



NISQUALLY INDIAN TRIBE

Department of Natural Resources

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December 1, 2025
submitted electronically

Ron Cummings
WA Department of Ecology
PO Box 47696
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Dear Mr. Cummings,

The Nisqually Indian Tribe (the Tribe) thanks you for the opportunity to comment on Ecology's Voluntary Clean Guidance for Agriculture. Overall, the Tribe generally supports Ecology in its efforts to develop appropriate guidance to manage agriculture contributions to nonpoint source water quality issues.

The Tribe recognizes it is useful to have a statewide reference point and that a centralized consolidation of best practices is and will continue to be broadly useful for Washington's agricultural producers, conservation district staff, and partners looking for a clear starting point. The Tribe would like to express its concerns and offer suggestions for improvement about several aspects of the guidance because of its potential implications for Tribal waters.

Riparian Protection Standards (Chapter 12)

The Nisqually Indian Tribe supports Ecology's acknowledgement of site-potential-tree-height (SPTH) buffers and the necessity of old-growth tree heights in restoring and protecting full riparian function. However, this guidance still falls short of former commitments to SPTH statewide. To address this, we recommend that the guidance clearly identify full SPTH, minimally managed, with site-potential plant communities as the default protection standard, rather than presenting multiple buffer widths as equivalent protective options.

Additionally, the Tribe understands that site-specific circumstances may limit adherence to the full SPTH buffer recommendation. However, we recommend Ecology explicitly spell out these limited circumstances where reduced buffer widths may be considered (e.g. permanent buildings, parcel boundaries, infrastructure constraints, topography, small parcels) to encourage widespread adherence to full SPTH buffers in most cases.

Interagency Inconsistency with Buffer Recommendations

The Tribe understands the complexity of issues with multi-agency management regimes but believes the guidance could be improved by acknowledging the inconsistencies across state agencies and using the Riparian Round Table to begin addressing these inconsistencies.

Initially, NOAA Fisheries' 100-foot interim buffer recommendation was considered temporary pending more research. These research goals were achieved and published as Washington Department of Fish and Wildlife's (WDFW) extensive Priority Habitats and Species (PHS) Guidance. However, now that PHS is finalized, all agencies including Ecology, Washington State Conservation Commission, WDFW and other programs should be aligning around the same science-backed standard. This guidance in its current form further propagates inconsistent riparian expectations across the state, instead of unifying around the best available science.

The Tribe sees the Governor's Riparian Round Table as an opportunity to provide a meaningful path forward through these challenges. The Round Table was convened to create one consistent science-based riparian standard statewide across agencies and land uses. Ecology can position this guidance as an interim step with a commitment to revisit buffer standards once the Round Table recommendations are finalized. Integrating or referencing Round Table outcomes will help reduce confusion for producers and land managers that hinders support for statewide consistency.

Voluntary Language

The Tribe understands that there are limitations to the state's ability to regulate agricultural activities under the Clean Water Act and understands why this guidance exists as voluntary instead of regulatory. However, the repeated emphasis on the voluntary nature of these materials does not encourage or facilitate widespread adoption. We suggest removing the word "voluntary" from the guidance text heads and chapter titles to emphasize and encourage the importance of adopting these BMPs.

In conclusion, the Tribe appreciates Ecology's efforts to develop guidance statewide and recognizes the tremendous value of this work to the state's agricultural producers, conservation district staff, and Tribal co-managers. The Tribe sees this as an important opportunity to strengthen existing riparian protections, meet Treaty and trust obligations, and set up a consistent foundation statewide for the decades ahead.

Sincerely,



David A. Troutt
Natural Resources Director
Nisqually Indian Tribe