



Okanogan County Farm Bureau — Public Comment

Re: Draft 2025 “Plan to Control Nonpoint Sources of Pollution” (Nonpoint Plan)

Submitted: August 29, 2025

To: Washington State Department of Ecology, Water Quality Program — Nonpoint Plan Update (May–Aug. 2025 public comment period).

From: Okanogan County Farm Bureau (OCFB), representing family farms, ranches, and orchardists in Okanogan County.

EXECUTIVE SUMMARY

Past failure of introducing the Buffer Bill Legislation has caused the Agency (S) and working groups to side step legislation, and create and/or adoption of new Rule (s) and policies.

OCFB supports clean water and practical, voluntary approaches that keep working lands working. As currently drafted, the Plan (with its Reading Guide and cross-referenced VCWGA chapters) risks converting voluntary guidance into de facto enforceable expectations through an expanded “graduated compliance pathway,” prescriptive riparian treatments, and reliance on basin-scale models for source attribution. Without clear guardrails, these changes would erode Right-to-Farm protections, impose one-size-fits-all buffer regimes unsuited to shrub-steppe operations, and create disproportionate costs for producers in Okanogan County.

We cannot include the exclusion of human activity as a means to solve nonpoint pollution, but we need to find complementary ways of doing things that also improve the environment. Nonpoint pollution can occur from many sources, including nature itself. It is important to perform the necessary scientific analysis to identify the pollution source, both the physical point of origin, as well as whether it comes from a human operation or nature itself. For example, a stream's aspect rather than human activity around the stream may be the main contributor to exceeding the ideal temperature of stream surface water for targeted species. Or migrating fowl, such as ducks or geese, may be responsible for high nitrogen and phosphorus pollution, not necessarily the feeding area for a cattle herd.

Ecology, other State and Federal Agencies, Working Groups and Committees, must avoid biases that obscure our understanding of the contribution that domestic animals can make to the revitalization of an ecosystem. For example, grazing cattle using the Savory Institute's holistic grazing approach can increase forage and water abundance on a landscape.

Prescriptive pathways make addressing nonpoint pollution too rigid. What is needed, particularly with agriculture and forestry, is human creativity that can unite the process of using the environment to meet human needs with the means to increase and maintain ecosystem function.

OCFB Nonpoint Pollution Plan Comments. AI utilized as research tool.

OCFB P.O. Box 1387 Tonasket, WA 98855 okcofarmbureau@gmail.com

We urge Ecology to adopt science-based, region-appropriate, and truly voluntary. We encourage Ecology to recognize proper management begins with site specific analysis and solutions, not one size fits all approach.

WHAT WE SUPPORT

- Voluntary, incentive-based strategies, with no net loss to private property landowners and Producers.
- Ecology recognizing Agriculture and Natural Resource Producers are the stewards of the land, and have been for centuries.
- We support Ecology working with producers to find solutions instead of working against us with strict regulations and threat of enforcement actions.
- Transparency about roles and partnerships across agencies and local entities; clarity benefits producers and implementers alike.
- Multi use of public lands, utilizing cattle grazing as providing management benefits.
- OFCB supports utilizing cattle as positive site-specific methods for management and enhancement within buffer areas.
- Scientific study to be performed prior to any approval of this plan.
- Current scientific study based on facts of causes of nonpoint pollution to justify the need for this plan/policy.
- Agroforestry/Silvopasture practices that integrate trees, forage and livestock improving both productive and ecological function.
- Language in this plan specifically identifying any conflicts or potential conflicts with VSP requirements and compliance.
- The plan identifying budget line item to assist private landowners and producers state funding, not grants, directly to private landowners and agriculture producers implementing voluntary compliance efforts.

KEY CONCERNS & REQUESTED CHANGES

1) Keep VCWGA truly voluntary; remove de facto mandates

Concern. VCWGA chapters contain prescriptive elements—e.g., “Grazing Management: Minimum Requirements” and permanent streamside exclusion fencing—that read like enforceable standards. These are being updated and expanded in 2025 (e.g., irrigation and runoff control drafts). If these “minimum requirements” are treated as the baseline in compliance or local code updates, the “voluntary” label becomes illusory.

Request. In Chapter 6 of the Plan and any cross-references, state plainly: VCWGA chapters are non-regulatory technical guidance. Non-adoption of a VCWGA practice may not be used as evidence of noncompliance under RCW 90.48 absent a duly adopted rule. Remove or retitle any “Minimum Requirements” language to “Recommended Practices.”

2) Prevent “guidance creep” via the compliance pathway

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Concern. The Reading Guide adds detail on nonpoint field staff work and a “graduated compliance pathway,” linking nonpoint implementation to TMDLs and other tools. That structure can escalate from outreach to enforcement, with VCWGA standards used as the practical yardstick. These risks turning guidance into de facto mandates without APA rulemaking and economic analysis.

Request. Add explicit guardrails to the compliance pathway: written notice, producer-driven technical assistance, reasonable time to correct, and an agriculture ombud review before orders/penalties. Clarify that any mandatory practice must go through APA rulemaking, not guidance or plan text. Site specific plans on private property should not be open for public review and opinions.

3) Respect Right-to-Farm (RTF) and define “good agricultural practices”

Concern. RTF (RCW 7.48.305) presumes established, lawful activities are reasonable when conducted with good agricultural practices in conformity with applicable laws and rules. If Ecology treats VCWGA “minimums” as the definition of “good practices,” the RTF presumption is weakened—especially when guidance is not a rule adopted under APA.

Request. Add a Plan statement that implementation will respect RCW 7.48.305 and that producers’ “good agricultural practices” are not judged against non-regulatory VCWGA recommendations. Clarify that RCW 90.48 enforcement remains grounded in statutory standards, not guidance checklists.

4) Tailor riparian expectations to eastern WA shrub-steppe and Okanogan County operations

Concern. VCWGA riparian and confinement chapters reference fixed setbacks (e.g., 150 ft east / 215 ft west RMZ siting) and buffer approaches optimized for Western WA valley streams. Okanogan County’s shrub-steppe hydrology (intermittent/ephemeral channels), wildfire context, long fence runs, stock-water logistics, and predation pressures make such prescriptions economically and operationally burdensome, with limited site-specific benefit.

Request. Require region-specific BMP pathways for shrub-steppe/rangeland: seasonal fencing options, targeted crossings, off-channel water with realistic distances, wildlife-wise designs, and site-specific shade/cooling strategies. Clarify that fixed-width buffers are not default expectations for intermittent/ephemeral channels.

5) Modeling safeguards (SPARROW and similar tools)

Concern. The Reading Guide adds SPARROW modeling; the Plan links modeling to nutrient management efforts. SPARROW is a basin-scale statistical model—valuable for prioritization but not suited to farm-level attribution or enforcement decisions without site data. Using regional model outputs to target individual operations would be scientifically inappropriate and unfair.

Request. Full scientific study performed by WSU or another credited University addressing site specific analysis through facts and remove all modeling data.

Request. State that SPARROW (or similar) will not be used for source attribution at the parcel level or for enforcement without on-site monitoring and producer engagement; any farm-level findings must be grounded in site-specific evidence.

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6) Funding parity & flexibility (avoid buffer-only bias)

Concern. New funding streams, including Climate Resilient Riparian Systems grants, are welcome. If scoring favors fixed-width buffers or tree-centric designs, eastern WA producers lose access when those designs are impractical or counterproductive (e.g., fire risk, stock-water access).

Request. Direct programs to fund multiple water-quality-positive options (seasonal fencing, off-channel water, crossings, targeted stabilization, rotational-grazing infrastructure) with equal scoring where site conditions warrant.

7) Groundwater chapter: avoid blanket assumptions

Concern. The Plan's expanded groundwater chapter raises the prospect of broader action on irrigated fields and manure handling—even where surface pathways are absent. Without clear thresholds and timelines, producers face ambiguous expectations and potential duplicative oversight beyond DNMA.

Request. Define clear, measurable triggers for groundwater interventions, coordinate with WSDA's DNMA program, prioritize technical assistance, provide funding needed for improvements and utilize enforcement steps and actions as last proven resort.

SPECIFIC TEXT EDITS WE REQUEST (for inclusion in the final Plan)

1. Chapter 3 (Strategies & Tools / Compliance Pathway): "Ecology's nonpoint field staff use a graduated technical-assistance-first pathway. Non-regulatory guidance (e.g., VCWGA) is not an enforceable standard and lack of adoption does not constitute a violation of RCW 90.48. Any mandatory practice will be adopted by rule under the APA."
2. Chapter 6 (Recommended Management Measures): "The VCWGA is a voluntary technical resource. The terms 'minimum requirements' in VCWGA chapters are retitled 'recommended practices,' and are not presumed necessary or reasonable in all settings."
3. Chapter 6 (Riparian/Confinement Cross-Reference): "Setbacks and RMZ distances referenced in VCWGA (e.g., 150 ft east / 215 ft west) are illustrative and not default standards. Eastern Washington shrub-steppe/rangeland operations may use alternative, site-specific measures that achieve water-quality outcomes."
4. Chapter 7 (Monitoring & Modeling) and Chapter 1 updates: "Watershed models (e.g., SPARROW) inform basin-scale prioritization only. They will not be used for farm-level attribution or enforcement without on-site, representative monitoring."
5. Plan-wide Statement (RTF Harmonization): "Implementation will respect Washington's Right-to-Farm Act (RCW 7.48.305). 'Good agricultural practices' are not defined by non-regulatory guidance and must be evaluated in light of site-specific conditions and applicable laws and rules."

WHY THIS MATTERS IN OKANOGAN COUNTY

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- Okanogan County is predominantly shrub-steppe with many intermittent/ephemeral channels and high wildfire exposure. Fixed, tree-centric buffer regimes and permanent exclusion fencing can be cost-prohibitive, maladapted to arid hydrology, and create operational conflicts for stock-water and ditch access. Region-specific, flexible BMPs will deliver better outcomes for water and working lands.
- Producers already operate under multiple frameworks (TMDLs, CAOs, DNMA). Clarity that guidance is guidance prevents duplicative or back-door regulation and reduces conflict, improving participation in voluntary programs.

LEGAL & POLICY FOUNDATIONS

- RCW 90.48 (Water Pollution Control Act): Ecology's authority to prevent nonpoint pollution is broad, but enforcement must be grounded in statute/rule—not non-regulatory guidance.
- RCW 7.48.305 (Right-to-Farm): Protects established agricultural activities conducted with good practices in conformity with applicable laws and rules—not guidance documents.
- Ecology's 2025 Reading Guide: Adds SPARROW modeling; expands a compliance pathway; and lists new riparian funding programs—key context requiring the clarifications above.
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- U.S. Constitution 5th Amendment Taking of private property.
 - VCWGA Chapters (Dec. 2022–2025): Include “Minimum Requirements,” fencing, off-stream water design, and distance-based siting; recent drafts continue to expand scope (irrigation, runoff). These must remain non-regulatory and adaptable for eastern WA.

We Oppose:

- Any net loss to producers and private landowners and producers.
- Any private land especially any private land taken out of production and/or perceived as taken out of production due to limitations and burdensome restrictions.
- Utilizing nonpoint pollution “climate change” strategies, because this is a moving target that is unachievable due to acts of mother nature.
- Not clear definition of “reasonable” pertaining to this plan. What Ecology might feel is “reasonable” may not be realistic and/or “reasonable” to farmers/Ag Producers/Foresters
- As a result, eliminating public access to public forested lands, “restricting ATV UTV” usage, increasing buffers, to eliminate multi use by the Public.
- Any policies, rules and plans that do not align with or are in opposition with President Trump's climate change policies and direction.
- Violating 5th Amendment, taking of private property. The proposed plans exclude State and Federal lands and focus on harassing private lands.
- Utilizing the “umbrella” of nonpoint pollution when in fact most if not all, runoff water is processed through high tech water systems within Municipalities. Water system failures identified, should be addressed and corrected through Municipalities water systems.
- This proposed plan focusing on private land, agriculture and natural resource lands.

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- Creating a blanket fit all, does not address site specific issues, i.e., if a producer is failing to meet current standards, then work with that producer on corrective actions.
- This plan implies all producers are or will be in non-compliance therefore the Agency will impose enforcement authority. We strongly oppose.
- OCFB objects to buffers, Tier II proposed changes and any modifications to buffers, again this is a taking of private property, private property rights and violation of U.S. Constitution 5th Amendment.
- The plan relying on fencing, manure storage, grass filter strips. Requesting priorities be given to Holistic grazing practices, such as controlled grazing in riparian zones, because controlled grazing can mimic natural disturbance, increase plant diversity and improve infiltration.
 - Remove statements referring to grazing in riparian areas as risks.
- The Agency “restricting ATV-UTV use” on public and private lands through policies.
- Passage of this plan until the Agency (s) provide specific fire resiliency analysis study, performed by WSU or another credited University, to address fire resiliency. Specifically address:
 - What a safe fuel load is?
 - Identify estimated fuel load that will not damage the riparian area, vs. what volume of fuel density will cause catastrophic failure of the soil's ability to heal and support vegetation to prevent stream bank failure (s) to provide the greatest protection that all riparian dwelling creatures should have afforded to them. During the 2015 Firestorm in Okanogan County, it has been proven with the heavy fuel loads along the streams and creeks created heavy amounts of ash and the sediment is still impacting 10 years later.
 - Requesting this report be completed prior to any decisions and presented to State Legislature during 2026 Session.
- Okanogan County Farm Bureau, for the record, opposes the suggested changes to the buffers.
- Any buffer modifications until State and Federal land Managers are held and comply with the same standards private land managers and producers are being held to.
- We oppose taking of private property.
 - For example, if there was a 100' clear zone on each side of the creek on one of our small producers' properties, there would be a loss of approximately 400,000 square feet of productive land. Multiply that number by numerous acres for a larger landowner/producer, the loss would be hundreds of thousands of square footages of productive land to a buffer zone. Land they get nothing for in return for the land, but they are paying taxes on the land some for generations and all improvements on the land. Creating a tremendous financial impact for everyone on or adjacent to any creek, that could possibly put them out of business.
- Any additional buffers by Ecology related to forestry. They already have some of the strictest riparian buffer rules. Any further buffer expansion threatens harvest acres as well as agriculture production acres.

CONCLUSION

OCFB asks Ecology to adopt the edits, requests, and address our support and opposition items above to ensure the Nonpoint Plan remains voluntary, region-appropriate, and consistent with Right-to-Farm and APA rulemaking. Done right, the Plan can accelerate producer-led water-quality improvements without undermining working lands that sustain Okanogan County's people, food, economy and long-term economic stability.

Contact for follow-up:

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