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Ron Cummings
WA State Department of Ecology, Water Quality Program
P.O. Box 47696
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Submitted Online

Subject: Voluntary Clean Water Guidance for Agriculture, Chapter 12, Riparian Areas and Surface Water Protection

Dear Mr. Cummings and Department Staff:

Washington Forest Protection Association (WFPA) is a forestry trade association representing large and small forest landowners and managers of nearly four million acres of productive working forests in the state. Our members support rural and urban communities through the sustainable growth and harvest of timber and other forest products for U. S. and international markets. WFPA submits the following comments on the Ecology's draft Chapter 12 of the *Voluntary Clean Water Guidance for Agriculture*.

The draft guidance raises substantial concerns. Although presented as voluntary, it will effectively operate as a regulatory mandate. The document establishes fixed riparian buffer widths of 215 feet in western Washington and 150 feet in eastern Washington as Ecology's preferred option for all streams with riparian forest potential. Agriculture is discouraged within these widths, and landowners may consider alternative configurations only if they can prove that full restoration is not "feasible." This approach transforms voluntary guidance into de facto rules.

Ecology's scientific rationale for these buffer prescriptions does not support rigid, one-size-fits-all standards. The document's own technical review emphasizes that pollutant removal performance depends on soil type, slope, hydrology, vegetation density, and land use, not strictly on buffer width. Many peer-reviewed studies show that beyond 30 - 100', dependent on pollutant of interest, additional acreage contributes vastly diminished water-quality benefits. Yet the guidance emphasizes a fish and wildlife habitat-focused framework of 200-year site potential tree height, originally designed for forested ecosystems on federal land with multiple objectives, not for agricultural water quality improvement on private land under the Federal Clean Water Act (CWA) and the State Water Pollution Control Act (WPCA).

By importing a forested ecosystem fish and wildlife habitat framework into agricultural landscapes, the guidance shifts its purpose away from water-quality improvement and toward full riparian ecosystem restoration. This is unnecessary and exceeds what the CWA's and WPCA's nonpoint

source provisions authorize and conflicts with Washington's long-standing commitment to voluntary, incentive-based conservation on agricultural lands.

The draft guidance also creates serious practical challenges. Requiring 150 - 215 foot forested buffers along agricultural streams would remove significant proportions of productive farmland. The Implementation Appendix acknowledges the high economic and operational costs these measures would impose, yet the core guidance offers little flexibility to adapt to the realities of agricultural viability, field geometry, irrigation systems, or existing infrastructure.

The draft guidance also raises legal concerns. When guidance documents function like rules, by dictating required widths, prohibited uses, and detailed vegetation management, they must be adopted through formal rulemaking. Washington courts have consistently rejected agency attempts to regulate through guidance rather than through proper Administrative Procedure Act process.

Finally, and most importantly, the approach Ecology is taking contributes to distrust of intention on the part of the state. Many agricultural producers already have deep distrust of the state. This is based on their own experience and observations of the state's behavior and actions in the Forest Practices arena of allowing policy preferences to drive regulatory process outcomes and no interest in finding mutually acceptable solutions. Rebuilding confidence in the relationship between the state and owners/managers of Washington's working lands will take concerted, good faith effort and approaching these issues collaboratively.

WFPA urges Ecology to start by revising Chapter 12 to reflect the voluntary, flexible, science-based approach that the Legislature intended. We recommend:

- Removing prescriptive default buffer widths;
- Refocusing the guidance on agricultural water quality improvement;
- Allowing performance-based alternatives;
- Using Natural Resource Conservation Service standards as the appropriate technical framework; and
- Ensuring that agricultural economic viability remains a central consideration.

Washington has a strong history of collaborative natural resource management, and WFPA is committed to continuing that partnership if possible. We encourage Ecology to develop a version of Chapter 12 that is scientifically grounded, legally sound, and workable for the farmers and landowners who manage Washington's working lands.

Sincerely,

Darin D Cramer

Sr. Director of Forest Policy

Washington Forest Protection Association