



c/o Washington Conservation Action
(Coordinating Organization)
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To: Washington State Department of Ecology

From: Forests & Fish Conservation Caucus

Re: Tier II Analysis for Proposed Type Np Rule

Date: 8/18/2025

To Department of Ecology,

On behalf of the Forests & Fish Conservation Caucus, I write in strong support of Ecology's Tier II analysis of the proposed Type Np buffer rule. The Tier II review is not only appropriate but necessary to ensure Washington upholds its legal obligations under state water quality standards and the Clean Water Act.

1. Tier II is Legally Required and Appropriate

The Adaptive Management Program has demonstrated, and all participants have agreed, that existing Type Np buffers fail to meet water quality standards. Reinforcing that point, decades of research show that current 50-foot buffers do not protect water quality. Ecology has both the responsibility and authority to determine whether forest practice regulations meet water quality standards, and in this case, that requires a Tier II analysis.

Ecology is applying Tier II correctly. When forest practice rules are updated, Ecology must ensure the new rule protects high-quality waters. This is a legal requirement under Washington's antidegradation policy and consistent with Ecology's 2011 guidance on forestry rule updates. While existing rules were presumed to meet water quality standards, this is a new rule update, and therefore Tier II review is necessary.

2. Consistency with AMP's Purpose

The Forest Practices Habitat Conservation Plan and Adaptive Management Program were built on the principle of continuous improvement. This program was designed to evolve forest rules when science shows a need. Field research and monitoring clearly demonstrate that current buffers are insufficient. The proposed rule reflects the best available science and adaptive management principles, ensuring that updated protections are both scientifically justified and legally enforceable.

Tier II review strengthens, rather than obstructs, adaptive management by adding accountability and transparency. It ensures that improvements meet water quality standards. Ecology's current review is fully consistent with its long-standing position that new or revised rules must be evaluated under Tier II. While technical details may have been difficult for some stakeholders to interpret, Ecology's interpretation of Tier II requirements has remained consistent, and this review continues that framework.

3. Public Trust and Accountability

Public confidence depends on transparency and scientific integrity. Strong protections for headwater streams are widely supported because they improve water quality and sustain downstream habitat.

Ecology is not required to choose the "least burdensome" option, as some groups have misrepresented. The law requires Ecology to select the least degrading feasible option that protects water quality. That legal distinction matters, and Ecology must reaffirm its commitment to protecting Washington's high-quality waters as required by law.

Conclusion

The Conservation Caucus strongly supports Ecology's Tier II review of the proposed Type Np buffer rule. This process is not a barrier to adaptive management but an essential safeguard to ensure new rules meet water quality requirements. We urge Ecology to complete a thorough, science-based Tier II analysis so Washington can fulfill its commitments to balanced resource protection.

Respectfully,

Forests & Fish Conservation Caucus