

Washington State Tree Fruit Association et al (Jon DeVaney)

Attached please find joint comments on the draft nonpoint plan from twelve Washington state agricultural organizations.

August 29, 2025

Washington State Department of Ecology
Water Quality Program
Attn: Ms. Kathryn Loy
P.O. Box 47696
Olympia, WA 98504

Subject: Comments on Draft 2025 Plan to Control Nonpoint Sources of Pollution

On behalf of Washington's farmers and ranchers, we are writing to express our strong opposition to the Department of Ecology's Proposed 2025 Water Quality Management Plan to Control Nonpoint Sources of Pollution. We believe this rule undermines the principles of collaborative governance and threatens the long-term sustainability of rural land management, especially in areas outside of forest lands. Additionally, we assert that the conclusions drawn in the analysis exceed the regulatory authority allowed under the applicable statutes. Agricultural groups submit the following comments on the proposed May 2025 Water Quality Management Plan to Control Nonpoint Sources of Pollution, Publication 25-10-040.

Overreach in the Tier II Review Process

It appears that the Department of Ecology is extending its authority beyond its legal mandate by reinterpreting Adaptive Management Program (AMP) recommendations as a "new or expanded action" requiring a full Tier II review. This is inconsistent with past practices and established law. Under current statute, forest practice rules already satisfy Tier II requirements through AMP, which was specifically designed to adapt rules based on scientific data. The proposed changes not only misapply this framework but also create unnecessary confusion and regulatory complexity.

Violation of Legal Procedures

The Department of Ecology has inappropriately assumed a significant role in proposing these new rules, a responsibility that belongs to the Forest Practices Board. It is the Forest Practices Board, not Ecology, that should be determining which rules are subject to review. Furthermore, Ecology has disregarded alternative, science-based solutions and has not provided a thorough analysis of other options. By limiting the scope of possible outcomes, the Department has deprived the public of a meaningful opportunity to engage in the rulemaking process.

Disregard for Scientific Evidence

The research conducted under AMP has shown that current Np buffer standards are sufficient in most cases to maintain stream temperatures within the legal limits, thereby protecting fish. However, the Department of Ecology appears to be selectively presenting data and overlooking

evidence that demonstrates that stream temperatures remain below the legal threshold 90% of the time and recover to natural conditions within a few years after timber harvesting. This selective use of data undermines the scientific foundation of the proposed rule and disregards years of proven land management practices.

Although the rule is primarily directed at forest landowners, its flawed approach could set a concerning precedent for the agricultural sector as a whole. The proposed changes risk disrupting well-established land management practices across all sectors of agriculture. By contrast, riparian habitat and water quality efforts on agricultural lands are being addressed effectively through collaborative efforts, including the successful Voluntary Stewardship Program, which promotes science-based decisions and provides stability for landowners.

Undermining Trust and Collaborative Processes

Moving forward with such significant regulatory changes without adequate engagement or education of stakeholders will erode the public's trust in the rulemaking process. It's crucial that these changes be informed by broad stakeholder input to ensure that they are effective and equitable. The lack of robust consultation in this process not only diminishes the legitimacy of the proposed rule but also jeopardizes future agreements intended to improve water quality and habitat protection.

Ignoring the Voluntary Stewardship Program

We have a successful program focused on collaborative outcomes that is making a positive impact in agricultural communities. It is the Voluntary Stewardship Program (VSP), with twenty-seven counties actively engaged in protecting the environment and ensuring the viability of agriculture. We need more reliance on this program and less focus on new regulations. VSP should be the centerpiece of the nonpoint solution.

Specific Sections Requiring Further Review

In addition to the general concerns we have raised, we urge further review of the following sections of the proposed rule, which we believe require additional consideration:

- **2.1.3 Dairy Nutrient Management Act**
- **3.4.2 Agricultural**
- **3.4.4 Water Quality Permits**
- **4.1 Statewide Coordination - Agriculture and Water Quality Advisory Committee**
- **4.2 Landowners, Businesses, and Agricultural Producers - Agricultural Producer Groups**
- **6.2.2 Clean Water Guidance for Agriculture**
- **8.3.2 Washington State Department of Agriculture**
- **Table 8: Goals, Objectives, Strategies, and Measurable Milestones**

These sections require further clarification to ensure alignment with sound agricultural management practices and environmental goals. The agricultural community must have its concerns addressed to avoid unintended consequences that could negatively impact both environmental outcomes and the livelihood of farmers and ranchers.

Conclusion

Given the concerns outlined above, we strongly urge the Department of Ecology to reconsider its Tier II analysis and withdraw the proposed Np buffer rule. Additionally, we call on the Forest Practices Board to reject this submission and initiate a new rulemaking process that is founded on law, scientific evidence, fairness, and inclusive stakeholder collaboration. A more balanced approach is essential to achieving both environmental and agricultural sustainability for our state's communities.

Sincerely,

Northwest Agricultural Cooperative Council

Washington Farm Bureau

Washington Friends of Farms and Forests

Washington Association of Wheat Growers

Washington Cattlemen's Association

Washington Potato & Onion Association

Washington State Dairy Federation

Washington State Tree Fruit Association

Washington State Water Resources Association

Washington Winegrowers Association

Worker and Farmer Labor Association

Yakima-Klickitat Farm Association