State of Washington
House of Representatives

November 01, 2025

Forest Practices Board
c/o Washington Department of Natural Resources
1111 Washington Street SE
Olympia, WA 98504
Email Delivery via forest.practicesboard@dnr.wa.gov

Re: Legislative Concerns Regarding the Western Washington Type Np Buffer Rule and HEAL Act Implementation

Dear Chair and Members of the Forest Practices Board:

As Members of the Washington House Agriculture & Natural Resources Committee, we write to express concern and seek clarification regarding the Forest Practices Board's recent planned adoption of the Western Washington Type Np (non-fish perennial) stream buffer rule.

The Legislature has received substantial feedback from constituents—including small forest landowners, agricultural communities, timber communities, and local governments—raising questions about both the process and the policy basis for this decision.

While this letter is not a request for extensive documentation of your process, it reflects the seriousness of these concerns and the importance of legislative oversight in ensuring that the Forest Practices Act (RCW 76.09) and the Healthy Environment for All (HEAL) Act (RCW 70A.02) are implemented as intended.

Considering these concerns, the Legislature's responsibility to ensure both environmental integrity and procedural fairness, and an appreciation for the complexity of this work and the agencies' shared commitment to sustainable forest management, we offer the following areas where greater clarity and transparency could strengthen public trust:

1. Process Integrity and Public Transparency

The manner in which the Board conducted its deliberations and vote on forwarding the Type Np buffer rule for rulemaking has created a perception of diminished integrity in the process. In particular, the number of member abstentions and the decision not to advance a viable alternative proposal have left many in the public questioning whether all perspectives received a fair and transparent hearing before final action was taken.

While the Legislature recognizes the complexity and sensitivity of forest practices rulemaking, maintaining public confidence requires not only compliance with open-meeting laws, but also a visible commitment to deliberative fairness and accountability. The perception of a divided or opaque process risks undermining trust in both the Adaptive Management framework and the Board's decision.

2. Scientific and Technical Foundations

The Forest Practices Act establishes an Adaptive Management Program (RCW 76.09.370) to ensure that rulemaking is guided by the best available science. In this case, stakeholders have expressed uncertainty about how findings from the Type N Hard Rock and Soft Rock CMER studies were synthesized and applied in the policy recommendation.

The Legislature would benefit from a clearer and more nuanced understanding of both the scientific rationale and the intended environmental benefit the agency seeks to achieve through this rulemaking—particularly as it applies to privately held forest lands, where the balance between environmental protection and economic viability can be most acutely felt.

It would be helpful to understand how the Board evaluated the CMER findings. Specifically, more clarity could be beneficial in relation to how study design limitations, independent peer review (ISPR) status, and results on stream temperature recovery trajectories were weighed, and how those considerations informed the determination of "environmental benefit."

Ensuring that adaptive management remains transparent, evidence-based, and clearly tied to measurable outcomes is essential for maintaining both the credibility of the program and the public's confidence in the fairness of the rule.

3. Department of Ecology's Role and HEAL Act Compliance

Because rules related to water quality may be amended only with Ecology's concurrence (WAC 222-12-010), the Department's role is central to this process. Under the Tier II Antidegradation Policy (WAC 173-201A-320), Ecology must determine whether any measurable lowering of high-quality waters is necessary and in the overriding public interest.

In addition, the HEAL Act (RCW 70A.02.050) requires state agencies to assess and address disproportionate environmental and economic impacts on overburdened communities, including rural and economically challenged timber regions. Therefore, the Legislature seeks clarification on:

1. How the Departments of Ecology, Commerce, Agriculture, and Natural Resources, as HEAL Act required agencies, evaluated economic and social impacts on overburdened or underrepresented communities in recommending this rulemaking per RCW 34.05.328;
2. What findings, if any, resulted from these agency's HEAL Act analysis and whether those findings were shared with the Board prior to the vote; and

3. How Ecology, specifically, determined that the proposed rule met Tier II antidegradation and "overriding public interest" requirements.

These questions are not simply procedural—they speak to the heart of legislative intent to balance environmental protection and community equity in rulemaking.

4. Economic and Small-Business Considerations

The Legislature remains attentive to the economic sustainability of Washington's forest sector. For significant legislative rules, agencies are required under RCW 34.05.328 to demonstrate that probable benefits outweigh probable costs and that the adopted rule is the least burdensome alternative consistent with statutory objectives.

We are particularly interested in how the Small Business Economic Impact Statement (SBEIS) prepared under RCW 19.85.030–.040 accounted for small forest landowners and what mitigation strategies, if any, were considered to ensure that compliance costs do not disproportionately affect small or rural operations.

Understanding the behavioral rationale for this rule will help the Legislature evaluate whether the rule appropriately targets the intended outcomes without creating undue burdens.

5. Next Steps and Legislative Oversight

Given the potential implications of this rulemaking for both ecological outcomes and rural economies, the House Agriculture & Natural Resources Committee intends to review the interagency implementation of the HEAL Act in forthcoming environmental rulemakings, beginning with this case.

To support that effort, I respectfully request that the Department of Ecology and the Forest Practices Board jointly provide within 14 days:

- A summary of Ecology's HEAL Act equity analysis, including methodology and findings;
- Ecology's Tier II Antidegradation Analysis and associated "overriding public interest" determination; and
- The cost-benefit and small-business impact analyses that informed the final decision.

The Committee also stands ready to facilitate a joint discussion with the Board, Ecology, and affected communities to ensure transparency and shared understanding of the scientific and socioeconomic underpinnings of this rule.

Thank you for your attention to these concerns and for your continued service on this complex and consequential issue. The Legislature values the work of both the Department and the Forest Practices Board in safeguarding our state's environmental health while sustaining the communities and industries that depend upon these resources.

Respectfully,

Representative Kristine Reeves
Chair, House Agriculture & Natural Resources Committee

Representative Tom Dent
Ranking Member, House Agriculture & Natural Resources Committee

Representative Melanie Morgan
Vice Chair, House Agriculture & Natural Resources Committee

Representative Andrew Engell
Assistant Ranking Member, House Agriculture & Natural Resources Committee

Representative Adam Bernbaum
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Representative Ed Orcutt
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Representative Adison Richards
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CC: Governor's Office; Owen Rowe via owen.rowe@gov.wa.gov
Senate AgNR Committee; Chair Mike Chapman via mike.chapman@leg.wa.gov