Upland Science Advisory Group (UPSAG) is actively working on alternative approaches to the study design.
4.3. LiDAR Acquisition for Unstable Slopes	ON TRACK	
<b>5. Roads Rule Group:</b> prescriptions for identifying and managing erosion and runoff from forest roads. <a href="#">WAC 222-24</a> provides the rule context. The single project funded in the 21-23 biennium is:		
5.1. Road Prescription-Scale Effectiveness Monitoring Project	ON TRACK	
<b>6. Wetlands Rule Group:</b> prescription for identifying and managing wetlands. <a href="#">WAC 222-30</a> provides the rule context. Projects funded in the 21-23 biennium include:		
6.1. Forested Wetlands Effectiveness Project	ON TRACK	
6.2. Wetland Management Zone Effectiveness Monitoring	CONCERNS	The Wetlands Scientific Advisory Group (WetSAG) and the principal investigator have put this on hold to focus on Forested Wetlands Effectiveness Project (project 6.1). AMP is recruiting a wetland scientist to support CMER. Addition of the scientist will help bring this project back on track (and support other wetland projects under this rule group).

Regarding the five projects that are behind schedule, AMP staff are actively managing the delayed projects and are working closely with CMER and its associated Scientific Advisory Groups (SAGs) to address identified issues and barriers to intended progress. These efforts, including providing additional support where needed, have a reasonably high likelihood of bringing delayed projects back on track by the time of the second legislative report that is due in December 2022.

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## Progress on the 2021 State Auditor’s Recommendations on the AMP

In February 2021, the State Auditor acted on a Board request and published a [performance audit](#) of the AMP. The report outlined eleven recommendations for the Board to consider in order to improve AMP decision-making and accountability.

The Board considered the report at its February 2021 meeting, and in May 2021 [unanimously adopted a plan of action](#) to address the recommendations. It received a status report at the August 2021 meeting. The action plan established relative priorities and timelines among the individual recommendations, and identified costs for acting on them (where applicable). Highlights of the implementation are described below.

### Timber, Fish and Wildlife Leadership Engagement

Over twenty years have passed since the Legislature passed the Forest and Fish Act and the Board adopted associated administrative rules, and few of the leaders who participated remain active today. Public Lands Commissioner Franz has assumed an active leadership role, and intends to convene a meeting of the principals of the caucuses that participate in the TFW environment (including the AMP) before the end of 2021. The

initial objective will be to renew relationships and commitments to the TFW principles and processes. Afterward, leadership attention will go to the high-priority Board projects described previously and toward addressing two of the SAO recommendations:

- SAO recommendation #1: Consider an alternative to the consensus-based decision model required by the Board’s TFW Policy and CMER committees, so that decisions are made more rapidly.
- SAO recommendation #2: Consider the future role that caucus principals might have on the Board and the TFW Policy committee.

### **Standing Board Committee Actions**

The Board’s action plan directs initial work on two SAO recommendations to be led by the AMPA and the co-chairs of TFW Policy and CMER:

- SAO recommendation #5: Consider a “net gains approach” to decision making to help caucuses see a “win” from compromising on a *package of projects* rather than focusing on individual projects on a one-by-one basis. TFW Policy is actively working on evaluating this approach, with a goal of providing the Board with recommendations for transitioning to such an approach by the Board’s May 2022 regular meeting. Existing personnel and resources are being used.
- SAO recommendation #6: To improve future decision-making, *develop AMP study decision criteria or pre-determined thresholds for action upfront for study results*, so that participants agree on what results mean. Initial work is being performed by the AMPA, in consultation with the co-chairs of TFW Policy and CMER, to develop an options paper for the Board’s consideration by its November 2022 meeting. Existing personnel and resources are being used.

### **Board Staff Actions**

Acting in its role as staff to the Board, DNR’s forest practices team has been assigned to perform initial work on all or portions of seven SAO recommendations that are primarily administrative in nature. Much of the work will be performed in collaboration with TFW Policy and CMER and will ultimately go to the Board for consideration and decisions.

Staff is presently utilizing existing resources to develop technical guidance changes embodied in existing [Board Manual Section 22](#) to act on three individual SAO recommendations:

- SAO recommendation #3: Increase use of the *dispute resolution process* to improve decision making by updating Board Manual technical guidance to be consistent with rule ([WAC 222-12-045](#)(2)(c) and (h)).
- SAO recommendation #5: To help ensure that *required biennial fiscal and performance audits* are conducted, expand existing language in Board Manual Section 22(6) to include a description of the purpose and broad scope of the audits, and that such audits may be performed by a contracted private entity, another state agency, or an internal auditor with appropriate expertise.
- SAO recommendation #6: To help *ensure that required peer reviews of the CMER science program are conducted* each five years, expand existing language in Board Manual Section 22(6) to add this requirement, describe the purpose, and outline the broad scope of such reviews.

Proposed changes to Board Manual Section 22 are intended to be presented to the Board for approval at its February 2022 meeting.

## **2022 Funding Decision Package**

The Board's action plan identified a number of recommendations that would require additional fiscal resources to implement, and the Board asked DNR to submit a funding decision package to OFM for consideration in the 2022 supplemental operating budget.<sup>6</sup>

DNR submitted a decision package (see Appendix 1) that requested \$680,000 to address all or portions of six SAO recommendations, all directed at improving AMP program accountability, decision-making and transparency:

- SAO recommendations #1 and 2: Provide logistical support for meetings among the caucus principals to be convened by Commissioner Franz.
- SAO recommendations #11 and #12: Improve AMP research project transparency and accountability by developing an accurate, real-time system for tracking CMER research project budgets and progress relative to goals, and displaying that information on an on-line public dashboard.
- SAO recommendation #8: Create an on-boarding and training program for new members of the TFW Policy and CMER committees, so that participants know their roles and responsibilities and are better prepared to make decisions.
- SAO recommendation #7: Conduct a peer review of the science program as required by rule ([WAC 222-12-045\(2\)\(e\)](#)). Although required, more than 15 years have passed since the last one was conducted. The goal would be to identify where changes might be made to help the AMP effectively accomplish its legislative directive to test whether forest practices rules are meeting established goals and performance targets.

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<sup>6</sup> Because the SAO performance audit was completed in early 2021, it was not feasible to request funding to act on the recommendations during the 2021 legislative session.

# Appendix 1 DNR 2021-23 First Supplemental Budget Session – Policy Level – AM – Adaptive Management Program Improvements

## Agency Recommendation Summary

At the request of the Forest Practices Board, this request seeking funding to address recommendations made by the State Auditor’s Office (SAO) in its January 2021 performance audit of the forest practices adaptive management program. This funding would be used in fiscal year 2023 to address DNR staff recommendations to the Board about how and when to address some that cannot otherwise be accomplished in fiscal year 2023 because of constraints on staff capacity and funding.

## Fiscal Summary

Fiscal Summary <i>Dollars in Thousands</i>	Fiscal Years		Biennial	Fiscal Years		Biennial
	2022	2023	2021-23	2024	2025	2023-25
<b>Staffing</b>						
FTEs	0.0	2.1	1.05	0.0	0.0	0.0
<b>Operating Expenditures</b>						
Fund 001 - 1	\$0	\$680	\$680	\$0	\$0	\$0
Total Expenditures	\$0	\$680	\$680	\$0	\$0	\$0

## Decision Package Description

Members of the Forest Practices Board (Board) asked the State Auditor (SAO) to conduct a performance audit of the forest practices adaptive management program (AMP) program, particularly to identify ways the program could become more efficient and effective in its decision-making. In January 2021, the SAO completed its [performance audit\[1\]](#). The report concluded that changes within the AMP were needed, because neither the program rules nor guidance adopted by the Board in its “board manual” make anyone responsible for holding participants accountable for their actions. One consequence is that AMP participants feel an overall lack of trust within the program. The AMP was created to facilitate cooperative solutions and avoid costly litigation, but this was viewed to be in jeopardy in the absence of deliberate change. SAO provided a total of thirteen recommendations [\[2\]](#).

In May 2021, the Board agreed to affirmatively respond to the report by following a recommendation action plan described by DNR staff in its [May 5, 2021 memo to the Board](#).

Because the SAO AMP performance audit report was released just prior to the 2021 legislative session, DNR was unable to make a funding request to support activities to respond to the recommendations as a part of its comprehensive operating budget request for the 21-23 biennium. However, addressing the report recommendations is important to both DNR and the Forest Practices Board (a separate state agency), and so this proposal requests \$680,000 of supplemental GF-S funding to address or otherwise respond to six of the eleven process improvement recommendations during fiscal year 2023.<sup>[3]</sup> This funding would enable tangible, positive progress to be made to address identified challenges within the AMP that would otherwise be impossible because of staffing and operating budget limitations.

This package includes four discrete funding proposal components:

- i) **Retain a facilitator to convene caucus principals. Principals should consider SAO recommendations for adoption of an alternative to the consensus based decision model and require caucus principal participation (SAO Recommendations #1 and 2)**

To improve AMP decision-making processes and alleviate delays, SAO recommended that the AMP adopt an alternative to the rule based requirement ([WAC 222-12-045](#)) for consensus from all caucuses for decisions by the Timber, Fish and Wildlife (TFW) Policy and Cooperative Monitoring, Evaluation and Research (CMER) committees in order for recommendations to be passed on to the Board, and also that caucus principals consider their roles in the future (whether it is serving on the Board, the TFW Policy committee, or provide direction to caucuses on a

regular basis), so that principals stay engaged and do not be detached from the adaptive management program. This proposal requests **\$75,000** to hire a facilitator in fiscal year 2023 to assist with the mechanics of organizing and conducting anticipated meetings that Public Lands Commissioner Franz intends to convene with the caucus principals to address these and other issues affecting the TFW and AMP communities.

**ii) Develop an AMP project life-cycle progress and expenditure tracking system, and create a public facing on-line dashboard (SAO Recommendations # 10 and 11)**

These two related SAO recommendations are aimed at improving AMP accountability and transparency through creation of a real-time system for tracking AMP project budgets and progress, and for displaying that information on an on-line public dashboard. This proposal is to fund an existing, vacant forest practices Information Technology Application Developer position for 12 months to assist AMP staff in developing the necessary project tracking tools and linkages to the DNR website, at an estimated one-time cost of **\$185,000**. (1.38 FTE)

**iii) Create a comprehensive on-boarding and training process of new members of the TFW Policy Committee and CMER Committee (SAO Recommendation #8)**

SAO concluded that the AMP decision-making process was hindered, in part, by a lack of a comprehensive program for effective on-boarding and training for new committee participants about how the AMP system works and their specific role and responsibilities on the TFW Policy Committee or CMER Committee. Initial training is currently provided for new Board members, but they also would benefit from periodic refresher training and readily available on-line process function/responsibility descriptions and aides. This proposal would allow DNR to hire and work with a specialized contractor with experience in developing such programs to develop a comprehensive on-boarding and training program. The one-time cost would be **\$140,000**. (0.46FTE)

**iv) Conduct a peer review of the CMER science program (SAO Recommendation #7)**

[WAC 222-12-045\(2\)\(e\)](#) requires a peer review of the CMER science program each five years, but nearly 15 years have passed since the last one was conducted. This proposal is for funding to hire a consultant with suitable expertise and experience to conduct an in-depth review of the CMER science program. The goal would be to identify if and where changes are needed to ensure the AMP is effectively accomplishing its legislative directive to test if the forest practices rules are meeting established goals and performance targets. The estimated cost to conduct this peer review is **\$280,000**. (0.25 FTE)

Several alternative approaches were considered before selection of the funding request described above:

1. Alternative 1: Request no supplemental funding. Under this alternative, DNR would delay requesting any funding until the 23-25 biennium budget cycle. If this were done, it is likely that only the discussions among the principals (*component i*) would occur during the current biennium (with funding for the facilitator needing to be reallocated within DNR from another purpose). Work on *components ii-iii* would be pursued opportunistically by DNR staff if capacity were to become free, but little spare time is anticipated because of known and anticipated priorities and work plans. *Component iv* would not be accomplished at all during the current biennium. DNR did not select this alternative because the Board specifically requested by consensus that DNR submit a decision package for the 2022 legislative session to accelerate the work described in the response plan that it adopted at its May 2021 meeting.
2. Alternative 2: Request funding only components i-iii. Under this alternative, a request for funding the peer review of the CMER science program (*component iii*) would have been eliminated, reducing the cost of the selected proposal by \$280,000. This alternative was not selected because it has been so long since a review has been completed (nearly 15 years) and because staff believes completion through engagement of a contractor is feasible with a single fiscal year.
3. Alternative 3 Request this funding plus other SAO recommendations. Under this alternative, DNR would include all of the component that were selected, plus an additional one: funding to *complete AMP fiscal and performance audits* that are required every two years by rule (SAO Recommendation #9). This alternative was not selected because a performance audit was completed by SAO in FY2021 and including this component would have added cost to the proposal that was selected.

Upon reflection, DNR decided that the selected proposal provides the best balance among: making real progress toward acting on SAO performance audit recommendations; making effective balanced use of existing AMP participants, DNR staff and contracted services; and being



realistic about what could actually be accomplished in a single fiscal year when proposed new work is added to the existing Board and DNR work plans.

If this proposal is not funded, the consequences will be as described above under Alternative 1.

[1] The 2021 SAO performance audit report provides a detailed description of the history and purpose of the forest practices adaptive management program and why it is important, as well as the operating context and description of numerous challenges that are affecting its performance.

[2] The recommendations are provided beginning on page 33 of the [performance audit](#) report.

[3] Note that DNR anticipates submitting another decision package for the 23-25 biennium that will include funding proposals to address additional SAO recommendations, including conduct of fiscal and performance audits of the AMP (that is, addressing SAO Recommendation #9).