

Department of Agriculture

Chapter 603

Division 95

AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM

603-095-0010

Definitions

Unless otherwise required by the context, as used in this Division:

- (1) "Active Channel Erosion" means gullies or channels which at the largest dimension have a cross sectional area of at least one square foot and which occur at the same location for two or more consecutive years.
- (2) "Adequate vegetative buffer" means an area that is maintained in vegetative cover that maintains at least 70 percent ground cover.
- (3) "Agency of this state" has the meaning given in ORS 568.210(1).
- (4) "Agricultural use" means the use of land for the raising or production of livestock or livestock products, poultry or poultry products, milk or milk products, fur-bearing animals; or for the growing of crops such as, but not limited to, grains, small grains, fruit, vegetables, forage grains, nursery stock, Christmas trees; or any other agricultural or horticultural use or animal husbandry or any combination thereof. Wetlands, pasture, and woodlands accompanying land in agricultural use are also defined as in agricultural use.
- (5) "Agricultural Water Quality Management Area Plan" or "area plan" means a plan for the prevention and control of water pollution from agricultural activities and soil erosion in a management area whose boundaries have been designated under ORS 568.909.
- (6) "Approved Voluntary Water Quality Farm Plan" or "approved voluntary plan" means a Voluntary Water Quality Farm Plan which has been developed according to standards and specifications developed by the department and which has been approved by the Local Management Agency with jurisdiction in the area for which the plan was developed.
- (7) "Best Management Practice" means a practice, or combination of practices, that is determined to be the most effective practicable (including technological, economical, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources of pollution to a level compatible with water quality goals. Best Management Practices may include structural and nonstructural practices, conservation practices, and operation and maintenance procedures.
- (8) "Confined Animal Feeding Operation" has the meaning given in ORS 468.687.
- (9) "Department" means the state Department of Agriculture.
- (10) "Designated Management Agency" means a public agency which possesses the legal authority, technical competence, organizational ability, and financial resources to carry out all or part of the nonpoint source control program as stipulated in an agreement with the Department of Environmental Quality.
- (11) "District" or "soil and water conservation district" has the meaning given in ORS 568.210.
- (12) "Erosion, soil" means the general process by which soils are removed from the surface of the land by the action of water, wind, ice, or gravity.
- (13) "Erosion rate, sheet and rill" means the annualized amount of soil material lost from a field or parcel of land due to sheet and rill erosion, expressed in tons of soil eroded per acre per year, and calculated according to the Universal Soil Loss Equation (USLE) or the Revised Universal Soil Loss Equation (RUSLE).
- (14) "Erosion, rill" means an erosion process in which numerous small channels only several inches deep are formed and which occurs mainly on recently disturbed soils. The small channels formed by rill erosion would be obliterated by

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normal smoothing or tillage operations.

(15) "Erosion, sheet" means the removal of a fairly uniform layer of soil from the land surface by runoff water.

(16) "Erosion, streambank" means erosion within a perennial stream or river which is caused by the action of water flowing in a concentrated stream acting against the soil confining its flow.

(17) "Excessive soil loss" means soil loss that is greater than the standards set forth in Oregon Administrative Rules adopted by the Oregon Department of Agriculture to implement any Agricultural Water Quality Management Area Plan adopted pursuant to ORS 568.900 through 568.933. Excessive soil loss may be evidenced by sedimentation on the same parcel of land, on adjoining land, in wetlands or a body of water, or by ephemeral, active channel, or streambank erosion; or by calculations using the USLE or RUSLE showing soil loss exceeding the soil loss tolerance factor.

(18) "Field Office Technical Guide" means the localized document currently used by the soil and water conservation district and developed by the United States Department of Agriculture, Natural Resources Conservation Service which provides:

(a) Soil descriptions;

(b) Sound land use alternatives;

(c) Adequate conservation treatment alternatives;

(d) Standards and specifications of conservation practices;

(e) Conservation cost-return information;

(f) Practice maintenance requirements;

(g) Soil erosion prediction procedures; and

(h) A listing of local natural resource related laws and regulations.

(19) "Formal complaint" means a complaint against a landowner or operator alleging a violation of a requirement of any Water Quality Management Area Plan adopted pursuant to ORS 568.900 through 568.933 at a specific site. The complaint shall be submitted in writing stating the nature and location of the violation and shall be filed with the department or by agreement with the department, with the Local Management Agency with jurisdiction over the site in question.

(20) "Highly erodible lands" means soils with a potential erodibility of eight times the soil loss tolerance factor.

(21) "Informal complaint" means a water pollution complaint, not formally filed with the department.

(22) "Irrigation water discharge" means the release of irrigation return flows to surface waters.

(23) "Land disturbing activity" means any activity not directly related to general farming resulting in a disturbance of the natural condition or vegetative covering of the earth's surface.

(24) "Landowner" includes any landowner, land occupier or operator as defined in ORS 568.903.

(25) "Load allocation" has the meaning given in OAR 340-041-0006(19).

(26) "Local Management Agency" means any agency of this state, including but not limited to a soil and water conservation district, which has been designated by the department through an interagency agreement to undertake activities within a management area whose boundaries have been designated under ORS 568.909.

(27) "Near-stream management area" means the area extending 25 feet as measured along the ground surface from the top of the streambank of a perennial stream or river, or the ordinary high-water mark of a pond or a lake.

(28) "Nonpoint sources" has the meaning given in OAR 340-041-0006(17).

(29) "Operator" has the meaning given in ORS 568.900(2).

(30) "Ordinary high-water mark" means the point on the streambank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other recognizable characteristics.

(31) "Pasture" means land with a permanent, uniform cover of grasses or legumes used for providing forage for livestock. A pasture does not include any area where supplemental forage feeding is provided on a regular basis.

(32) "Perennial stream" means a natural channel in which water flows continuously and which is shown on a United States Geological Survey quadrangle map.

(33) "Point source pollution" means water pollution which emanates from a clearly identifiable discharge point.

- (34) "Pollution" or "water pollution" has the meaning given in ORS 468B.005(3).
- (35) "Prohibited condition" means a condition of the land which is not allowed under division 95 rules.
- (36) "Riparian vegetation" means plant communities consisting of plants dependent upon or tolerant of the presence of water near the ground surface for at least part of the year.
- (37) "Runoff" means the portion of rainfall, other precipitation, or irrigation water that leaves a location in the form of surface water.
- (38) "RUSLE" means the Revised Universal Soil Loss Equation, which is a method used to estimate soil loss by sheet, rill, and wind erosion.
- (39) "Sediment" means soil particles, both mineral and organic, that are in suspension, are being transported, or have been moved from the site of origin by flowing water or gravity.
- (40) "Sewage" has the meaning given in ORS 468B.005(4).
- (41) "Sloughing" means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth disturbing activity of man.
- (42) "Soil" means unconsolidated mineral or organic material that overlies bedrock, on the immediate surface of the earth, that serves as a medium for the growth of plants.
- (43) "Soil disturbing activity" means any agricultural use resulting in a disturbance of the natural condition of vegetative surface or soil surface exceeding 10,000 square feet in area, including, but not limited to tilling, clearing, grading, excavating, grazing, and feedlot usage, but not including such minor land disturbing activities as home gardens and individual landscaping and maintenance.
- (44) "Soil loss" means soil moved from a given site by the forces of erosion and redeposited at another site, on land or in a body of water.
- (45) "Soil loss tolerance factor" or "T" means maximum average annual amount of soil loss from erosion, as estimated by the Universal Soil Loss Equation (USLE) or the Revised Universal Soil Loss Equation (RUSLE), and expressed in tons per acre per year, that is allowable on a particular soil. This represents the tons of soil (related to the specific soil series) which can be lost through erosion annually without causing significant degradation of the soil or potential for crop production.
- (46) "Streambank" means the boundary of protected waters and wetlands, or the land abutting a channel at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For perennial streams or rivers, the streambank shall be at the ordinary high-water mark.
- (47) "Surface drainage field ditch" is a graded ditch for collecting excess water in a field.
- (48) "Total Maximum Daily Load" or "TMDL" has the meaning given in OAR 340-041-0006(21).
- (49) "USLE" means the Universal Soil Loss Equation, which is a method used to estimate soil loss by sheet, rill, and wind erosion.
- (50) "Vegetative cover" means grasses or other low growing plants grown to keep soil from being blown or washed away.
- (51) "Voluntary Water Quality Farm Plan" or "voluntary plan" means a plan for the prevention or control of water pollution from agricultural activities and soil erosion for an individual landowner.
- (52) "Wasteload allocation" or "WLA" has the meaning given in OAR 340-041-0006(20).
- (53) "Wastes" has the meaning given in ORS 468B.005(7) and includes but is not limited to commercial fertilizers, soil amendments, composts, animal wastes, vegetative materials or any other wastes.
- (54) "Waste discharge" or "waste discharges" means the discharge of waste, either directly or indirectly, into waters of the state.
- (55) "Water" or "waters of the state" has the meaning given in ORS 468B.005(8).
- (56) "Water quality limited" has the meaning given in OAR 340-041-0006(30).
- (57) "Woodland" means an area with a stand of trees that has a canopy cover as shown on the most recent aerial photographs of at least 50 percent, being at least one acre in size and having a minimum width measured along the ground surface of at least 132 feet.

Statutory/Other Authority: ORS 561.190 & 568.909

Statutes/Other Implemented: ORS 561.190 & 568.900 - 568.933

History:

DOA 23-1999, f. & cert. ef. 10-6-99

DOA 22-1999, f. & cert. ef. 10-6-99

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0020**General Purpose**

(1) These rules have been developed to effectuate the implementation of water quality management area plans pursuant to authorities vested in the department through ORS 568.900–568.933.

(2) The purpose of these rules is to outline requirements for landowners conducting agricultural activities in areas for which the department designates boundaries for the purpose of developing and implementing a water quality management area plan pursuant to ORS 568.900–568.933.

Statutory/Other Authority: ORS 561.020, 561.190 & 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0030**General Policies**

It is the policy of the department that:

(1) Cooperation between private and public entities be encouraged during implementation of agricultural water quality management area plans for the prevention and control of water pollution from agricultural activities and soil erosion;

(2) Voluntary adoption of best management practices to prevent or control water pollution from agricultural activities and soil erosion be encouraged through education programs, demonstration projects, and availability of technical assistance; and

(3) Enforcement action to achieve compliance with water quality management area plans and rules be pursued only when reasonable attempts at voluntary solutions have failed.

Statutory/Other Authority: ORS 561.140 & 561.190

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0040**Appeals**

Any appeals of specific actions required of a landowner or operator by the department under division 095 rules shall be pursued according to the provisions of the appeals process in OAR 603-090-0040.

Statutory/Other Authority: ORS 568.912

Statutes/Other Implemented: ORS 568.912

History:

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0100**Purpose**

(1) These rules have been developed to help implement a water quality management area plan for the Tualatin River Watershed Agricultural Water Quality Management Area pursuant to authorities vested in the Oregon Department of Agriculture (department) through ORS 568.900-568.933 and 561.190-561.191. The plan is known as the Tualatin River Watershed Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to provide requirements for landowners and operators (as defined in ORS 568.903) in the Tualatin River Watershed Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion and to meet water quality standards.

Statutory/Other Authority: ORS 561.190 - 561.561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2015, f. & cert. ef. 1-29-15

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0120

Geographic and Programmatic Scope

(1) The Tualatin River Watershed Agricultural Water Quality Management Area includes the drainage area of the Tualatin River upstream from the confluence with the Willamette River near West Linn. The physical boundaries of the Tualatin River Watershed are mapped in Appendix A of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Tualatin River Watershed Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands lying idle or on which management has been deferred, and forested lands with agricultural activities, except for public lands managed by federal agencies, Tribal Trust lands, and activities subject to the Oregon Forest Practices Act (ORS Chapter 527).

(3) Current productive agricultural use or profitability is not required for the provisions of these rules to apply.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply and that any services or fees are not duplicated.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2015, f. & cert. ef. 1-29-15

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0140

Requirements

All landowners or operators conducting activities on lands described in OAR 603-095-0120(2) and (3) must comply with the following rules: A landowner or operator is responsible for only those conditions caused by activities conducted on land managed by the landowner or operator. These rules do not apply to conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated.

(1) Erosion:

(a) There must be no visible evidence of erosion resulting from agricultural activities in a location where the eroded sediment could enter waters of the state.

(b) Visible evidence of erosion consists of one or more of the following features:

(A) Sheet wash, noted by visible pedestalling, surface undulations, and/or flute marks on bare or sparsely-vegetated ground; or

(B) Active gullies, as described in OAR 603-095-0010(1); or

(C) Multiple rills, which have the form of gullies but are smaller in cross section than one square foot; or

(D) Soil deposition that could enter surface water; or

(E) Streambanks breaking down, eroding, tension-cracking, shearing, or slumping beyond the level that would be anticipated from natural disturbances given natural hydrologic characteristics; or

(F) Underground drainage tile outlets that contribute to soil or bank erosion.

(c) Private roads used for agricultural activities, including road surfaces, fill, ditch lines, and associated structures, must not contribute sediment to waters of the state. All private roads used for agricultural activities not subject to the Oregon Forest Practices Act are subject to this regulation.

(2) Streamside Vegetation:

(a) Landowners or operators must allow vegetation, consistent with site capability, to become established along perennial and intermittent streams to protect water quality by providing shade, filtering out pollutants from surface runoff, and protecting streambank integrity during high stream flows, such as would be expected to follow a 25-year, 24-hour storm.

(b) If any agricultural activity disturbs enough streamside vegetation to impair the conditions and functions described in 603-095-0140(2)(a), the landowner or operator must replant or restore the disturbed area with vegetation that will provide the functions required in 603-095-0140(2)(a).

(c) Agricultural activities are allowed if they do not impair the conditions and functions described in 603-095-0140(2)(a).

(3) Irrigation Water: Irrigation discharge, both surface and subsurface, that enters waters of the state must not exceed water quality standards or cause pollution of the receiving water.

(4) Nutrient Management: Landowners and operators must store and use feed, fertilizer, manure, and other sources of crop nutrients in a manner that prevents transport of pollutants to waters of the state.

(5) Waste: Persons subject to these rules must not violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2015, f. & cert. ef. 1-29-15

DOA 3-2004, f. & cert. ef. 1-23-04

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0180

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, notification by another agency, or other means, the department may conduct an investigation. The department may coordinate inspection activities with the appropriate Local Management Agency (as defined in ORS 568.906).

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 through 568.933, or any rules adopted thereunder, to determine whether an investigation is warranted.

(3) Any person alleging any violation of ORS 568.900 through 568.933, or any rules adopted thereunder, may file a complaint with the department.

(4) The department will evaluate and may investigate a complaint filed by a person under section OAR 603-095-0180(3) if the complaint is in writing, signed and dated by the complainant, and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933, or any rules adopted thereunder.

(5) As used in section OAR 603-095-0180(4) "person" does not include any local, state, or federal agency.

(6) If the department determines that a violation of ORS 568.900 through 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120. Appendix A: Map. [Appendix not included. See ED. NOTE.]

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2015, f. & cert. ef. 1-29-15

AD 3-1996, f. & cert. ef. 4-9-96

603-095-0300

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Umatilla Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Umatilla Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Umatilla Agricultural Water Quality Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with Division 95 rules is expected to aid in the achievement of applicable water quality standards in the Umatilla Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2006, f. & cert. ef. 12-21-06

DOA 22-1999, f. & cert. ef. 10-6-99

603-095-0320

Geographic and Programmatic Scope

- (1) The Umatilla Agricultural Water Quality Management Area includes all land that drains into the Umatilla River and all land in Oregon that drains directly to the Columbia River between the Umatilla River and the Walla Walla River. The physical boundaries of the Umatilla Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Umatilla Agricultural Water Quality Management Area in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies (e.g., U.S. Forest Service, U.S. Fish and Wildlife Service), lands which make up the Reservation of the Confederated Tribes of the Umatilla, and activities which are subject to the Forest Practices Act.
- (3) The provisions of these rules apply to all agricultural and rural land whether or not in current productive agricultural use.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Umatilla Agricultural Water Quality Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendix referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 – 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2006, f. & cert. ef. 12-21-06

DOA 22-1999, f. & cert. ef. 10-6-99

603-095-0340

Prevention and Control Measures

- (1) All landowners or operators conducting activities on lands in agricultural use must be in compliance with the following rules. A landowner is responsible for only those conditions caused by activities conducted on land managed by the landowner or operator. Rules will be applied with consideration of agronomic and economic impacts.
 - (a) These rules do not apply to conditions resulting from unusual weather events or other exceptional circumstances.
 - (b) Temporary exceptions to the rules are allowed when a specific integrated pest management plan is in place to deal with certain weed, insect pest, or disease problems.
 - (c) Unless otherwise indicated, the rules below become effective on January 1, 2008.
- (2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.
- (3) Soil Erosion and Sediment Control Landowners must control upland soil erosion using technically sound and economically feasible methods.
 - (a) Landowners must control active channel (gully) erosion to protect against sediment delivery to streams.
 - (b) On croplands, a landowner may demonstrate intent to comply with this rule by:
 - (A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or
 - (B) Operating in accordance with an SWCD-approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation and farming non-HEL cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or
 - (C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or
 - (D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(c) On rangelands, a landowner may demonstrate intent to comply with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources;

(B) Maintaining sufficient live vegetation cover and plant litter to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

(d) Private roads that traverse rural lands or roads used for agricultural activities must be constructed and maintained such that road surfaces, fill and associated structures are designed and maintained to limit contributing sediment to waters of the state. All roads on agricultural lands not subject to the Oregon Forest Practices Act (OFPA) are subject to this regulation. Homesteads and other non-crop areas must be laid out and managed in a manner that controls soil erosion and prevents delivery of sediments to the stream. Stream crossings, with or without culverts or bridges, must be kept to a minimum, and must be installed and maintained to prevent sediment delivery to the stream. Agricultural lands must be managed to prevent runoff of sediment to public road drainage systems.

(4) Stream-side Area Management:

(a) Agricultural land management activities must not cause streambank instability.

(b) Agricultural land management near streams must include establishment and maintenance of riparian vegetation, vegetative buffers, filter strips, sediment retention structures, or equally effective water pollution control practices, placed so as to prevent sediment, thermal and other pollution of waters of the state.

(c) When establishment or reestablishment of crops occurs near waters of the state during the growing season (March through October), cropping and management systems must be employed that prevent erosion. An adequate vegetative buffer or equally effective erosion control practice must be provided during the winter months (November through March).

(5) Livestock Management:

(a) Pastures and rangeland must be managed to prevent sediment, nutrient and bacterial contributions to waters of the state. Adequate vegetative buffers or filter strips must be installed and maintained, and vegetative cover must be maintained or restored after use as needed to control contaminated runoff or weed infestations. Where appropriate, waste management systems must be installed to collect, store and utilize animal wastes.

(b) Barnyards, feedlots, drylots, confinement and non-pasture areas, and other livestock facilities located near waters of the state must employ an adequate runoff control system, or an equally effective pollution control practice. Where necessary to prevent waste delivery, waste management systems must be installed to collect, store and utilize animal wastes.

(c) Grazing must be done in a manner that does not degrade waters of the state or negatively impact the stability of streambanks. Grazing management systems must be applied that allow for recovery of plants and leaves adequate vegetative cover to ensure streambank stability, reduce sediments entering the stream, and provide stream-side shading consistent with the site. The grazing management system must maintain or develop the desired vegetative cover.

(6) Irrigation Management:

(a) Irrigation systems must be designed and operated to prevent runoff of potential contaminants. Irrigation scheduling must consider such factors as soil conditions, crop, climate and topography.

(b) Overland return flows from irrigation must be managed to prevent the delivery of pollution including water temperature increases to waters of the state.

(7) Nutrient and Farm Chemical Management:

(a) Crop nutrient applications, including manure, sludge and commercial fertilizers, must be done at a time and in a manner that does not pollute waters of the state.

(b) Nutrients and farm chemicals must be stored in a location and condition that makes them unlikely to be carried into the waters of the state by any means.

(8) Channel and Drain Management Whenever major construction, reconstruction or maintenance occurs in ditches and water channels, exclusive of perennial and intermittent streams, they must be designed and maintained with a capacity to handle a greater than normal runoff event with a minimum likelihood of bank erosion or erosion impacts on nearby land areas.

Statutory/Other Authority: ORS 561.190 – 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2006, f. & cert. ef. 12-21-06

DOA 22-1999 f. & cert. ef. 10-6-99

603-095-0380**Complaints and Investigations**

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0380(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-0380(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-0380, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 through 568.933 or any rules adopted thereunder has occurred, that landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 – 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2006, f. & cert. ef. 12-21-06

DOA 22-1999, f. & cert. ef. 10-6-99

603-095-0400**Purpose**

- (1) These rules have been developed to effectuate the implementation of a water quality management area plan for the Upper Grande Ronde River subbasin pursuant to authorities vested in the department through ORS 568.900–568.933, due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads and allocate a load to agricultural nonpoint sources. The area plan is known as the Upper Grande Ronde River Subbasin Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Upper Grande Ronde River subbasin, for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Upper Grande Ronde River subbasin.

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-1999, f. & cert. ef. 10-6-99

603-095-0420**Geographic and Programmatic Scope**

- (1) The Upper Grande Ronde River subbasin includes the drainage area of the Grande Ronde River from the headwaters to its confluence with the Wallowa River. The physical boundaries of the Upper Grande Ronde River subbasin are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Upper Grande Ronde River subbasin in agricultural use and agricultural and rural lands which are lying idle or on which management

has been deferred, with the exception of activities which are subject to the Forest Practices Act and to the lands of USDA Forest Service and USDI Bureau of Land Management.

(3) Current productive agricultural use or profitability is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Upper Grande Ronde River subbasin.

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-1999, f. & cert. ef. 10-6-99

603-095-0440

Prohibited Conditions

All landowners or operators conducting activities on lands in agricultural use shall be in compliance with the following criteria. A land occupier shall be responsible for only those prohibited conditions caused by activities conducted on land managed by the landowner or occupier. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated. Limited duration activities may be exempted from these conditions subject to prior approval by the department.

(1) Soil erosion: By January 1, 2003:

(a) No agricultural land management or soil disturbing activity shall cause sheet or rill erosion in excess of the soil loss tolerance factor (T) on cropland, and no agricultural land management or soil disturbing activity shall cause active channel erosion that delivers sediment directly into the waters of the state; or

(b) No agricultural land management or soil disturbing activity shall exceed an alternative standard, approved by the Department, that assures protection of water quality; or

(c) No agricultural land management or soil disturbing activity shall cause a discharge of sediment to the waters of the state in excess of water quality standards.

(2) By January 1, 2003, no agricultural land management or soil disturbing activity shall cause streambanks to breakdown, erode, tension-crack, shear or slump beyond the level that would be anticipated from natural disturbances given existing hydrologic characteristics.

(3) By January 1, 2003, nutrient application rates and timing shall not exceed specific crop requirements. Crop requirements will be based on recommendations from the best available data applicable to a specific site.

(4) By January 1, 2003, construction and maintenance of surface drainage field ditches shall not result in sediment delivery to waters of the state from soil erosion caused by excessive channel slope, unstable channel cross-section or placement of disposed soils.

(5) By January 1, 2003, agricultural activities shall allow the development of riparian vegetation to control water pollution by providing control of erosion, filtering of sediments and nutrients, moderation of solar heating, and infiltration of water into the soil profile. Evaluation of riparian vegetation development will consider site specific capabilities and anticipated levels of natural disturbance. Where cropping or resource protection activities have occurred, an adequate vegetative buffer or equally effective pollution control practice must be in place.

(6) Waste discharges: Effective upon adoption of these rules:

(a) No person conducting agricultural land management or earth disturbing practices shall cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means.

(b) No person conducting agricultural land management or earth disturbing practices shall discharge any wastes into any waters of the state if the discharge reduces the quality of such waters below the water quality standards established by rule by the Environmental Quality Commission.

(c) No person conducting agricultural land management or earth disturbing practices shall violate the conditions of any waste discharge permit issued pursuant to ORS 468B or 568.

Statutory/Other Authority: ORS 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-1999, f. & cert. ef. 10-6-99

603-095-0460

Complaints and Investigations

- (1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an apparent occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will not evaluate or investigate a complaint filed by a person under section (3) unless the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The property and/or waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section (4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-0460, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) Actions based on investigation findings: If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner shall be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-1999, f. & cert. ef. 10-6-99

603-095-0500

Purpose

- (1) These rules have been developed to effectuate the implementation of a water quality management area plan for the Yamhill River Subbasin pursuant to authorities vested in the Department through ORS 568.900–568.933. The area plan is known as the Yamhill River Subbasin Agricultural Water Quality Management Area Plan and is described in a guidance document that accompanies these rules.
- (2) Failure to comply with any provisions of the Yamhill River Subbasin Agricultural Water Quality Management Area Plan:
 - (a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-0560;
 - (b) Is not intended by the Department to be evidence of a violation of any federal, state, or local law by any person.
- (3) Nothing in the Yamhill River Subbasin Agricultural Water Quality Management Area Plan shall be:
 - (a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251–1376;
 - (b) Used to interpret any requirement of OAR 603-095-0500 to 603-095-0560.
- (4) The purpose of these rules is to outline requirements for landowners in the Yamhill River Subbasin for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 095 rules is expected to aid in the achievement of applicable water quality standards in the Yamhill River Subbasin.

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 20-2000, f. & cert. ef. 7-12-00

603-095-0520

Geographic and Programmatic Scope

- (1) The Yamhill River Subbasin includes the drainage area of the Yamhill River upstream from the confluence with the Willamette River near Dayton. The Chehalem Creek drainage basin and a few other small creeks in Yamhill County

which directly feed the Willamette River are also included. The physical boundaries of the Yamhill River Subbasin are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Yamhill River Subbasin in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of lands which make up the Reservation of the Confederated Tribes of Grand Ronde and activities which are subject to the Forest Practices Act.

(3) Current agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Yamhill River Subbasin.

(5) For lands in agricultural use within other Designated Management Agency or state agency jurisdictions, the Department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 20-2000, f. & cert. ef. 7-12-00

603-095-0540

Prevention and Control Measures

All landowners or occupiers conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or occupier shall be responsible for only those violations of the following prevention and control measures caused by activities conducted on land managed by the landowner or occupier. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.

(1) Erosion prevention and sediment control:

(a) Landowners or occupiers shall prevent sheet and rill erosion in excess of four times the tolerable soil loss (T) leaving the property or being transported to streams.

(b) By January 1, 2005, landowners or occupiers shall prevent sheet and rill erosion in excess of two times the tolerable soil loss (T) leaving the property or being transported to streams.

(c) Sediment from sheet and rill, gully, or drainage way erosion shall not reduce the quality of waters below the water quality standards established by rule for such waters by the Environmental Quality Commission.

(d) Indicators of non-compliance for (a) through (c) above are:

(A) Visible soil deposition that could enter natural stream areas;

(B) Visible sloughing from drainage ways as a result of livestock grazing, tillage, or human destruction of riparian vegetation; or

(C) Underground drainage tile outlets either improperly installed or maintained allowing soil or bank erosion to actively occur.

(2) Landowners or occupiers shall not apply irrigation water in a manner that results in irrigation water discharge entering waters of the state. Indicator of non-compliance is irrigation water discharge entering waters of the state.

(3) Placement, Delivery, or Sloughing of Wastes:

(a) Effective upon adoption of these rules:

(A) Except as provided in ORS 468B.050, no person conducting agricultural land management shall:

(i) Cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to be carried into the waters of the state by any means.

(ii) Discharge any wastes into any waters of the state if the discharge reduces the quality of such waters below the water quality standards established by rule for such waters by the Environmental Quality Commission.

(B) No person shall violate the conditions of any waste discharge permit issued pursuant to ORS 468B.050 or 568.

(b) Indicators of non-compliance are:

- (A) Runoff flowing through areas of high livestock usage and entering waters of the state; or
 - (B) Livestock waste located in drainage ditches or areas of flooding.
- (4) Landowners or occupiers shall prevent crop nutrient applications that result in adverse impacts to waters of the state. Indicators of non-compliance are:
- (a) Nutrients applied to open water; or
 - (b) Visible trail of compost, ash, or bio-solids to waters of the state.
- (5) Landowners or occupiers shall prevent the application of chemicals in combination with irrigation water that results in transport into waters of the state. Indicator of non-compliance is chemigated water flowing into waters of the state.
- (6) Roadways, staging areas, farmsteads, and heavy use areas shall be constructed and maintained to prevent sediment or runoff contaminants from reaching waters of the state. All roads on agricultural lands not subject to the Oregon Forest Practices Act (OFPA) are subject to this regulation. Public roads are excluded from this prevention and control measure. Indicators of non-compliance are:
- (a) Surface runoff from farmsteads, roads, and staging areas that pick up contaminants and flow to waters of the state; or
 - (b) Visible gully erosion in roads or staging areas.
- (7) Landowners or occupiers shall manage streamside areas to allow the establishment, growth, and/or maintenance of riparian vegetation appropriate to the site. Vegetation must be sufficient to provide shade and to protect the streamside area such that it maintains its integrity during high stream flow events such as those events which are reasonably expected to occur following a 25-year, 24-hour storm event.
- (a) If any agricultural activity degrades riparian vegetation, the landowner or occupier shall replant or restore the disturbed area to an adequate cover as soon as practical.
 - (b) Indicator of non-compliance is active streambank sloughing or erosion as a result of tillage, grazing, or destruction of vegetation by the landowner or occupier.

Statutory/Other Authority: ORS 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 36-2003, f. & cert. ef. 9-24-03

DOA 20-2000, f. & cert. ef. 7-12-00

603-095-0560

Complaints and Investigations

- (1) When the Department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, or through notification by another agency, the Department may conduct an investigation. The Department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 adopted or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules thereunder may file a complaint with the Department.
- (4) The Department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0560(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The property and/or waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-0560(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-0560, the Department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) Actions based on investigation findings:
 - (a) If the Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan exists and the landowner or occupier is making a reasonable effort to comply with the plan:

(A) The Department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder; and

(B) The Department shall acknowledge the existence of the Voluntary Plan and direct the landowner to seek appropriate technical assistance and revise the plan and its implementation in a manner necessary to eliminate the violation.

(b) The landowner shall be subject to the enforcement procedures of the Department outlined in OARs 603-090-0060 through 603-090-0120 if:

(A) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan does not exist; or

(B) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan exists and the landowner or occupier is not making a reasonable effort to comply with the plan; or

(C) The Department determines that a landowner or occupier has not revised a plan per paragraph (a)(B) of this section within the time specified by the Department.

Statutory/Other Authority: ORS 568.915, 568.918 & 568.933

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 36-2003, f. & cert. ef. 9-24-03

DOA 20-2000, f. & cert. ef. 7-12-00

603-095-0600

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Lower Deschutes Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191, due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads and allocate a load to agricultural nonpoint sources. The area plan is known as the Lower Deschutes Agricultural Water Quality Management Area Plan. After adoption of the TMDLs, these rules will be reviewed and modified as needed to provide reasonable assurance that the load allocations for agriculture will be met.

(2) The purpose of these rules is to outline requirements for landowners in the Lower Deschutes Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Lower Deschutes Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2003, f. & cert. ef. 1-7-03

DOA 16-2000, f. & cert. ef. 6-12-00

603-095-0620

Geographic and Programmatic Scope

(1) The Lower Deschutes Agricultural Water Quality Management Area includes the drainage area of the Deschutes River downstream from its confluence with Trout Creek to its confluence with the Columbia River near the city of The Dalles. It also includes all Oregon lands draining to the Columbia River between the Hood River drainage and the John Day Basin. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Lower Deschutes Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and lands that make up the Reservation of the Confederated Tribes of the Warm Springs.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Lower Deschutes Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2000, f. & cert. ef. 6-12-00

603-095-0640

Prohibited Conditions

(1) All landowners or operators conducting activities on lands in agricultural use will comply with the following criteria. Implementation of these rules will begin upon adoption and will be fully implemented by the dates listed below. A landowner is responsible for only those conditions caused by agricultural activities conducted on land controlled by the landowner. A landowner is not responsible for prohibited conditions resulting from actions by another landowner. Conditions resulting from unusual weather events or other exceptional circumstances are not the responsibility of the landowner.

(2) Soil Erosion on Uplands; effective on rule adoption, landowners must control soil erosion on uplands using practical and available methods.

(a) On croplands, a landowner may demonstrate compliance with OAR 603-095-0640(2) by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management System (RMS) quality criteria for soil and water resources; or

(B) Operating in accordance with an SWCD-approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation; and farming non-HEL cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or

(C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or

(D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(b) On rangelands, a landowner may demonstrate compliance with OAR 603-095-0640(2) by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management System (RMS) quality criteria for soil and water resources; or

(B) Maintaining sufficient live vegetation cover and plant litter to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

(c) Landowners must control active gully erosion to protect against sediment delivery to streams. 'Active Gully Erosion' means gullies or channels that at the largest dimension have a cross-sectional area of at least one square foot and that occur at the same location for two or more consecutive years of cropping or grazing.

(3) Active Stream Bank Erosion; by January 1, 2005, active streambank erosion is not allowed beyond the amount expected for the specific stream flow regime and channel type. Stream channel modification that extends well beyond the level anticipated from natural disturbance given stream characteristics is not allowed.

(4) Placement, Delivery or Sloughing of Wastes; effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(5) Riparian Vegetation; by January 1, 2005, agricultural management or soil-disturbing activities that preclude establishment and development of adequate riparian vegetation for streambank stability and shading, consistent with site capability, are not allowed.

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2003, f. & cert. ef. 1-7-03

DOA 16-2000, f. & cert. ef. 6-12-00

603-095-0660

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0660(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-0660(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-0660, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 568.915 & 568.918 - 568.933

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2003, f. & cert. ef. 1-7-03

DOA 16-2000, f. & cert. ef. 6-12-00

603-095-0700

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Umpqua Basin Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191, due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads and allocate a load to agricultural nonpoint sources. The area plan is known as the Umpqua Basin Agricultural Water Quality Management Area Plan. After adoption of the TMDLs, these rules will be reviewed and modified as needed to provide reasonable assurance that the load allocations for agriculture will be met. Nothing in the Umpqua Basin Agricultural Water Quality Management Area Plan or rules adopted by the department will allow the department to implement this plan or rules in a manner that is in violation of the U.S. Constitution, the Oregon Constitution or other applicable state laws.
- (2) It is intended that the Umpqua Basin Agricultural Water Quality Management Area Plan will aid in achieving compliance with these rules through education and promotion of voluntary land management measures.
- (3) Failure to comply with any provisions of the Umpqua Basin Agricultural Water Quality Management Area Plan:
 - (a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-0760;
 - (b) Is not intended by the Department to be evidence of a violation of any federal, state, or local law by any person.
- (4) Nothing in the Umpqua Basin Agricultural Water Quality Management Area Plan shall be used to interpret any requirement of OAR 603-095-0010 to 603-095-0760.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2001, f. & cert. ef. 1-10-01

603-095-0720

Geographic and Programmatic Scope

(1) The Umpqua Basin includes the drainage area for the South Umpqua, the North Umpqua, the mainstem Umpqua and the Smith River. The physical boundaries of the Umpqua basin are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Umpqua Basin in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies (BLM, USFS and USFWS), and activities which are subject to the Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Umpqua Basin.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191, 568.909 & 568.927

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2001, f. & cert. ef. 1-10-01

603-095-0740

Conditions

(1) All landowners or occupiers conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner is responsible for only those conditions caused by agricultural activities conducted by the landowner. A landowner is not responsible for unacceptable conditions resulting from the actions of another landowner or occupier. Conditions resulting from unusual weather events or other exceptional circumstances are not the responsibility of the landowner.

(2) Unless otherwise noted, these rules are effective one year after adoption.

(3) Substantial amounts of sediment (i.e. in excess of water quality standards for sedimentation) moving from agricultural lands into waters of the state as a result of agricultural activities is identified as an unacceptable condition. Offstream ponds which do not contribute to the downstream system under normal weather conditions are exempt as they are often used to trap and contain sediment.

(4) Substantial amounts of phosphorous (i.e. in excess of water quality standards) moving from agricultural lands into waters of the state as a result of agricultural activities is identified as an unacceptable condition.

(5) Substantial amounts of bacteria (i.e. in excess of water quality standards) moving from agricultural lands into waters of the state as a result of agricultural activities is identified as an unacceptable condition. Off stream ponds which do not contribute to waters where public exposure is possible are exempt from this rule.

(6) Agricultural management or soil-disturbing activities that preclude establishment and development of adequate riparian vegetation for streambank stability and shading, consistent with site capability, along a perennial stream which has a site potential for such vegetation is considered an unacceptable condition. Minimal breaks in shade vegetation for essential management activities are considered appropriate.

(7) Irrigation practices that contribute significant amounts of warmed surface water (more than 3% of water pumped during any one irrigation setting to return as surface runoff to a stream) back into a stream are considered an unacceptable condition.

(8) Effective upon adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191, 568.909 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2001, f. & cert. ef. 1-10-01

603-095-0760

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct

an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0760(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-0760(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-0760, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 568.915, 568.918 & 568.933

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2001, f. & cert. ef. 1-10-01

603-095-0800

Purpose

(1) These rules have been developed to effectuate a water quality management area plan for the North Coast Basin pursuant to authorities vested in the department through ORS 561.190–561.191 and 568.900–568.933. Development of this plan is due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads (TMDL) and allocate loads to agricultural water pollution sources. This plan also contributes to the state's program to restore and protect coastal waters in response to the federal Coastal Zone Management Act. The area plan is known as the North Coast Basin Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the North Coast Basin Agricultural Water Quality Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with these rules is expected to aid in the achievement of applicable water quality standards in the North Coast Basin.

(a) Failure to comply with any provisions of the North Coast Basin Agricultural Water Quality Management Area Plan:

(A) does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 635-095-0860;

(B) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(b) Nothing in the North Coast Basin Agricultural Water Quality Management Area Plan shall be:

(A) Construed as an effluent limitation or standard under the federal Water Pollution Control Act 33, USC § 1251–1376;

(B) Used to interpret any requirement of OAR 603-095-0800 through 603-095-0860.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2000, f. & cert. ef. 7-12-00

603-095-0820

Geographic and Programmatic Scope

(1) The physical boundaries of North Coast Basin subject to these rules are indicated on the map included as Appendix A of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the North Coast Basin in agricultural use, agricultural and rural lands which are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and activities which are subject to the Oregon Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the North Coast Basin.

(5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2000, f. & cert. ef. 7-12-00

603-095-0840

Required and Prohibited Conditions

(1) All landowners or operators conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or operator shall be responsible for only those required and prohibited conditions caused by activities conducted on land managed by the landowner or operator. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated.

(2) Healthy Riparian Streambank Condition. Effective upon rule adoption.

(a) Allow the natural and managed regeneration and growth of riparian vegetation — trees, shrubs, grasses, and sedges — along natural waterways (as defined in OAR 141-085-0010(27)) to provide shade to moderate water temperatures and bank stability to maintain erosion near background levels.

(b) The technical criteria to determine compliance with OAR 603-095-0840(2)(a) are:

(A) Ongoing renewal of riparian vegetation that depends on natural processes (including processes such as seed fall, seed bank in soil, or sprouting from roots, rhizomes, or dormant crowns) is evident.

(B) Ongoing growth of riparian vegetation that has a high probability of remaining or becoming vigorous and healthy is evident.

(C) Management activities minimize the degradation of established native vegetation while allowing for the presence of nonnative vegetation.

(D) Management activities maintain at least 50% of each year's new growth of woody vegetation — both trees and shrubs.

(E) Management activities are conducted in a manner so as to maintain streambank integrity through 25-year storm events.

(c) Exemptions:

(A) Levees and dikes are exempt from the Healthy Riparian Streambank Condition OAR 603-095-0840(2)(a) and (b), except for areas on the river-side of these structures that are not part of the structures and which can be vegetated without violating U.S. Army Corps of Engineers vegetation standards.

(B) Drainage areas where the only connection to other waterbodies are through pumps shall be exempt from the Healthy Riparian Streambank Condition OAR 603-095-0840(2)(a) and (b).

(C) Access to natural waterways for livestock watering and stream crossings are allowed such that livestock use is limited to only the amount of time necessary for watering and crossing the waterway.

(D) Drainage and irrigation ditches managed in compliance with OAR 603-095-0840(3) are exempt from the Healthy Riparian Streambank Condition 603-095-0840(2)(a) and (b).

(3) Drainage and irrigation ditches (channels legally constructed). Effective upon rule adoption.

- (a) Construction, maintenance, and use of surface drainage ditches shall not result in sediment delivery to waters of the state from soil erosion caused by excessive channel slope, unstable channel cross section, or placement of disposed soils.
- (b) Ditch bank vegetation shall be present to stabilize earthen ditch banks.
- (c) Technical criteria to determine compliance with OAR 603-095-0840(3)(a) and (b) are:
- (A) Construction and maintenance of drainage and irrigation ditches utilize ditch slope and ditch cross section that are appropriate to the site.
- (B) Disposed soils from construction and maintenance of drainage and irrigation ditches are placed such that sediment delivery to waters of the state from the placement of these soils is consistent with natural background sediment delivery from these sites.
- (d) Exemptions: Bank vegetation damaged and soils exposed during maintenance (as defined in OAR 141-085-0010(22)) and construction, in accordance with Division of State Lands rules. Bank vegetation must be reestablished as soon as practicable after construction and maintenance are completed. However, sediment delivery to waters of the state shall not result from inappropriate ditch slope and cross section or from placement of disposed soils.
- (4) Tide Gates. Effective upon rule adoption. Tide gates shall open and close as designed.
- (5) Erosion and Sediment Control. Effective upon rule adoption.
- (a) No cropland erosion in excess of the soil loss tolerance factor (T) for the subject field, as determined by the Revised Universal Soil Loss Equation (RUSLE) for soil loss, will occur. Exceptions: The department shall establish an alternate erosion control standard for croplands which the department determines cannot practically or economically achieve the soil loss tolerance factor. Any alternate erosion control standard for croplands established by the department shall assure that delivery of sediment to adjacent water sources is reduced to the maximum extent practicable.
- (b) Private roads that traverse rural lands or private roads used for agricultural activities shall be constructed and maintained such that road surfaces, fill and associated structures are designed and maintained to limit contributing sediment to waters of the state. All private roads on agricultural lands not subject to the Oregon Forest Practices Act are subject to this regulation. Exceptions: Roads subject to the Oregon Forest Practices Act.
- (c) Agricultural lands shall be managed to prevent and control runoff of sediment to public road drainage systems.
- (d) Except for operations governed by the Oregon Forest Practices Act, no activities related to the conversion of woodland to non-woodland agricultural uses that require removal of the majority of woody material from a parcel of land, such that the land no longer meets the definition of woodland, shall be conducted in a manner which results in the placement of soil, the delivery of sediment or the sloughing of soil into waters of the state, the initiation or aggravation of streambank erosion, or the loss of a healthy riparian streambank condition as defined in OAR 603-095-0840(2).
- (6) Manure, Nutrients, and Other Waste. Effective upon rule adoption.
- (a) No person conducting agricultural land management shall cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means.
- (b) No person conducting agricultural land management shall discharge any wastes into the waters of the state if the discharge reduces the quality of such waters below the water quality standards established by rule for such waters by the Environmental Quality Commission.
- (c) No person shall violate the conditions of any waste discharge permit issued under ORS 468B.050.
- (d) Exceptions: Access to natural waterways for livestock watering and stream crossings are allowed such that livestock use is limited to only the amount of time necessary for watering and crossing the waterway.

Statutory/Other Authority: ORS 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2000, f. & cert. ef. 7-12-00

603-095-0860

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by any other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0860(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The property and waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-0860, "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-0860, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) Actions based on investigation findings:
- (a) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an Approved Voluntary Water Quality Farm Plan exists and the landowner or occupier is making a reasonable effort to comply with the plan:
 - (A) The department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder; and
 - (B) The department may acknowledge the existence of the Approved Voluntary Water Quality Farm Plan and direct the landowner to seek appropriate technical assistance and revise the plan and its implementation in a manner necessary to eliminate the violation.
 - (b) The landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120 if:
 - (A) The department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an Approved Voluntary Water Quality Farm Plan does not exist; or
 - (B) The department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an Approved Voluntary Water Quality Farm Plan exists and the landowner or occupier is not making a reasonable effort to comply with the plan; or
 - (C) The department determines that a landowner or occupier has not revised a plan per OAR 603-095-0860(7)(a)(B) within the time specified by the department.

Statutory/Other Authority: ORS 568.915, 568.918 & 568.933

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2000, f. & cert. ef. 7-12-00

603-095-0900

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Malheur River Basin Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Malheur River Basin Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Malheur River Basin Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Malheur River Basin Water Quality Management Area.
- (3) Failure to comply with any provisions of the Malheur River Basin Agricultural Water Quality Management Area Plan:
- (a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-0960;
 - (b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.
- (4) Nothing in the Malheur River Basin Agricultural Water Quality Management Area Plan shall be:
- (a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251–1376;

(b) Used to interpret any requirement of OAR 603-095-0900 to 603-095-0960.

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2001, f. & cert. ef. 3-26-01

603-095-0920

Geographic and Programmatic Scope

(1) The Malheur River Basin Agricultural Water Quality Management Area includes the drainage area of the Malheur River and all its tributaries from the headwaters to the mouth, and the Moores Hollow and Jacobsen Gulch subbasins. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Malheur River Basin Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Malheur River Basin Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2001, f. & cert. ef. 3-26-01

603-095-0940

Prohibited Conditions

(1) All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by agricultural activities conducted on land controlled by the landowner. A landowner is not responsible for prohibited conditions resulting from actions by another landowner. Conditions resulting from unusual weather events (equalling or exceeding a 25-year storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior approval by the department. The intent of these rules, in accordance with the Clean Water Act, is to protect clean water while also maintaining the economic viability of individual farming enterprises.

(2) Placement, Delivery, or Sloughing of Wastes: Effective upon adoption: No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Irrigation Surface Water Return Flow:

(a) After January 1, 2006, irrigation surface water return flow to waters of the state shall not cause an excessive, systematic, or persistent increase in sediment levels already present in the receiving waters, except where the return flows do not cause the receiving waters to exceed established sediment standards.

(b) A landowner conducting irrigation activities in accordance with a plan approved in writing by the department or its designee shall be deemed to be in compliance with this rule.

(4) Active Streambank Erosion: By January 1, 2006, no person may cause active streambank erosion beyond the level that would be anticipated from natural disturbances given existing hydrologic characteristics.

(5) Riparian Vegetation: By January 1, 2006, no conditions are allowed that prevent the establishment and development of adequate riparian vegetation consistent with vegetative site capability to control water pollution by providing control of erosion, filtering of sediments, moderation of solar heating and infiltration of water into the soil profile.

(6) Range and Pasture Management:

(a) By January 1, 2006, vegetative condition on rangelands and pasturelands shall be managed such that the functionality of the watershed is not impaired. Watershed function includes the ability of vegetation to filter sediment, utilize nutrients, control soil erosion, optimize infiltration of water to the soil profile, and minimize the rate and maximize the duration of runoff from precipitation.

(b) A landowner conducting range and pasture management activities in accordance with a plan approved in writing by the department or its designee shall be deemed to be in compliance with this rule.

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2001, f. & cert. ef. 3-26-01

603-095-0960

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an apparent occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0960(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-0960(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-0960, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2001, f. & cert. ef. 3-26-01

603-095-1000

Purpose

(1) These rules have been developed to implement a water quality management area plan pursuant to authorities vested in the department through ORS 568.900–568.933. The area plan is known as the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the North and Middle Forks John Day River Management Area, for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the North and Middle Forks John Day River subbasins.

(3) Failure to comply with any provisions of the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 through 603-090-0120, or of 603-095-0010 through 603-095-1060;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan shall be used to interpret any requirement of OAR 603-095-1000 through 603-095-1060.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2002, f. & cert. ef. 6-14-02

603-095-1020

Geographic and Programmatic Scope

(1) The North and Middle Forks John Day River Agricultural Water Quality Management Area includes the area that drains into the North and Middle Forks of the John Day River upstream from the confluence with the mainstem John Day River near Kimberly. The physical boundaries of the North and Middle Forks John Day River Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the North and Middle Forks John Day River subbasins in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies (USFS and BLM) and activities that are subject to the Oregon Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, fallow croplands or rested pastures with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the North and Middle Forks John Day River Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2002, f. & cert. ef. 6-14-02

603-095-1040

Prevention and Control Measures

(1) Limitations:

(a) All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-1040 (Prevention and Control Measure).

(A) A landowner or operator shall be responsible for water quality resulting from conditions caused by the management of the landowner or operator.

(B) Rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures.

(b) Rule implementation schedule:

(A) OAR 603-095-1040(2) is effective upon adoption;

(B) OAR 603-095-1040(3) through (6) are effective January 1, 2006;

(C) Effective upon adoption of these rules, all landowners or operators should immediately begin technically sound, economically feasible efforts where needed to achieve measurable progress towards compliance with these rules.

(c) These rules may be modified as a result of the biennial review of the progress of implementation of the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan.

(2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Uplands Management:

(a) Cropland, rangeland and pasture condition must allow, within the capability of the site, vegetation sufficient to protect water quality.

(b) Private roads and farmsteads must be in a condition that protects water quality by controlling soil erosion and suspended sediment concentrations in runoff.

(4) Riparian Area Management: Riparian area condition must allow the establishment, growth and active recruitment of riparian vegetation, consistent with the vegetative capability of the site, for protection of water quality.

(5) Irrigation Management: Irrigation must be done in a manner that limits the amount of pollutants in the runoff from the irrigated area.

(6) Livestock Management:

(a) Livestock confinement areas must have an adequate runoff control system or equally effective pollution control practice sufficient to control runoff of sediment and animal waste.

(b) OAR 603-095-1040(6)(a) applies to all livestock confinement areas except those required to have a permit under ORS 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2002, f. & cert. ef. 6-14-02

603-095-1060

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an apparent occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 through 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 through 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1060(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 through 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-1060(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-1060(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 through 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2002, f. & cert. ef. 6-14-02

603-095-1100

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Hood River Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191, due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads and allocate a load to agricultural nonpoint sources. The area plan is known as the Hood River

Agricultural Water Quality Management Area Plan. After adoption of the TMDLs, these rules will be reviewed and modified as needed to provide reasonable assurance that the load allocations for agriculture will be met.

(2) The purpose of these rules is to outline requirements for landowners in the Hood River Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Hood River Agricultural Water Quality Management Area.

(3) Failure to comply with any provisions of the Hood River Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-1160;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Hood River Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251–1376;

(b) Used to interpret any requirement of OAR 603-095-1100 to 603-095-1160.

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2001, f. & cert. ef. 3-26-01

603-095-1120

Geographic and Programmatic Scope

(1) The Hood River Agricultural Water Quality Management Area is comprised of the Hood River drainage and all other Oregon lands draining to the Columbia River between and including Eagle Creek to the west and Fir Mountain to the east. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Hood River Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and Tribal Trust lands.

(3) Current productive agricultural use is not required for the provisions of these rules to apply.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Hood River Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2001, f. & cert. ef. 3-26-01

603-095-1140

Requirements

(1) Landowners must comply with OAR 603-095-1140(2) through (3) within the following limitations: A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Streamside Vegetation: Effective upon adoption of these rules, agricultural activities must allow the establishment, growth, and maintenance of vegetation along streams. Vegetation must be sufficient to control water pollution by moderating solar heating, minimizing streambank erosion, filtering sediments and nutrients from overland flows, and improving the infiltration of water into the soil profile. The streambank should have sufficient vegetation to resist erosion during high streamflows, such as those reasonably expected to occur once every 25 years.

(3) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2001, f. & cert. ef. 3-26-01

603-095-1160

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1160(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-1160(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-1160, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 & 561.191

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2001, f. & cert. ef. 3-26-01

603-095-1200

Purpose

(1) The purpose of these rules is to outline requirements for landowners in the Clackamas Subbasin Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Clackamas Subbasin Management Area.

(2) It is intended that the Clackamas Subbasin Agricultural Water Quality Management Area Plan will aid in achieving compliance with these rules through education and promotion of voluntary land management measures.

(3) Failure to comply with any provisions of the Clackamas Subbasin Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 through 603-090-0120, or of 603-095-1200 through 603-095-1280.

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Clackamas Subbasin Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the Federal Water Pollution Control Act, 33 USC § 1251-1376.

(b) Used to interpret any requirement of OAR 603-095-1200 through 603-095-1280.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2001, f. & cert. ef. 6-8-01

603-095-1220**Geographic and Programmatic Scope**

(1) The Clackamas Subbasin Management Area includes the drainage area of the Clackamas River upstream from the confluence with the Willamette River near Gladstone. The Abernathy Creek and Beaver Creek/Parrot Creek drainages which flow directly into the Willamette from the east are included in this Management Area. Newland Creek, Boeckman Creek, Seely Ditch, Coffee Lake Creek, and Corral Creek flow directly into the Willamette River and are also included in this Management Area. The physical boundaries of the Clackamas Subbasin Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Clackamas Subbasin Management Area in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and activities which are subject to the Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Clackamas Subbasin Management Area.

(5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2001, f. & cert. ef. 6-8-01

603-095-1240**Prevention and Control Measures**

(1) All landowners or operators conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or operator shall be responsible for only those violations of the following prevention and control measures caused by activities conducted on land managed by the landowner or operator. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.

(2)(a) Streamside Area Condition. Effective upon rule adoption.

(b) Streamside area conditions shall allow the establishment, growth, and/or maintenance of native or non-native riparian vegetation appropriate to the site capability, that is sufficient to encourage shade and to protect the streamside area during high stream flow events up to and including those expected to occur during or following a 25-year, 24 hour storm event.

(3)(a) Agricultural Waste. Effective upon rule adoption.

(b) No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2001, f. & cert. ef. 6-8-01

603-095-1260**Voluntary Water Quality Farm Plans**

(1) Intent: Landowners or operators are encouraged to develop and implement an Approved Voluntary Water Quality Farm Plan (approved voluntary plan). An approved voluntary plan is defined in OAR 603-095-0010(6) and is not the same as a voluntary plan defined in 603-095-0010(51).

(2) In order to be considered for approval, voluntary plans shall be designed to meet criteria in OAR 603-095-1240. At a minimum, Approved Voluntary Water Quality Farm Plans shall include the following information:

(a) General components:

(A) Maps, aerial photographs, and soil survey, water resource and other natural resource inventory information shall be included to the extent that the information is pertinent and necessary in the formulation of the voluntary plan to assure it achieves the criteria in OAR 603-095-1240;

(B) A list of fields, land uses, acres and resource concerns; and

(C) Any agreements entered into by the landowner or operator involving any agency providing technical or financial assistance in the completion of the conservation measures included in the voluntary plan.

(b) Depending on the nature of the operation, any or all of the following specific components shall be included in the voluntary plan. If any of the components do not apply to the operation, the plan shall so indicate:

(A) Erosion prevention and sediment control;

(B) Livestock waste management;

(C) Roads, staging areas and farmstead construction and maintenance;

(D) Streamside area management;

(E)(i) Irrigation management.

(ii) Plans filed with the department pursuant to letters of intent submitted by operators of container nurseries may meet the requirements of the irrigation management component of a voluntary plan, provided that such plans meet other requirements under OAR 603-095-1260(2) and (3).

(3) Preparation:

(a) The landowner or operator may prepare the voluntary plan, arrange with a Local Management Agency to prepare the plan, or may contract with another person or agency to prepare the plan.

(A) The Local Management Agency may require certification by a professional soil scientist or soil conservationist, or a registered professional engineer, that the voluntary plan meets the standards of the USDA Natural Resources Conservation Service technical guide for conservation plans, and that completion of the conservation measures included in the plan will enable the landowner or operator to meet the criteria in OAR 603-095-1240; or

(B) The Local Management Agency may require proof from the preparer of the plan that he or she is qualified to prepare such a plan.

(b) The Local Management Agency may require such additional documentation as is necessary to identify in detail the conservation measures listed.

(4) Implementation schedule: Any portion of a voluntary plan designed to meet the criteria in OAR 603-095-1240 shall provide a schedule of implementation until the relevant criteria in 603-095-1240 are met.

(5) Approval:

(a) The Local Management Agency shall approve or disapprove voluntary plans and any plan amendments at a scheduled meeting and shall maintain a record of its actions as part of the meeting minutes. Approved voluntary plans and plan amendments shall be signed by the chair or the chair's designee. As a condition of approval, all voluntary plans shall meet the criteria in OAR 603-095-1240 and the criteria for plan preparation contained in 603-095-1260(2) and (3).

(b) In the event that the Local Management Agency finds that a voluntary plan or a plan amendment does not meet the criteria in OAR 603-095-1240 or the criteria for plan preparation contained in 603-095-1260(2) and (3), the Local Management Agency shall provide a written explanation, by certified mail, to the landowner or operator who submitted the plan, listing all the deficiencies to be corrected.

(c) Voluntary plans approved under 603-095-1260(5)(a) shall be considered approved until such time as the department adopts new standards or rules applying to approved voluntary plans.

(6) Appeal:

(a) Any landowner or operator may request reconsideration of the Local Management Agency's decision to disapprove a voluntary plan or a plan amendment by submitting a request for a hearing before a scheduled Local Management Agency meeting. If an appeal is filed, the Local Management Agency shall reconsider its decision at its next regularly scheduled meeting and may either affirm, modify or reverse its previous decision. The purpose of the hearing shall be to present relevant information or evidence that the Local Management Agency's action was not based on an appropriate

or adequate evaluation of the voluntary plan or plan amendment. The Local Management Agency shall maintain a record of its action regarding reconsideration as part of the meeting minutes.

(b) A landowner or operator may appeal the Local Management Agency's denial of reconsideration within thirty days of the date of the reconsideration decision by filing a hearing request with the department. If the landowner or operator appeals within the prescribed period, the department shall notify the Local Management Agency. The Local Management Agency shall forward its action and rationale to the department within seven days of such notification.

(c) Within thirty (30) days of receiving an appeal request, the department shall schedule a hearing between the landowner or operator, a designated representative of the Local Management Agency, and a representative of the department. The purpose of the hearing shall be to review the Local Management Agency's reconsideration decision. If the representatives of the department and the Local Management Agency can reach agreement, they shall forward a joint recommendation to the Local Management Agency for approval at its next regularly scheduled meeting. The Local Management Agency shall maintain a record of its action as part of its meeting minutes.

(d) If the representatives of the department and the Local Management Agency cannot agree on a joint recommendation, the department may approve or disapprove the voluntary plan or plan amendment. The department shall forward a copy of its decision to the landowner or operator and the Local Management Agency.

(7) Amendments to an existing plan: Any amendments to an existing approved voluntary plan shall be approved by the Local Management Agency in accordance with OAR 603-095-1260(5) and (6).

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2001, f. & cert. ef. 6-8-01

603-095-1280

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural water pollution through a written complaint, its own observation, or through notification by another agency, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an apparent occurrence of agricultural water pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural water pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1280(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-1280(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-1280, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to public health or safety.

(7) Actions based on investigation findings:

(a) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved voluntary plan exists and the landowner or operator is making a reasonable effort to comply with the plan:

(A) The department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder; and

(B) The department may acknowledge the existence of the approved voluntary plan and direct the landowner to seek appropriate technical assistance and to revise the plan and its implementation in a manner necessary to eliminate the violation.

(b) The landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120 if:

- (A) The department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved voluntary plan does not exist; or
- (B) The department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved voluntary plan exists and the landowner or operator is not making a reasonable effort to comply with the plan; or
- (C) The department determines that a landowner or operator has not revised a plan pursuant to paragraph (a)(B) of this section within the time specified by the department.

Statutory/Other Authority: ORS 568.915, 568.918 & 568.933

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2001, f. & cert. ef. 6-8-01

603-095-1300

Purpose

- (1) The purpose of these rules is to outline requirements for landowners in the Sandy Subbasin Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Sandy Subbasin Management Area.
- (2) It is intended that the Sandy Subbasin Agricultural Water Quality Management Area Plan will aid in achieving compliance with these rules through education and promotion of voluntary land management measures.
- (3) Failure to comply with any provisions of the Sandy Subbasin Agricultural Water Quality Management Area Plan:
- (a) Does not constitute a violation of OAR 603-090-0000 through 603-090-0120, or of 603-095-1300 through 603-095-1380;
- (b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.
- (4) Nothing in the Sandy Subbasin Agricultural Water Quality Management Area Plan shall be:
- (a) Construed as an effluent limitation or standard under the Federal Water Pollution Control Act, 33 USC § 1251-1376;
- (b) Used to interpret any requirement of OAR 603-095-1300 through 603-095-1380.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 12-2001, f. & cert. ef. 6-8-01

603-095-1320

Geographic and Programmatic Scope

- (1) The Sandy Subbasin Management Area includes the drainage area of the Sandy River upstream from the confluence with the Columbia River near Troutdale. Tanner, Moffett, McCord, Horsetail, Oneonta, Multnomah, Coeepy, Bridal Veil, Young, Latourell and other small creeks which flow directly into the Columbia River are included in this Management Area. The physical boundaries of the Sandy Subbasin Management Area are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Sandy Subbasin Management Area in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and activities which are subject to the Forest Practices Act.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Sandy Subbasin Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 12-2001, f. & cert. ef. 6-8-01

603-095-1340

Prevention and Control Measures

(1) All landowners or occupiers conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or occupier shall be responsible for only those violations of the following prevention and control measures caused by activities conducted on land managed by the landowner or occupier. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.

(2) Streamside area condition. Effective upon adoption.

(a) Streamside vegetation management shall allow the establishment, growth, control, and/or maintenance of riparian vegetation (for example: grasses, sedges, shrubs, and trees) appropriate to the site capability that is sufficient to provide shade and protection to the streamside area such that it maintains its integrity during high stream flow events up to and including those expected to occur during or following a 25-year, 24 hour storm event.

(b) Management strategies in the streamside area shall not reduce the control of erosion, lessen filtering of sediment and nutrients, or decrease the infiltration of water into the soil profile.

(3) Agricultural Waste Control. Effective upon rule adoption.

(a) No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(b) Access to natural waterways for livestock watering and stream crossings are allowed such that livestock use is limited to only the amount of time necessary for watering and/or crossing the waterway.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 12-2001, f. & cert. ef. 6-8-01

603-095-1360

Voluntary Water Quality Farm Plans

(1) Intent: Landowners or operators are encouraged to develop and implement an approved Voluntary Water Quality Farm Plan (approved voluntary plan). An approved voluntary plan is defined in OAR 603-095-0010(6) and is not the same as a voluntary plan defined in 603-095-0010(51).

(2) In order to be considered for approval, voluntary plans shall be designed to meet criteria in OAR 603-095-1340. At a minimum, approved voluntary plans shall include the following information:

(a) General components:

(A) Maps, aerial photographs, and soil survey, water resource and other natural resource inventory information shall be included to the extent that the information is pertinent and necessary in the formulation of the voluntary plan to assure it achieves the criteria in OAR 603-095-1340;

(B) A list of fields, land uses, acres and resource concerns; and

(C) Any agreements entered into by the landowner or operator involving any agency providing technical or financial assistance in the completion of the conservation measures included in the voluntary plan.

(b) Depending on the nature of the operation, any or all of the following specific components shall be included in the voluntary plan. If any of the components do not apply to the operation, the plan shall so indicate:

(A) Erosion prevention and sediment control;

(B) Livestock waste management;

(C) Roads, staging areas and farmstead construction and maintenance;

(D) Streamside area management;

(E)(i) Irrigation management.

(ii) Plans filed with the department pursuant to letters of intent submitted by operators of container nurseries may meet the requirements of the irrigation management component of a voluntary plan, provided that such plans meet other requirements under OAR 603-095-1360(2) and (3).

(F) Nutrient Management.

(G) Pesticide management to minimize off-site transport.

(3) Preparation:

(a) The landowner or operator may prepare the voluntary plan, arrange with a Local Management Agency to prepare the plan, or may contract with another person or agency to prepare the plan.

(A) The Local Management Agency may require certification by a professional soil scientist or soil conservationist, or a registered professional engineer, that the voluntary plan meets the standards of the USDA Natural Resources Conservation Service technical guide for conservation plans, and that completion of the conservation measures included in the plan will enable the landowner or operator to meet the criteria in OAR 603-095-1340; or

(B) The Local Management Agency may require proof from the preparer of the plan that he or she is qualified to prepare such a plan.

(b) The Local Management Agency may require such additional documentation as is necessary to identify in detail the conservation measures listed.

(4) Implementation schedule: Any portion of a voluntary plan designed to meet the criteria in OAR 603-095-1340 shall provide a schedule of implementation until the relevant criteria in 603-095-1340 are met.

(5) Approval:

(a) The Local Management Agency shall approve or disapprove voluntary plans and any plan amendments at a scheduled meeting and shall maintain a record of its actions as part of the meeting minutes. Approved voluntary plans and plan amendments shall be signed by the chair or the chair's designee. As a condition of approval, all voluntary plans shall meet the criteria in OAR 603-095-1340 and the criteria for plan preparation contained in 603-095-1360(2) and (3).

(b) In the event that the Local Management Agency finds that a voluntary plan or a plan amendment does not meet the criteria in OAR 603-095-1340 or the criteria for plan preparation contained in 603-095-1360(2) and (3), the Local Management Agency shall provide a written explanation, by certified mail, to the landowner or operator who submitted the plan, listing all the deficiencies to be corrected.

(c) Voluntary plans approved under 603-095-1360(5)(a) shall be considered approved until such time as the department adopts new standards or rules applying to approved voluntary plans.

(6) Appeal:

(a) Any landowner or operator may request reconsideration of the Local Management Agency's decision to disapprove a voluntary plan or a plan amendment by submitting a request for a hearing before a scheduled Local Management Agency meeting. If an appeal is filed, the Local Management Agency shall reconsider its decision at its next regularly scheduled meeting and may either affirm, modify or reverse its previous decision. The purpose of the hearing shall be to present relevant information or evidence that the Local Management Agency's action was not based on an appropriate or adequate evaluation of the voluntary plan or plan amendment. The Local Management Agency shall maintain a record of its action regarding reconsideration as part of the meeting minutes.

(b) A landowner or operator may appeal the Local Management Agency's denial of reconsideration within thirty days of the date of the reconsideration decision by filing a hearing request with the department. If the landowner or operator appeals within the prescribed period, the department shall notify the Local Management Agency. The Local Management Agency shall forward its action and rationale to the department within seven days of such notification.

(c) Within thirty (30) days of receiving an appeal request, the department shall schedule a hearing between the landowner or operator, a designated representative of the Local Management Agency, and a representative of the department. The purpose of the hearing shall be to review the Local Management Agency's reconsideration decision. If the representatives of the department and the Local Management Agency can reach agreement, they shall forward a joint recommendation to the Local Management Agency for approval at its next regularly scheduled meeting. The Local Management Agency shall maintain a record of its action as part of its meeting minutes.

(d) If the representatives of the department and the Local Management Agency cannot agree on a joint recommendation, the department may approve or disapprove the voluntary plan or plan amendment. The department shall forward a copy of its decision to the landowner or operator and the Local Management Agency.

(7) Amendments to an existing plan: Any amendments to an existing approved voluntary plan shall be approved by the Local Management Agency in accordance with OAR 603-095-1360(5) and (6).

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 & 568.933

History:

DOA 12-2001, f. & cert. ef. 6-8-01

603-095-1380

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural water pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an apparent occurrence of agricultural water pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural water pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1380(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-1380(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-1380, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) Actions based on investigation findings:

(a) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved voluntary plan exists and the landowner or operator is making a reasonable effort to comply with the plan:

(A) The department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder; and

(B) The department may acknowledge the existence of the approved voluntary plan and direct the landowner to seek appropriate technical assistance and to revise the plan and its implementation in a manner necessary to eliminate the violation.

(b) The landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120 if:

(A) The department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved voluntary plan does not exist; or

(B) The department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved voluntary plan exists and the landowner or operator is not making a reasonable effort to comply with the plan; or

(C) The department determines that a landowner or operator has not revised a voluntary plan pursuant to OAR 603-095-1380(6)(a)(B) within the time specified by the department.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 12-2001, f. & cert. ef. 6-8-01

603-095-1400

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Inland Rogue Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900 -

568.933 and 561.190 – 561.191. The area plan is known as the Inland Rogue Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Inland Rogue Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with OAR 603-095-1400 to 603-095-1460 is expected to aid in the achievement of applicable water quality standards in the Inland Rogue Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 – 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2012, f. & cert. ef. 6-1-12

DOA 1-2012, f. & cert. ef. 1-12-12

DOA 13-2001, f. & cert. ef. 6-8-01

603-095-1420

Geographic and Programmatic Scope

(1) The Inland Rogue Agricultural Water Quality Management Area includes the drainage area of the Rogue River primarily within the political boundaries of Jackson and Josephine counties. It does not include the drainage area of the Lower Rogue outside the Josephine county boundary. The physical boundaries of the Inland Rogue Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Inland Rogue Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle, or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies, reservation and tribal trust lands, and activities which are subject to the Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Inland Rogue Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the Department of Agriculture (department) and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided, or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2012, f. & cert. ef. 6-1-12

DOA 1-2012, f. & cert. ef. 1-12-12

DOA 13-2001, f. & cert. ef. 6-8-01

603-095-1440

Prohibited Conditions

(1) All landowners or operators conducting activities on lands described above in OAR 603-095-1420(2) shall be in compliance with the following rules. A landowner shall be responsible for only those conditions caused by the activities of the landowner or operator. Rules do not apply to conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated. Limited duration activities may be exempt from these conditions subject to approval by the department.

(2) Excessive Soil Erosion

(a) There shall be no visible evidence of erosion resulting from agricultural management in a location where erosion has contributed or will contribute sediment to waters of the state. Visible evidence of erosion may consist of the following features:

(A) Sheet wash, noted by visible pedestalling, surface undulations, and/or flute marks on bare or sparsely-vegetated ground;

(B) Visibly active gullies, as defined by OAR 603-095-0010(1);

(C) Multiple rills, which have the form of gullies, but are smaller, in cross-sectional area, than one square foot.

(3) Riparian Vegetation Destruction

(a) Agricultural management of riparian areas shall not impede the development and maintenance of adequate riparian vegetation to control water pollution, provide stream channel stability, moderate solar heating, and filter nutrients and sediment from runoff.

(b) This condition is not intended to prohibit riparian grazing where it can be done while managing for riparian vegetation required in OAR 603-095-1440(3)(a).

(c) Constructed ditches that carry only irrigation delivery and drainage water are exempt from conditions described in OAR 603-095-1440(3).

(4) Surface Irrigation Return Flows Runoff of surface irrigation that enters waters of the state shall not exceed water quality standards or cause pollution of the receiving water.

(5) Waste No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2012, f. & cert. ef. 6-1-12

DOA 1-2012, f. & cert. ef. 1-12-12

DOA 13-2001, f. & cert. ef. 6-8-01

603-095-1460

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933, or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution, or alleging any violation of ORS 568.900 to 568.933, or any rules adopted thereunder, may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1460(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933, or any rules adopted thereunder.

(5) As used in section OAR 603-095-1460(4), "person" does not include any local, state, or federal agency.

(6) Notwithstanding OAR 603-095-1460(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2012, f. & cert. ef. 6-1-12

DOA 1-2012, f. & cert. ef. 1-12-12

603-095-1500

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Coos and Coquille Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Coos and Coquille Agricultural Water Quality Management Area Plan. Nothing in the Coos and Coquille Agricultural Water Quality Management Area Plan or in

OARs 603-095-1500 through 603-095-1560 will allow the department to implement this plan or rules in a manner that is in violation of the U. S. Constitution, the Oregon Constitution or other applicable state laws.

(2) The purpose of these rules is to outline requirements for landowners in the Coos and Coquille Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules (OARs 603-095-1500 through 603-095-1560) is expected to aid in the achievement of applicable water quality standards in the Coos and Coquille Water Quality Management Area.

(3) Failure to comply with any provisions of the Coos and Coquille Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-1560;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Coos and Coquille Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251-1376;

(b) Used to interpret any requirement of OAR 603-095-1500 to 603-095-1560.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2002, f. & cert. ef. 3-7-02

603-095-1520

Geographic and Programmatic Scope

(1) The Coos and Coquille Agricultural Water Quality Management Area is comprised of the Coos and Coquille drainages, the Tenmile drainage, the Twomile drainage, the Fourmile drainage (including the headwaters of South Fork Fourmile Creek), and those lands within Coos County that lie north of the county line west of its junction with Bethel Mountain Road. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Coos and Coquille Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies. These rules (OAR 603-095-1500 through 603-095-1560) will affect any lands in agricultural use on all non-Federal and non-Tribal lands in the Coos and Coquille Agricultural Water Quality Management Area.

(a) Agricultural use does not include the use of land for garden plots primarily used for the cultivation of vegetables, flowers, herbs or fruits for domestic or household use.

(b) The provisions of the Coos and Coquille Agricultural Water Quality Management Area Plan and OARs 603-095-1500 through 603-095-1560 shall not apply to any forest practice conducted on forestland as defined in ORS 527.620.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2002, f. & cert. ef. 3-7-02

603-095-1540

Prohibited Conditions

(1)(a) All landowners or operators conducting activities on lands in agricultural use will comply with the following criteria. A landowner is responsible for only those conditions resulting from activities caused by the landowner. A landowner is not responsible for conditions resulting from actions by another landowner. A landowner is not responsible for conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated.

- (b) Limited duration activities may be exempt from these conditions subject to prior written approval by the department.
- (2) Sediment Management: Effective three years after rule adoption, soil erosion associated with agricultural cultivation shall not deliver sediment sufficient to violate water quality standards.
- (3) Nutrient Management: Effective three years after rule adoption, application and storage of manure, commercial fertilizer, and other added nutrient inputs to agricultural lands will be done in a manner that minimizes the introduction of nutrients into waterways.
- (4) Pesticide Management: Effective three years after rule adoption, in cranberry production, water storage systems that intercept agricultural drainage containing pesticides and that reapply this water will be designed to minimize percolation of drainage waters to groundwater or overflow of the impoundment to surface waters.
- (5) Riparian Management:
- (a) Effective three years after rule adoption, management activities in the riparian area will be conducted in a manner that allows the establishment, growth, and maintenance of riparian vegetation consistent with vegetative site capability so as to provide some combination of filtering capacity, sediment trapping, stream bank stability, and shade.
- (b) Exemptions shall include stream crossings, access for irrigation equipment and other accepted water dependent agricultural uses when conducted in a manner that minimizes impacts on streambank stability.
- (6) Irrigation Management: Effective three years after rule adoption, application (direct, chemigation, and fertigation) and irrigation systems will be managed to minimize runoff and the introduction of nutrients and farm chemicals into waterways.
- (7) Waste Management: Effective upon adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2002, f. & cert. ef. 3-7-02

603-095-1560

Complaints and Investigations

- (1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, or through notification by another agency, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1560(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The property and/or waters of the state allegedly being damaged or impacted; and
- (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) Notwithstanding OAR 603-095-1560, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may, is or impends to create an immediate threat to the public health or safety.
- (6)(a) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.
- (b) Enforcement action shall be pursued only when reasonable attempts at voluntary solutions have failed.
- (7) The department may not impose a civil penalty on a landowner for a first violation of OAR 603-090-0000 through 603-090-0120, or of 603-095-1500 through 603-095-1560 unless the department:

(a) Has notified the landowner of the violation in writing that describes, with reasonable specificity, the factual basis for the department's determination that a violation has occurred; and

(b) has prescribed a reasonable time for the landowner to correct the violation that may not exceed 30 days after the first notice of violation, unless the violation requires more than 30 days to correct, in which case the department shall specify a reasonable period of time to correct the violation in a plan of correction issued to the landowner.

(8) No notice of violation or period to comply shall be required under subsection (8) of this section if:

(a) The violation is intentional; or

(b) The landowner has received a previous notice of the same or similar violation.

(9) The department, or a designee of the department shall periodically, and in no event less than once biennially, consult with the department of justice to ensure that the actions of the department taken under ORS 568.915 are consistent with section 9, Article I of the Oregon Constitution, and the Fourth Amendment to the United States Constitution.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 11-2002, f. & cert. ef. 3-7-02

603-095-1600

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Middle Deschutes Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191, due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads and allocate a load to agricultural nonpoint sources. The area plan is known as the Middle Deschutes Agricultural Water Quality Management Area Plan. After adoption of the TMDLs, these rules will be reviewed and modified as needed to provide reasonable assurance that the load allocations for agriculture will be met.

(2) The purpose of these rules is to outline requirements for landowners in the Middle Deschutes Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Middle Deschutes Agricultural Water Quality Management Area.

(3) Failure to comply with any provisions of the Middle Deschutes Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-1660;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Middle Deschutes Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251–1376;

(b) Used to interpret any requirement of OAR 603-095-1600 to 635-095-1660.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 20-2001, f. & cert. ef. 9-20-01

603-095-1620

Geographic and Programmatic Scope

(1) The Middle Deschutes Agricultural Water Quality Management Area includes the Trout Creek and Willow Creek drainages, and the area along the eastern side of the Deschutes River between Trout Creek and Crooked River and east of Crooked River between confluence with Deschutes River and Sherwood Canyon to the north and Smith Rock to the south. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Middle Deschutes Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of Tribal Trust lands or public lands managed by federal agencies.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Middle Deschutes Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Attachments referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 20-2001, f. & cert. ef. 9-20-01

603-095-1640

Requirements

(1) Landowners must comply with OAR 603-095-1640(2) through (6) within the following limitations: A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Streamside Area:

(a) By January 1, 2005, activities must allow the establishment and development of riparian vegetation, consistent with site capability, for streambank stability and stream shading.

(b) By January 1, 2005, activities must allow the establishment and development of vegetation or the presence of an equally effective erosion control device or practice for filtering out sediments before they enter perennial streams.

(3) Instream structures:

(a) Effective on rule adoption, temporary irrigation diversions must:

(A) Be constructed and operated only during periods of irrigation.

(B) Not hinder channel carrying capacity between November 1 and March 1 to accommodate anticipated or expected seasonal streamflow.

(C) Not increase instream turbidity during operation by more than 10%, compared to a point just upstream of the diversion.

(b) By January 1, 2007, temporary irrigation diversions must not contribute to channel instability.

(4) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(5) Irrigation Tailwater: Effective on rule adoption, irrigation tailwater must not increase the turbidity of the perennial stream into which it drains by more than 10%, compared to a point just upstream of the tailwater discharge.

(6) Nutrients: Effective on rule adoption, nutrient application rates and timing must not exceed specific crop requirements. Crop nutrients will be based on recommendations from the best available data applicable to a specific site.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 20-2001, f. & cert. ef. 9-20-01

603-095-1660

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

- (2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1660(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The waters of the state allegedly being damaged or impacted; and
- (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-1660(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-1660, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 20-2001, f. & cert. ef. 9-20-01

603-095-1700

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the subbasin pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the Walla Walla Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Walla Walla Agricultural Water Quality Management Area, for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Walla Walla River Subbasin.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2002, f. & cert. ef. 6-14-02

603-095-1720

Geographic and Programmatic Scope

- (1) The Walla Walla Agricultural Water Quality Management Area includes the area in Oregon that drains into the Walla Walla River. The physical boundaries of the Walla Walla River Subbasin are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Walla Walla Agricultural Water Quality Management Area in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies and activities that are subject to the Oregon Forest Practices Act.
- (3) The provisions of these rules apply to all agricultural land whether or not in current productive agricultural use.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Walla Walla River Subbasin.
- (5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2002, f. & cert. ef. 6-14-02

603-095-1740

Prevention and Control Measures

(1) Limitations:

(a) All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-1740 (Prevention and Control Measures).

(A) A landowner or operator shall be responsible for only those conditions caused by activities conducted on land managed by the landowner or operator.

(B) A landowner or operator is not responsible for conditions resulting from unusual weather events or other uncontrollable circumstances.

(C) The Department will allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.

(b) These rules may be modified as a result of the biennial review of the progress of implementation of the Walla Walla Agricultural Water Quality Management Area Plan.

(2) Waste Management Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Streamside and Riparian Area Management:

(a) Except as provided in OAR 603-095-1740(3)(b), effective January 1, 2006, streamside area management must allow the establishment, growth and maintenance of riparian vegetation to promote habitat and protect water quality by filtering sediment, stabilizing streambanks, naturally storing water, and providing shade consistent with the vegetative capability of the site.

(b) OAR 603-095-1740(3)(a) does not apply to irrigation water conveyance systems, including, but not limited to, irrigation canals, ditches, laterals, and waterways, such as the Upper Little Walla Walla system, that in the normal course of operation have no return flow into perennial streams where coldwater fish species are present.

(4) Soil Erosion and Sediment Control:

(a) Effective on January 1, 2006, landowners must control upland soil erosion using practical and available methods.

(b) Landowners must control active channel erosion to protect against sediment delivery to streams.

(c) On croplands, a landowner may demonstrate compliance with OAR 603-095-1740(4)(a) by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD) approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Operating in accordance with an SWCD approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation; and farming non-HEL cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or

(C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or

(D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(d) On rangelands, a landowner may demonstrate compliance with this OAR 603-095-1740(4)(a) by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD) approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Maintaining sufficient live vegetation cover and plant litter to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2002, f. & cert. ef. 6-14-02

603-095-1760

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 through 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 through 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1760(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 through 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-1760(4), "person does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-1760(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 through 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2002, f. & cert. ef. 6-14-02

603-095-1800

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Wallowa Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the Wallowa Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Wallowa Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Wallowa Agricultural Water Quality Management Area.
- (3) Failure to comply with any provisions of the Wallowa Agricultural Water Quality Management Area Plan:
 - (a) Does not constitute a violation of OAR 603-095-0000 to 603-090-0120, or of 603-095-0010 to 635-095-1860;
 - (b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.
- (4) Nothing in the Wallowa Agricultural Water Quality Management Area Plan shall be:
 - (a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251-1376;
 - (b) Used to interpret any requirement of OAR 603-095-1800 to 635-095-1860.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2001, f. & cert. ef. 9-20-01

603-095-1820

Geographic and Programmatic Scope

- (1) The Wallowa Agricultural Water Quality Management Area includes Wallowa River, Lower Grande Ronde River and Imnaha River subbasins. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Wallowa Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and Tribal Trust Lands.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Wallowa Agricultural Water Quality Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2001, f. & cert. ef. 9-20-01

603-095-1840

Prohibited Conditions

- (1) Limitations. A landowner shall be responsible for only those conditions caused by activities conducted on land managed by the landowner. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.
- (2) Excessive Sheet and Rill Erosion:
 - (a) By January 1, 2006, soil erosion will be reduced to the "Soil Loss Tolerance Factor" or "T."
 - (b) For croplands which the department determines cannot practically or economically achieve "T" soil erosion will be reduced to 5 tons per acre per year averaged over the length of the rotation.
 - (c) Reduction of soil erosion will be calculated by the Revised Universal Soil Loss Equation (RUSLE), with supporting data from the Natural Resource Conservation Service Field Office Technical Guide and similar data from other credible sources.
- (3) Excessive Gully Erosion:
 - (a) By January 1, 2006, no person shall cause conditions on the land that contribute to gully erosion delivering sediment directly to the waters of the state. Gullies are defined as channels which at the largest dimension have a cross sectional area of at least one square foot and which occur at the same location for two or more consecutive years.
 - (b) No violation of this condition will be deemed to have occurred if the affected landowner has established and maintained a department or local Designated Management Agency approved effective management program. An effective management program shall provide assurance that reasonable steps have been taken to lessen and manage gully formation.
- (4) Pollution Control and Waste Management. Effective on rule adoption: No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.
- (5) Streamside Conditions. By January 1, 2006, no person may contribute to conditions that preclude establishment and development of adequate riparian vegetation for streambank stability and shading, consistent with site capability.
- (6) Irrigation Return Flow:
 - (a) By January 1, 2006, no person may cause bacteria levels in irrigation tailwater to exceed state water quality standards. When the irrigation water at the point of initial application already exceeds the bacteria standard, then the bacteria level in the tailwater cannot be higher than the level in the irrigation water at the point of initial application.

(b) A landowner shall be responsible for only those conditions caused by activities conducted on land managed by the landowner. Criteria do not apply to conditions resulting from unusual weather events, natural background levels of bacteria or other exceptional circumstances which could not have been reasonably anticipated.

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.909

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2001, f. & cert. ef. 9-20-01

603-095-1860

Complaints and Investigations

(1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1860(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-1860(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-1860, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2001, f. & cert. ef. 9-20-01

603-095-1900

Purpose

(1) The purpose of these rules is to outline requirements for landowners in the Molalla/Pudding/French Prairie/North Santiam Subbasins for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 095 rules is expected to aid in the achievement of applicable water quality standards in the Molalla/Pudding/French Prairie/North Santiam Subbasins.

(2) It is intended that the Molalla/Pudding/French Prairie/North Santiam Subbasins Agricultural Water Quality Management Area Plan will aid in achieving compliance with these rules through education and promotion of voluntary land management measures.

(3) Failure to comply with any provisions of the Molalla/Pudding/French Prairie/North Santiam Subbasins Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-1900 to 603-095-1980;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Molalla/Pudding/French Prairie/North Santiam Subbasins Agricultural Water Quality Management Area Plan shall:

(a) Construed as an effluent limitation or standard under the Federal Water Pollution Control Act, 33 USC § 1251-1376;

(b) Used to interpret any requirement of OAR 603-095-1900 through 603-095-1980.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 3-2002, f. & cert. ef. 1-18-02

603-095-1920

Geographic and Programmatic Scope

(1) The Molalla/Pudding/French Prairie/North Santiam Subbasins includes the drainage areas of the Molalla, Pudding, North Santiam, and Santiam Rivers. In the area known as French Prairie, all the creeks and drainages between the towns of Saint Paul and Donald that flow directly into the Willamette River are also part of this management area. The Willamette River is the western boundary. The physical boundaries of the Molalla/Pudding/French Prairie/ North Santiam Subbasins are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Molalla/Pudding/French Prairie/North Santiam Subbasins in agricultural use, agricultural and rural lands which are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and activities which are subject to the Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Molalla/Pudding/French Prairie/North Santiam Subbasins.

(5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 3-2002, f. & cert. ef. 1-18-02

603-095-1940

Prevention and Control Measures

(1) All landowners or operators conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or operator shall be responsible for only those violations of the following prevention and control measures caused by activities conducted on land managed by the landowner or operator. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.

(2) Chemigated Irrigation Water. Effective upon rule adoption. Landowners or operators shall use the application of chemicals in combination with irrigation water in a manner that does not adversely impact waters of the state.

(3) Surface Drainage and Irrigation Ditches. Effective upon rule adoption. Construction, maintenance, and use of surface drainage field ditches or surface irrigation field ditches shall cause no pollutant delivery to waters of the state from soil erosion induced by excessive channel slope, unstable channel cross section or placement of disposed spoils.

(4) Erosion Prevention and Sediment Control. Effective upon rule adoption. Soil erosion rate shall not exceed five tons per acre per year between October 1 and September 30 if the resulting sediment has access to and enters the waters of the state. The erosion rate will be determined using standard scientific methods.

(a) Visual on-site indicators for erosion to surface water include sheet and rill erosion that combines to a concentrated flow that runs into a waterway or road ditch, or any waters of the state.

(b) Other visual indicators include sediment deposition from overland flow in channels that are carrying or connected to waters of the state. Field measurements may include depth of sheet and rill erosion on the field and by inspection of exposed roots from soil erosion.

(5) Irrigation. Effective upon rule adoption. Irrigation systems shall be designed and operated to minimize runoff of potential pollutants. Irrigation scheduling shall be appropriate to each site and consideration shall be given to water use

efficiency, off-target minimization, soil conditions, crop, climate and topography.

(6) Waste: Livestock and Other. Effective upon rule adoption.

(a) No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(b) Landowners and operators shall prevent the runoff or leaching of contaminated water from feed and manure storage piles into waters of the state, including but not limited to groundwater.

(7) Nutrients. Effective upon rule adoption. Landowners or operators shall use and apply crop nutrients in a manner that prevents transport into the waters of the state.

(8) Riparian Management Area. Effective upon rule adoption.

(a) A Riparian Management Area (RMA) that allows for the natural or managed development of riparian vegetation and riparian function over time shall be provided along all streams. This shall include the natural or managed establishment and maintenance of riparian vegetation, such as grasses, sedges, shrubs, and trees, appropriate to site capability, and that in the normal course of time will provide shade and protect streambank stability from flows at or below those expected to occur during or following a 25-year, 24 hour storm event.

(b) Sufficient RMA width will be site specific, and may vary by, for example, soil type, size of stream, and agricultural use.

(9) Roads and Staging Areas. Effective upon rule adoption.

(a) Roadways, staging areas, and heavy use areas shall be constructed and maintained to prevent sediment or runoff contaminants from adversely affecting waters of the state.

(b) Exemptions: Public roads and roads subject to the Oregon Forest Practices Act.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 3-2002, f. & cert. ef. 1-18-02

603-095-1960

Voluntary Water Quality Farm Plans

(1) Intent: Landowners or operators are encouraged but are not required to develop and implement an Approved Voluntary Water Quality Farm Plan (Voluntary Plan). An Approved Voluntary Plan is defined in OAR 603-095-0010(6) and is not the same as a Voluntary Plan defined in 603-095-0010(51).

(2) In order to be considered for approval, Voluntary Plans shall be designed to meet criteria in OAR 603-095-1940. At a minimum, Approved Voluntary Plans shall include the following information:

(a) General components:

(A) Maps, aerial photographs, and soil survey, water resource and other natural resource inventory information shall be included to the extent that the information is pertinent and necessary in the formulation of the Voluntary Plan to assure it achieves the criteria in OAR 603-095-1940;

(B) A list of fields, land uses, acres and resource concerns; and

(C) Any agreements entered into by the landowner or operator involving any agency providing technical or financial assistance in the completion of the conservation measures included in the Voluntary Plan.

(b) Depending on the nature of the operation, any or all of the following specific components shall be included in the Voluntary Plan. If any of the components do not apply to the operation, the plan shall so indicate:

(A) Erosion prevention and sediment control.

(B) Livestock waste management.

(C) Roads, staging areas and farmstead construction and maintenance.

(D) Streamside area management.

(E) Irrigation management. Plans filed with the Department pursuant to letters of intent submitted by operators of container nurseries may meet the requirements of the irrigation management component of a Voluntary Plan, provided that such plans meet other requirements under OAR 603-095-1960(1) and (2).

(F) Nutrient management.

(G) Pesticide management to minimize off-site transport.

(H) Chemigated irrigation water.

(3) Preparation:

(a) The landowner or operator may prepare the Voluntary Plan, arrange with a Local Management Agency to prepare the plan, or may contract with another person or agency to prepare the plan.

(A) The Local Management Agency may require certification by a professional soil scientist or soil conservationist, or a registered professional engineer, that it meets the standards of the Natural Resources Conservation Service technical guide for conservation plans, and that completion of the conservation measures included in the plan will enable the landowner or operator to meet the criteria in OAR 603-095-1940; or

(B) The Local Management Agency may require proof from the preparer of the plan that he or she is qualified to prepare such a plan.

(b) The Local Management Agency may require such additional documentation as is necessary to identify in detail the conservation measures listed.

(4) Implementation schedule: Any portion of a Voluntary Plan designed to meet the criteria in OAR 603-095-1940 shall provide a schedule of implementation until full compliance with 603-095-1940 is accomplished.

(5) Approval:

(a) The Local Management Agency shall approve or disapprove Voluntary Plans and plan amendments at a scheduled meeting and shall maintain a record of its actions as part of the meeting minutes. Approved Voluntary Plans and plan amendments shall be signed by the chair or the chair's designee. As a condition of approval, all Voluntary Plans shall meet the criteria in OAR 603-095-1940 and the criteria for plan preparation contained in 603-095-1960(2) and (3).

(b) In the event that the Local Management Agency finds that a Voluntary Plan or a plan amendment does not meet the criteria in OAR 603-095-1940 or the criteria for plan preparation contained in 603-095-1960(2) and (3), the Local Management Agency shall provide a written explanation, by certified mail, to the landowner or operator who submitted the plan, listing all the deficiencies to be corrected.

(c) Voluntary Plans approved under 603-095-1960(5)(a) shall be considered approved until such time as the department adopts new standards or rules applying to Approved Voluntary Plans.

(6) Appeal:

(a) Any landowner or operator may request reconsideration of the Local Management Agency's decision to disapprove a Voluntary Plan or a plan amendment by submitting a request for a hearing before a scheduled Local Management Agency meeting. If an appeal is filed, the Local Management Agency shall reconsider its decision at its next regularly scheduled meeting and may either affirm, modify or reverse its previous decision. The purpose of the hearing shall be to present relevant information or evidence that the Local Management Agency's action was not based on an appropriate or adequate evaluation of the Voluntary Plan or plan amendment. The Local Management Agency shall maintain a record of its action regarding reconsideration as part of the meeting minutes.

(b) A landowner or operator may appeal the Local Management Agency's denial of reconsideration within thirty days of the date of the reconsideration decision by filing a hearing request with the Department. If the landowner or operator appeals within the prescribed period, the Department shall notify the Local Management Agency. The Local Management Agency shall forward its action and rationale to the Department within seven days of such notification.

(c) Within thirty (30) days of receiving an appeal request, the Department shall schedule a hearing between the landowner or operator, a designated representative of the Local Management Agency, and a representative of the Department. The purpose of the hearing shall be to review the Local Management Agency's reconsideration decision. If the representatives of the department and the Local Management Agency can reach agreement, they shall forward a joint recommendation to the Local Management Agency for approval at its next regularly scheduled meeting. The Local Management Agency shall maintain a record of its action as part of its meeting minutes.

(d) If the representatives of the Department and the Local Management Agency cannot agree on a joint recommendation, the Department may approve or disapprove the Voluntary Plan or plan amendment. The Department shall forward a copy of its decision to the Local Management Agency.

(7) Amendments to an existing plan: Any amendments to an existing Approved Voluntary Plan shall be approved by the Local Management Agency in accordance with OAR 603-095-1960(5) and (6).

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 3-2002, f. & cert. ef. 1-18-02

603-095-1980

Complaints and Investigations

- (1) When the Department receives notice of an apparent occurrence of agricultural water pollution through a written complaint, its own observation, or through notification by another agency, the Department may conduct an investigation. The Department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an apparent occurrence of agricultural water pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural water pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the Department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1980(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
 - (c) As used in section OAR 603-095-1980(4), "person" does not include any local, state or federal agency.
- (5) Notwithstanding OAR 603-095-1980, the Department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (6) Actions based on investigation findings:
 - (a) If the Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an Approved Voluntary Plan exists and the landowner or operator is making a reasonable effort to comply with the plan:
 - (A) The Department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder; and
 - (B) The Department may acknowledge the existence of the Approved Voluntary Plan and direct the landowner to seek appropriate technical assistance and revise the plan and its implementation in a manner necessary to eliminate the violation.
 - (b) The landowner may be subject to the enforcement procedures of the Department outlined in OARs 603-090-0060 through 603-090-0120 if:
 - (A) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an Approved Voluntary Plan does not exist; or
 - (B) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an Approved Voluntary Plan exists and the landowner or operator is not making a reasonable effort to comply with the plan; or
 - (C) The Department determines that a landowner or operator has not revised a plan per paragraph (a)(B) of this section within the time specified by the Department.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 3-2002, f. & cert. ef. 1-18-02

603-095-2000

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Upper Mainstem and South Fork John Day River Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Upper Mainstem and South Fork John Day Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Upper Mainstem and South Fork John Day River Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Upper Mainstem and South Fork John Day River Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 5-2003, f. & cert. ef. 1-7-03

603-095-2020

Geographic and Programmatic Scope

- (1) The Upper Mainstem and South Fork John Day River Management Area include the area that drains into the John Day River upstream of Picture Gorge. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in the Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided does not occur.

[ED. NOTE: Attachments referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 5-2003, f. & cert. ef. 1-7-03

603-095-2040

Prevention and Control Measures

- (1) Limitations. All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-2040(2)-(6) (Prevention and Control Measures).
 - (a) A landowner or operator shall be responsible for water quality caused only by conditions on land managed by the landowner or operator.
 - (b) Criteria do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures.
- (2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provisions of ORS 468B.025 or 468B.050.
- (3) Livestock Management: By January 1, 2006, livestock areas shall be managed to control direct discharge of pollutants.
- (4) Uplands Management: By January 1, 2006, within the vegetative growth capability of the site, private land and access route management must foster sufficient vegetation to protect water quality by providing infiltration, filtering of sediment and animal wastes, and stabilization of soil.
- (5) Streamside Management: By January 1, 2006, management of streamside areas must allow the establishment, growth and active recruitment of vegetation, consistent with the vegetative growth capability of the site, for protection of water quality by filtering sediment, stabilizing streambanks, and providing shade.
- (6) Irrigation Management: By January 1, 2006, irrigation must be done in a manner that limits the amount of pollutants entering waters of the state.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 5-2003, f. & cert. ef. 1-7-03

603-095-2060

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2060(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-2060(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-2060(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 569.900 to 568.933 or any rules adopted therefore has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 5-2003, f. & cert. ef. 1-7-03

603-095-2100

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Southern Willamette Valley Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Southern Willamette Valley Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Southern Willamette Valley Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Southern Willamette Valley Agricultural Water Quality Management Area.
- (3) Failure to comply with any provisions of the Southern Willamette Valley Agricultural Water Quality Management Area Plan:
 - (a) Does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of 603-095-0010 to 603-095-2160;
 - (b) Is not intended by the Department to be evidence of a violation of any federal, state, or local law by any person.
- (4) Nothing in the Southern Willamette Valley Agricultural Water Quality Management Area Plan shall be:
 - (a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251–1376;
 - (b) Used to interpret any requirement of OAR 603-095-2100 to 603-095-2160.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2002, f. & cert. ef. 6-14-02

603-095-2120

Geographic and Programmatic Scope

(1) The Southern Willamette Valley Agricultural Water Quality Management Area includes the drainage area of the McKenzie River, Middle Fork of the Willamette River, Coast Fork of the Willamette River, and Willamette River mainstem upstream from the confluence with the McKenzie River near Eugene. The physical boundaries of the Southern Willamette Valley Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Southern Willamette Valley Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Southern Willamette Valley Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2002, f. & cert. ef. 6-14-02

603-095-2140

Characteristics to Achieve

(1) All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the landowner. A landowner is not responsible for violations of the characteristics to achieve resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior written approval by the department.

(2) Waste: Effective upon rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Riparian areas: By January 1, 2004, agricultural management shall allow establishment and maintenance of vegetation along perennial streams consistent with the capability of the site to provide riparian functions necessary to help moderate solar heating and for streambanks to withstand flows resulting from a 25-year, 24-hour storm event.

(4) Erosion and Nutrients:

(a) By January 1, 2004, soil erosion from agricultural activities shall not exceed the tolerable soil loss T.

(b) By January 1, 2004, landowners or operators shall prevent pollution from irrigation surface water return flow to waters of the state.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2002, f. & cert. ef. 6-14-02

603-095-2160

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2160(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The waters of the state allegedly being damaged or impacted; and
- (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-2160(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-2160, the department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2002, f. & cert. ef. 6-14-02

603-095-2200

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Mid Coast Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Mid Coast Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Mid Coast Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Mid Coast Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2002, f. & cert. ef. 9-30-02

603-095-2220

Geographic and Programmatic Scope

- (1) The Mid Coast Agricultural Water Quality Management Area includes the drainage area of the Salmon, Siletz, Yaquina, Alsea, Yachats, Siuslaw, Siltcoos Rivers, and Tahkenitch Lake, as well as other small streams between these watersheds that drain directly to the Pacific Ocean. The physical boundaries of the Mid Coast Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Mid Coast Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Mid Coast Agricultural Water Quality Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2002, f. & cert. ef. 9-30-02

603-095-2240**Prevention and Control Measures**

(1) All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the landowner. A landowner is not responsible for violations of Prevention and Control Measures resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior approval by the department.

(2) Near-Stream Management Areas. Effective January 1, 2005:

(a) Agricultural activities must allow for the establishment and development of riparian vegetation consistent with site capability. Vegetation must be sufficient to provide the following riparian functions: shade, streambank integrity during stream flows following a 25-year storm event, and filtration of nutrients and sediment.

(b) Exemptions:

(A) Levees and dikes are exempt from OAR 603-095-2240(2)(a) except for areas on the river-side of these structures that are not part of the structures and which can be vegetated without violating U.S. Army Corps of Engineers vegetation standards.

(B) Drainage areas where the only connection to other water bodies is through pumps shall be exempt from OAR 603-095-2240(2)(a).

(C) Access to natural waterways for stream crossings and livestock watering are allowed provided OAR 603-095-2240(2)(a) is met.

(D) Legally constructed drainage and irrigation ditches as defined in Division of State Lands Rules and ditches subject to Division of State Lands fill-removal laws are exempt from OAR 603-095-2240(2).

(3) Effective on rule adoption, landowners or operators shall prevent nutrient applications that cause pollution to waters of the state.

(4) Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(5) Erosion and Sediment Control:

(a) Effective January 1, 2004, agricultural activities will not cause the following visual indicators of erosion where erosion may cause sediment runoff into waters of the state:

(A) Sheet erosion, noted by visible pedestalling, surface undulations, and/or flute marks on bare or sparsely vegetated ground;

(B) Visible active gullies;

(C) Multiple rills, which have the form of gullies, but are smaller in cross-sectional area than one square foot.

(b) This prevention and control measure applies to farm roads and staging areas, pastures, cropland, and other areas where agricultural activities occur.

(6) By January 1, 2003, landowners must prevent pollution from irrigation return flow to waters of the state.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2002, f. & cert. ef. 9-30-02

603-095-2260**Complaints and Investigations**

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2260(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The waters of the state allegedly being damaged or impacted; and
- (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-2260(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-2260, the department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2002, f. & cert. ef. 9-30-02

603-095-2300

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Middle Willamette Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Middle Willamette Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Middle Willamette Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Middle Willamette Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2003, f. & cert. ef. 1-7-03

603-095-2320

Geographic and Programmatic Scope

- (1) The Middle Willamette Agricultural Water Quality Management Area includes the drainage area of the Marys River, Luckiamute River, Ash Creek, Dixon Creek, Frazier Creek, Rickreall Creek, and Glen Creek, as well as several smaller streams that drain directly to the Willamette River. The physical boundaries of the Middle Willamette Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Middle Willamette Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Middle Willamette Agricultural Water Quality Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2003, f. & cert. ef. 1-7-03

603-095-2340

Prevention and Control Measures

All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the landowner. A landowner is not responsible for violations of the Prevention and Control Measures resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior written approval by the department.

(1) Effective upon rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(2) By January 1, 2003, agricultural activities shall allow the growth and establishment of vegetation along perennial streams consistent with site capability to promote infiltration of overland flow, streambank stability and provide moderation of solar heating. Minimal breaks in shade vegetation for essential management activities are considered appropriate.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2003, f. & cert. ef. 1-7-03

603-095-2360

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2360(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2360(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2360, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 6-2003, f. & cert. ef. 1-7-03

603-095-2400

Purpose

(1) These rules have been developed to implement a water quality management area plan for the South Santiam Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-

568.933 and 561.190–561.191. The area plan is known as the South Santiam Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the South Santiam Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the South Santiam Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2003, f. & cert. ef. 1-7-03

603-095-2420

Geographic and Programmatic Scope

(1) The South Santiam Agricultural Water Quality Management Area includes the drainage area of the South Santiam River, Calapooia River, and several smaller streams that drain directly to the Willamette River. The physical boundaries of the South Santiam Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the South Santiam Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the South Santiam Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2003, f. & cert. ef. 1-7-03

603-095-2440

Prevention and Control Measures

All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the landowner. A landowner is not responsible for violations of the Prevention and Control Measures resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior written approval by the department.

(1) Effective upon rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(2) By January 1, 2003, agricultural activities along perennial streams shall allow for the establishment and maintenance of riparian vegetation consistent with site capability that promotes infiltration of overland flows, moderation of solar heating, and streambank stability.

(a) Minimal breaks in shade vegetation for essential management activities are considered appropriate.

(b) Management within the riparian area is allowed provided it does not compromise achieving the conditions described in (1)(b).

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2003, f. & cert. ef. 1-7-03

603-095-2460**Complaints and Investigations**

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2460(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-2460(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-2460, the department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 7-2003, f. & cert. ef. 1-7-03

603-095-2500**Purpose**

- (1) These rules have been developed to implement a water quality management area plan for the subbasin pursuant to authorities vested in the department through ORS 568.900–568.933. The area plan is known as the Middle John Day Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Middle John Day Agricultural Water Quality Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2003, f. & cert. ef. 7-8-03

603-095-2520**Geographic and Programmatic Scope**

- (1) The Middle John Day Agricultural Water Quality Management Area includes the area that drains into the John Day River between the Wheeler-Gilliam county line and the upstream end of Picture Gorge. The physical boundaries of the Middle John Day Agricultural Water Quality Management Area are indicated on the map included as an attachment to these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all agricultural and rural lands within the Middle John Day Agricultural Water Quality Management Area with the exception of public lands managed by federal agencies and activities that are subject to the Oregon Forest Practices Act.
- (3) The provisions of these rules apply to all agricultural land whether or not in current productive agricultural use.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the Department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2003, f. & cert. ef. 7-8-03

603-095-2540

Prevention and Control Measures

(1) Limitations: All landowners or operators conducting activities on agricultural and rural lands are provided the following exemptions from the requirements of OAR 603-095-2540 (Prevention and Control Measures).

(a) A landowner or operator shall be responsible for only those conditions caused by activities conducted on land managed by the landowner or operator.

(b) Rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Within the reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures.

(c) The Department may allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.

(2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Effective by January 1, 2008, streamside management must allow the establishment, growth, and active recruitment of vegetation, consistent with the vegetative capability of the site, for protection of water quality by filtering sediment, stabilizing streambanks and providing shade.

(4) Effective January 1, 2008, irrigation must be done in a manner that limits the amount of pollutants entering waters of the state in the runoff from the irrigated area.

(5) Livestock Management, by January 1, 2008, areas used to control livestock, with a demonstrated impact on water quality, will be managed to control runoff of sediment or animal waste.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2003, f. & cert. ef. 7-8-03

603-095-2560

Complaints and Investigations

(1) When the Department receives notice of an alleged occurrence of agricultural pollution through a written complain, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2560(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2560(4), "person does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2560(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 21-2003, f. & cert. ef. 7-8-03

603-095-2600

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-2003, f. & cert. ef. 7-8-03

603-095-2620

Geographic and Programmatic Scope

(1) The Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area includes the drainage area of the Long Tom River, Upper Siuslaw River, and several smaller streams that drain directly to the Willamette River. The physical boundaries of the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules. [Appendix not included. See ED. NOTE.]

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Upper Willamette and Upper Siuslaw Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-2003, f. & cert. ef. 7-8-03

603-095-2640

Prevention and Control Measures

(1) All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the

landowner. A landowner is not responsible for violations of the Prevention and Control Measures resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior written approval by the department.

(2) Effective upon rule adoption, agricultural activities shall allow the establishment and development of riparian vegetation along perennial and intermittent streams for streambank stability, shading, and proper riparian function, consistent with site capability. Legally constructed drainage and irrigation ditches are exempt from OAR 603-095-2640(2).

(3) Effective upon rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(4) Corralled or enclosed livestock areas will be managed to control runoff of sediment and animal waste. Application and storage of manure will be done in a manner that minimizes the introduction of nutrients and bacteria to waterways.

(5) Effective January 1, 2004, agricultural activities will not cause the following visual indicators of erosion where erosion may cause sediment runoff into waters of the state:

(a) Sheet erosion; noted by scoured surfaces or pedestals of soil at the base of plants on sparsely vegetated or bare ground;

(b) Visible active gullies;

(c) Multiple rills, which have the form of gullies, but are smaller in cross-sectional area than one foot.

(d) This prevention and control measure applies to farm roads and staging areas, pastures, cropland, and other areas where agricultural activities occur.

(6) Construction, maintenance, and use of surface drainage field ditches or surface irrigation field ditches shall cause no pollutant delivery to waters of the state from soil erosion induced by excessive channel slope, unstable channel cross section or placement of disposed spoils.

(7) Agricultural activities shall not cause pollution from active channel erosion or other means of sediment delivery from intermittent streams and drainage ways.

(8) Roadways, staging areas, and heavy-use areas shall be constructed and maintained to prevent sediment or runoff contaminants from adversely affecting waters of the state. Exemptions: Public roads and roads subject to the Oregon Forest Practices Act.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-2003, f. & cert. ef. 7-8-03

603-095-2660

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2660(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2660(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2660(4), the department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health

or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 23-2003, f. & cert. ef. 7-8-03

603-095-2700

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Owyhee Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Owyhee Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Owyhee Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Owyhee Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 24-2003, f. & cert. ef. 7-8-03

603-095-2720

Geographic and Programmatic Scope

(1) The Owyhee Agricultural Water Quality Management Area includes the portions of the following subbasins that are within the state of Oregon's boundaries: southern portion of the Middle Snake-Payette (USGS HUC 1705011503), Lower Owyhee, Middle Snake-Succor, Crooked-Rattlesnake, Jordan, Middle Owyhee, South Fork Owyhee, East Little Owyhee, and the Upper Quinn. The physical boundaries of the Owyhee Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Owyhee Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies and Tribal Trust lands.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Owyhee Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed do not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 24-2003, f. & cert. ef. 7-8-03

603-095-2740

Prevention and Control Measures

(1) A landowner shall be responsible for only those conditions caused by activities conducted on land managed by the landowner. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated.

(2) Pollution Control and Waste Management: Effective on rule adoption. No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Streamside Conditions. By January 1, 2008, no person may contribute to conditions that preclude establishment and development of adequate riparian vegetation for streambank stability and shading, consistent with site capability.

(4) Irrigation Surface Water Return Flow:

(a) After January 1, 2008, irrigation surface water return flow to waters of the state shall not cause an excessive, systematic, or persistent increase in sediment levels already present in the receiving waters, except where the return flows do not cause the receiving waters to exceed established sediment standards.

(b) A landowner conducting irrigation activities in accordance with a plan approved in writing by the department or its designee shall be deemed to be in compliance with this rule.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 24-2003, f. & cert. ef. 7-8-03

603-095-2760

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2760(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2760(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2760(4), the department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 24-2003, f. & cert. ef. 7-8-03

603-095-2800

Purpose

(1) These rules have been developed to implement a water quality management area plan for the subbasin pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the Willow Creek Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Willow Creek Agricultural Water Quality Management Area, for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Willow Creek subbasin.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2820

Geographic and Programmatic Scope

- (1) The Willow Creek Agricultural Water Quality Management Area includes the area that drains into Willow Creek or the Columbia River between Willow Creek and the Umatilla River. The physical boundaries of the Willow Creek subbasin are indicated on the map included as Attachment 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Willow Creek Agricultural Water Quality Management Area in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies and activities that are subject to the Oregon Forest Practices Act.
- (3) The provisions of these rules apply to all agricultural land whether or not in current productive agricultural use.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Willow Creek subbasin.
- (5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2840

Prevention and Control Measures

- (1) Limitations: All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-2840 (Prevention and Control Measure).
 - (a) A landowner or operator shall be responsible for water quality resulting from conditions caused by the management of the landowner or operator.
 - (b) Rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures.
 - (c) The Department may allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.
- (2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.
- (3) Upland Management and Soil Erosion: By January 1, 2008, landowners must control upland soil erosion using practical and available methods.
 - (a) Landowners must control active channel (gully) erosion to protect against sediment delivery to streams.
 - (b) On croplands, a landowner may demonstrate compliance with this rule by:
 - (A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or
 - (B) Operating in accordance with an SWCD-approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation; and farming non-HEL cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or
 - (C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or

(D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(c) On rangelands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Maintaining sufficient live vegetation cover and plant litter to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

(4) Streamside Management: By January 1, 2008, landowners must promote the establishment and development of adequate riparian vegetation for streambank stability, filtering sediment and shading, consistent with site capability.

(5) Irrigation Management: By January 1, 2008, irrigation must be done in a manner that limits the amount of pollutants in the runoff from the irrigated area or that leaches into groundwater.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2860

Complaints and Investigations

(1) When the Department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2860(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2860(4), "person does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2860(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2900

Purpose

(1) These rules have been developed to implement a water quality management area plan pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the Lower John Day Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Lower John Day Agricultural Water Quality Management Area, for the prevention and control of water pollution from agricultural activities and soil erosion.

Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Lower John Day subbasin.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2004, f. & cert. ef. 6-17-04

603-095-2920

Geographic and Programmatic Scope

(1) The Lower John Day Agricultural Water Quality Management Area includes the area that drains into the John Day River and its tributaries downstream from but not inclusive of the Butte Creek drainage and all streams flowing into the Columbia River between the Lower Deschutes drainage and the Willow Creek drainage. The physical boundaries of the Lower John Day Agricultural Water Quality Management Area are indicated on the map included as Attachment 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Lower John Day River subbasin in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies (USFS and BLM) and activities that are subject to the Oregon Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, fallow croplands or rested pastures with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Lower John Day Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2004, f. & cert. ef. 6-17-04

603-095-2940

Prevention and Control Measures

(1) Limitations: All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-2940(2), (3) and (4).

(a) A landowner or operator shall be responsible for water quality resulting from conditions caused by the management of the landowner or operator.

(b) These rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Reasonable control of the landowner means that technically sound and economically feasible measures are used to address conditions described in Prevention and Control Measures.

(c) The Department may allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.

(d) The capability of a site is the highest ecological status a site can attain given political, social, or economic constraints.

(2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Soil Erosion and Sediment Control: By January 1, 2008, landowners must control upland soil erosion using technically sound and economically feasible methods.

(a) On croplands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD) approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Operating in accordance with an SWCD-approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation; and farming non-HEL

cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or

(C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or

(D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(b) On rangelands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Maintaining sufficient live vegetation cover and plant litter, consistent with site capability, to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

(c) Landowners must control active gully erosion to protect against sediment delivery to streams. 'Active Gully Erosion' means gullies or channels that at the largest dimension have a cross sectional area of at least one square foot and that occur at the same location for two or more consecutive years of cropping or grazing.

(4) Streamside Management: By January 1, 2008, management must allow the establishment and improvement, over time, of riparian vegetation for streambank stability, filtering sediment and shading, consistent with site capability.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2004, f. & cert. ef. 6-17-04

603-095-2960

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 through 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 through 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2960(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 through 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2960(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2960(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 through 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 15-2004, f. & cert. ef. 6-17-04

603-095-3000

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Upper Deschutes Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Upper Deschutes Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Upper Deschutes Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Upper Deschutes Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 25-2003, f. & cert. ef. 7-8-03

603-095-3020

Geographic and Programmatic Scope

(1) The Upper Deschutes Agricultural Water Quality Management Area consists of the Upper and Little Deschutes Subbasins, as defined by the State of Oregon. Additionally, it includes lands in the Crooked River drainage south of the Crooked River and west of the range line between R12E and R13E in T14S in order to include the entire Crooked River Ranch subdivision. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Upper Deschutes Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and lands that are in Tribal Trust.

(3) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Upper Deschutes Agricultural Water Quality Management Area.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 25-2003, f. & cert. ef. 7-8-03

603-095-3040

Requirements

(1) Landowners must comply with OAR 603-095-3040(2) through (3) within the following limitations: A landowner is responsible for only those conditions resulting from activities controllable by the landowner. A landowner is not responsible for conditions resulting from activities on other lands.

(2) Streamside Vegetation:

(a) Effective January 1, 2005, agricultural activities must allow the establishment and development of appropriate vegetation along natural and channelized streams, consistent with site capability. Noxious weeds are not appropriate vegetation. Vegetation must be adequate to prevent unnatural streambank erosion, moderate water temperature, and filter sediment and nutrients from surface runoff.

(b) Part (a) does not apply to irrigation water conveyance systems, including but not limited to irrigation canals, ditches, and laterals.

(3) ODA Authority to Control Water Pollution: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 25-2003, f. & cert. ef. 7-8-03

603-095-3060

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3060(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-3060(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-3060(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 25-2003, f. & cert. ef. 7-8-03

603-095-3100

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Goose and Summer Lakes Basin Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Goose and Summer Lakes Basin Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Goose and Summer Lakes Basin Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Goose and Summer Lakes Basin Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2003, f. & cert. ef. 7-8-03

603-095-3120

Geographic and Programmatic Scope

- (1) The Goose and Summer Lakes Basin Agricultural Water Quality Management Area consists of the Goose and Summer Lakes Basin, as defined by the State of Oregon. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Goose and Summer Lakes Basin Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and lands that are held in Tribal Trust.
- (3) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Goose and Summer Lakes Basin Agricultural Water Quality Management Area.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2003, f. & cert. ef. 7-8-03

603-095-3140

Requirements

(1) Landowners must comply with OAR 603-095-3140(2) through (3) within the following limitations: A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Streamside Vegetation:

(a) Effective August 1, 2008, management activities will allow the establishment, maintenance, or improvement of streamside vegetation for summer shade and streambank stability, based on site capability.

(b) Part (a) does not apply to flood control practices that have been historically used in the Management Area. These practices include, but are not limited to, the maintenance of flood-control channels, dikes and catch basins.

(c) Part (a) does not apply to irrigation water conveyance systems, including but not limited to irrigation canals, ditches, and laterals.

(3) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2003, f. & cert. ef. 7-8-03

603-095-3160

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3160(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-3160(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3160(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 22-2003, f. & cert. ef. 7-8-03

603-095-3200

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Burnt River Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933. The area plan is known as the Burnt River Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Burnt River Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Burnt River Water Quality Management Area.

(3) Failure to comply with any provisions of the Burnt River Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-095-0000 to 603-090-0120, or of 603-095-0010 to 603-095-3260;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Burnt River Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251–1376;

(b) Used to interpret any requirement of OAR 603-095-3200 to 603-095-3260.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 28-2003, f. & cert. ef. 8-4-03

603-095-3220

Geographic and Programmatic Scope

(1) The Burnt River Agricultural Water Quality Management Area includes all the drainage area of the Burnt River, from the headwaters to the confluence with the Snake River. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries:

(a) All lands within the Burnt River Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities are subject to OAR 603-095-0010 to 603-095-0040 and 603-095-3200 to 603-095-3260, except those lands excluded under paragraph (b) of this section.

(b) Lands excluded from OAR 603-095-3220(2)(a) are:

(A) Public lands managed by federal agencies;

(B) Tribal Trust Lands; and

(C) The property owned by Daryl and Barbara Hawes located at 20588 Hwy. 245 (T12S R37E: parts of sections 14, 23, 24 and 25. County tax lot number 2300).

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Burnt River Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 28-2003, f. & cert. ef. 8-4-03

603-095-3240

Prohibited Conditions

- (1) A landowner shall be responsible for only those conditions caused by activities conducted on land owned or managed by the landowner. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances, which could not have been reasonably anticipated.
- (2) Pollution Control and Waste Management. Effective on rule adoption: No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.
- (3) Streamside Conditions.
- (a) By January 1, 2006, activities will allow the establishment and development of riparian vegetation, consistent with site capability. Site capability will be determined by ODA in consultation with local resource management agencies.
- (b) Landowners are not responsible for browsing and grazing by wildlife.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 28-2003, f. & cert. ef. 8-4-03

603-095-3260

Complaints and Investigations

- (1) When the department receives notice of an apparent occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted there under to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted there under may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3260(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted there under.
- (5) As used in section OAR 603-095-3260(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-3260, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 28-2003, f. & cert. ef. 8-4-03

603-095-3300

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Greater Harney Basin Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-

568.933 and 561.190–561.191. The area plan is known as the Greater Harney Basin Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Greater Harney Basin Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Greater Harney Basin Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3320

Geographic and Programmatic Scope

(1) The Greater Harney Basin Agricultural Water Quality Management Area consists of the Malheur Lake Basin, as defined by the State of Oregon, with the exclusion of the Thousand Virgin Subbasin. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Greater Harney Basin Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and lands that are held in Tribal Trust.

(3) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Greater Harney Basin Agricultural Water Quality Management Area.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Attachments referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3340

Requirements

(1) Landowners must comply with OAR 603-095-3340(2) through (3) within the following limitations. A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Desired Streamside Riparian Condition:

(a) Effective January 1, 2006, consistent with site capability, persons shall allow regeneration and growth of riparian vegetation along natural waterways to provide for:

(A) Bank stabilization;

(B) Filtration of sediments and nutrients;

(C) The sustainability of riparian community integrity through spring runoff and larger storm events; and

(D) Shade and aquatic habitat.

(b) Part (a) allows water gaps, livestock watering, and hardened livestock crossings in streams that otherwise have desired streamside riparian conditions.

(c) Part (a) does not apply to natural waterways, such as sloughs and backwater areas, that only hold water for short periods of time during spring runoff.

(d) Technical criteria to determine compliance:

(A) Management activities maintain or improve streambank integrity, with a goal of withstanding a 25-year storm event; and

(B) Ongoing renewal and growth of riparian vegetation demonstrates sustainability and vigor.

(e) Compliance will be determined through objective methods using commonly accepted monitoring protocols.

(f) Definitions that apply specifically to OAR 603-095-3340(2):

(A) Riparian means a wetland transition zone that connects riverine aquatic habitats to upland areas.

(B) Natural waterways are streams or rivers that were created through natural processes. They may be altered by human activities, but not created as a result of human activities. Irrigation ditches that contain water diverted from the main channel are not natural waterways.

(C) Riparian Community Integrity is the sustainability of a healthy and vigorous riparian community over time.

(3) Waste Management Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3360

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3360(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-3360(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3360, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3400

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Crooked River Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-568.933 and 561.190-561.191. The area plan is known as the Crooked River Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Crooked River Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion.

Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Crooked River Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2004, f. & cert. ef. 6-17-04

603-095-3420

Geographic and Programmatic Scope

(1) The Crooked River Agricultural Water Quality Management Area consists of the Crooked River Basin with the following exceptions near the mouth of the Crooked River:

(a) Lands south of the Crooked River and west of the range line between R12E and R13E in T14S to exclude the entire Crooked River Ranch subdivision, which is in the Upper Deschutes Agricultural Water Quality Management Area; and

(b) Lands north of the Crooked River and west of Sherwood Canyon near Smith Rock, which are in the Middle Deschutes Agricultural Water Quality Management Area. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Crooked River Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and lands that are held in Tribal Trust.

(3) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Crooked River Agricultural Water Quality Management Area.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Attachments referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2004, f. & cert. ef. 6-17-04

603-095-3440

Requirements

(1) Landowners must comply with OAR 603-095-3440(2) through (3) within the following limitations. A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Streamside Riparian Area Management:

(a) Effective January 1, 2009, agricultural management must allow establishment, growth, and active recruitment of streamside riparian vegetation, consistent with site capability, to moderate solar heating, stabilize streambanks, and filter sediment and nutrients from overland flows.

(b) Except as provided in (a), grazing, weed control, and other common agricultural activities are allowed in riparian areas.

(c) Water gaps and hardened crossings are allowed in streams that otherwise meet conditions required under (a).

(3) Waste Management Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2004, f. & cert. ef. 6-17-04

603-095-3460

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3460(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-3460(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-3460(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 16-2004, f. & cert. ef. 6-17-04

603-095-3500

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Curry County Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Curry County Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Curry County Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules (OARs 603-095-3500 through 603-095-3560) is expected to aid in the achievement of applicable water quality standards in the Curry County Water Quality Management Area.

Statutory/Other Authority: ORS 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2004, f. & cert. ef. 6-17-04

603-095-3520

Geographic and Programmatic Scope

- (1) The Curry County Agricultural Water Quality Management Area is comprised of all Curry County drainages and the Floras Creek drainage that extends into Coos County. The physical boundaries of the Management Area are indicated on the map included as Appendix 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Curry County Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies. These rules (OAR 603-095-3500 through 603-095-3560) will affect any lands in agricultural use on all non-Federal and non-Tribal lands in the Curry County Agricultural Water Quality Management Area.

- (a) Agricultural use does not include the use of land for garden plots primarily used for the cultivation of vegetables, flowers, herbs, or fruits for non-commercial use.
- (b) The provisions of the Curry County Agricultural Water Quality Management Area Plan and OARs 603-095-3500 through 603-095-3560 shall not apply to any forest activity subject to the Oregon Forest Practices Act, ORS 527.610.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.
- (4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Appendices referenced are available from the agency.]

Statutory/Other Authority: ORS 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2004, f. & cert. ef. 6-17-04

603-095-3540

Unacceptable Conditions

- (1) All landowners or operators conducting activities on lands in agricultural use will comply with the following criteria. A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from actions by another landowner on other lands. A landowner is not responsible for conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated. A landowner is not responsible for natural increases in nutrient or temperature loading.
- (2) Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.
- (3) Effective June 3, 2007, agricultural management activities in the riparian area of perennial streams will be conducted in a manner that allows for the establishment, growth, and maintenance of riparian vegetation consistent with vegetative site capability so as to provide streambank stability and shade. Exemptions from OAR 603-095-3540(3) are:
- (a) Stream crossings, access for irrigation equipment and other accepted water dependent agricultural uses when conducted in a manner that minimizes impacts on streambank stability.
- (b) Streams that do not support native trout and are inaccessible to anadromous fish because of barriers at their junction with the Pacific Ocean.
- (c) This rule is not intended to prohibit riparian grazing where it can be done while meeting the above vegetative conditions.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2004, f. & cert. ef. 6-17-04

603-095-3560

Complaints and Investigations

- (1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, or through notification by another agency, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3560(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-95-3560(4), "person" does not include any local, state, or federal agency.

(6) Notwithstanding OAR 603-95-3560(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 17-2004, f. & cert. ef. 6-17-04

603-095-3600

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Powder/Brownlee Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the Powder/Brownlee Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Powder/Brownlee Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Powder/Brownlee Agricultural Water Quality Management Area.

(3) Failure to comply with any provisions of the Powder/Brownlee Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-095-0000 to 603-090-0120, or of 603-095-0010 to 635-095-3660;

(b) Is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(4) Nothing in the Powder/Brownlee Agricultural Water Quality Management Area Plan shall be:

(a) Construed as an effluent limitation or standard under the federal Water Pollution Control Act, 33 USC § 1251-1376;

(b) Used to interpret any requirement of OAR 603-095-3600 to 635-095-3660.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 1-2004, f. & cert. ef. 1-12-04

603-095-3620

Geographic and Programmatic Scope

(1) The Powder/Brownlee Agricultural Water Quality Management Area includes the portions of the following sub-basins that are within the boundaries of the state of Oregon: the Powder (HUC 17050203) and the Brownlee Reservoir (HUC 17050201). The physical boundaries of the Powder/Brownlee Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Powder/Brownlee Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forest lands with agricultural activities, with the exception of public lands managed by federal agencies.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Powder/Brownlee Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to

assure that provisions of these rules apply and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 1-2004, f. & cert. ef. 1-12-04

603-095-3640

Prevention and Control Measures

(1) A landowner shall be responsible for only those conditions caused by activities conducted on land owned or managed by the landowner. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated.

(2) Pollution Control and Waste Management: Effective on rule adoption. No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Streamside Conditions:

(a) By January 1, 2006, activities will allow the establishment and development of riparian vegetation, consistent with site capability. Site capability will be determined by ODA in consultation with local resource management agencies.

(b) Landowners are not responsible for browsing and grazing by wildlife.

(c) The rule does not specify any activities that must cease and does not require any particular activity to take place.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 1-2004, f. & cert. ef. 1-12-04

603-095-3660

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate investigation activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3660(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-3660(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3660, the department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 1-2004, f. & cert. ef. 1-12-04

603-095-3700

Purpose

(1) These rules have been developed to implement a water quality management area plan for the subbasin pursuant to authorities vested in the department through ORS 568.900–568.933. The area plan is known as the Lower Willamette Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Lower Willamette Agricultural Water Quality Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2004, f. & cert. ef. 1-23-04

603-095-3720

Geographic and Programmatic Scope

(1) The Lower Willamette Agricultural Water Quality Management Area includes the area that drains into the Willamette River between a point due east of Bolton and the confluence with the Columbia River. Also included are areas that drain into the Columbia Slough between a point straight north of Troutdale and the confluence with the Willamette River and the area that drains into Multnomah Slough from the south between the Columbia/Multnomah County line and the confluence with the Willamette River. The physical boundaries of the Lower Willamette Agricultural Water Quality Management Area are indicated on the map included as an attachment to these rules.

(2) Operational boundaries for the land base under the purview of these rules include all agricultural and rural lands within the Lower Willamette Agricultural Water Quality Management Area with the exception of public lands managed by federal agencies and activities that are subject to the Oregon Forest Practices Act.

(3) The provisions of these rules apply to all agricultural land whether or not in current productive agricultural use.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the Department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2004, f. & cert. ef. 1-23-04

603-095-3740

Prevention and Control Measures

(1) All landowners or operators conducting activities on agricultural and rural lands are provided the following exemptions from the requirements of OAR 603-095-3740 (Prevention and Control Measures).

(a) A landowner or operator shall be responsible for only those conditions caused by activities conducted on land managed by the landowner or operator.

(b) Rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Within the reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures.

(c) The Department may allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.

(2) Waste Management: Effective upon rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Nutrient Management: Effective upon adoption.

(a) Landowners and operators shall prevent the runoff or leaching of contaminated water from feed and manure storage piles into waters of the state, including but not limited to groundwater.

(b) Landowners or operators shall store, use, and apply crop nutrients in a manner that prevents transport into the waters of the state.

(4) Erosion Management: Effective upon rule adoption, there shall be no visible evidence of erosion resulting from agricultural activities in a location where erosion contributes, or may contribute, sediment to waters of the state.

- (a) Visible evidence of erosion consists of one or more of the following features:
 - (A) Sheet wash, noted by visible pedestalling, surface undulations, and/or flute marks on bare or sparsely-vegetated ground; or
 - (B) Visibly active gullies, as defined by OAR 603-095-0010(1); or
 - (C) Multiple rills, which have the form of gullies, but are smaller in cross sectional area than one square foot; or
 - (D) Visible soil deposition that could enter natural stream areas; or
 - (E) Streambanks breaking down, eroding, tension-cracking, shearing or slumping beyond the level that would be anticipated from natural disturbances given natural hydrologic characteristics; or
 - (F) Underground drainage tile outlets either improperly installed or maintained allowing soil or bank erosion to actively occur.
- (b) Private roads used for agricultural activities shall be constructed and maintained such that road surfaces, fill, ditch lines, and associated structures are designed and maintained to prevent and control contributing sediment to waters of the state. All private roads not subject to the Oregon Forest Practices Act are subject to this regulation.
- (c) Drainage and irrigation ditch construction and maintenance must be done such that:
 - (A) Ditch slope and ditch cross section are designed for the local soils and minimize erosion;
 - (B) Placement of disposed soils is done in a manner that prevents reintroduction to waters of the state; and
 - (C) Other appropriate best management practices are employed when necessary so that sediment delivery is consistent with water quality standards.
- (5) Riparian Management: Effective upon rule adoption.
 - (a) Agricultural activities in Riparian Management Areas will allow for the development of riparian vegetation along streams to provide:
 - (A) Shade for minimizing solar heating of the stream;
 - (B) Streambank stability from flows at or below those expected to occur during or following a 25-year, 24-hour storm event;
 - (C) Filtration, settlement, and biological uptake of sediment, organic material, nutrients, and pesticides in surface runoff by intercepting or slowing overland flow;
 - (D) Improvement to water storage capacity of the riparian zone; and
 - (E) Protection of streams from flashy flows by infiltrating runoff and overland flow.
 - (b) The Riparian Management Area is defined by that area needed to achieve OAR 603-095-3740(5)(a)(A)–(E).
 - (c) Streams as used in OAR 603-095-3740(5)(a) are those that are identified in the 2001 Metro stream map Regional Land Information System (RLIS) lite stm_line.shp and stm_fill.shp.
 - (d) Riparian vegetation in OAR 603-095-3740(5) includes grasses, sedges, shrubs and trees that are consistent with site capability.
 - (e) Riparian area development can be through allowing natural processes to occur or through active management to accelerate achieving OAR 603-095-3740(5)(a)(A)–(E).
 - (f) Sufficient Riparian Management Area width will be site specific, and may vary by soil type, hydrology, climate, geology, and man-made limitations, and other factors.
 - (g) Within the entire Riparian Management Area the technical criteria to determine compliance with OAR 603-095-3740(5)(a) are:
 - (A) Ongoing renewal or establishment of riparian vegetation, especially native.
 - (B) Where sufficient functions required in OAR 603-095-3740(5)(a) have not been met, at least 50% of each year's new growth of woody vegetation, both trees and shrubs, is maintained.
 - (h) Management activities within the Riparian Management Area are allowed provided they do not compromise achieving the conditions described in 603-095-3740(4) and 603-095-3740(5)(a).
 - (i) Drainage and irrigation ditches are not subject to the riparian management provisions cited above but are subject to OAR 603-095-3740(4).

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2004, f. & cert. ef. 1-23-04

603-095-3760

Complaints and Investigations

- (1) When the Department receives notice of an alleged occurrence of agricultural pollution it may conduct an investigation. The department will coordinate inspection activities with the appropriate Local Management Agency.
- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3760(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The waters of the state allegedly being damaged or impacted; and
 - (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (5) As used in section OAR 603-095-3760(4), "person" does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-3760(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 4-2004, f. & cert. ef. 1-23-04

603-095-3800

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Klamath Headwaters Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-568.933 and 561.190-561.191. The area plan is known as the Klamath Headwaters Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Klamath Headwaters Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules (OARs 603-095-3800 through 603-095-3860) is expected to aid in the achievement of applicable water quality standards in the Klamath Headwaters Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 10-2004, f. & cert. ef. 3-22-04

603-095-3820

Geographic and Programmatic Scope

- (1) The Klamath Headwaters Agricultural Water Quality Management Area is comprised of the Upper Klamath Lake drainages, the west Klamath River drainages including the headwaters of Spencer Creek in Klamath County and Jenny, Cottonwood and Colstein Creeks in Jackson County, and excludes the entire Lost River Drainage and the Klamath Project lands on the west side of the Klamath River down to the Keno dam. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Klamath Headwaters Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying

idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies. These rules (OAR 603-095-3800 through 603-095-3860) will affect any lands in agricultural use on all non-Federal and non-Tribal lands in the Klamath Headwaters Agricultural Water Quality Management Area.

(a) Agricultural use does not include the use of land for garden plots used for the cultivation of vegetables, flowers, herbs, or fruits for non-commercial, personal use.

(b) The provisions of the Klamath Headwaters Agricultural Water Quality Management Area Plan and OARs 603-095-3800 through 603-095-3860 shall not apply to any forest activity subject to the Oregon Forest Practices Act, ORS 527.610.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 10-2004, f. & cert. ef. 3-22-04

603-095-3840

Unacceptable Conditions

(1) All landowners or operators conducting activities on lands in agricultural use will comply with the following criteria. A landowner is responsible for only those conditions resulting from activities caused by the landowner. A landowner is not responsible for conditions resulting from actions by another landowner on other lands. A landowner is not responsible for conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated. A landowner is not responsible for natural increases in nutrient or temperature loading.

(2) Excessive Sheet and Rill Erosion: Effective January 1, 2007. Combined sheet, rill and wind erosion of soil averaged through a crop rotation period shall not be greater than the soil-loss tolerance value (T).

(3) Nonfunctional Riparian Conditions: Effective January 1, 2007.

(a) Agricultural activities must not create riparian conditions that are downward-trending according to Technical Reference 1737-15, 1998, United States Department of Interior, Bureau of Land Management (Proper Functioning Condition) guidelines or that degrade stream shading consistent with site capability.

(b) Agricultural activities must not prevent riparian areas rated as non-functional by Proper Functioning Condition Guidelines from improving consistent with site capability.

(c) Exemptions from OAR 603-095-3840(3)(a) and (b).

(A) Limited duration agricultural activities such as pump installation or livestock crossings provided they do not compromise achieving the conditions described in 603-095-3840(3)(a) and (b).

(B) Constructed irrigation delivery systems, dikes, borrow pits, drainage ditches, and ponds not hydraulically connected to waters of the State.

(d) This rule is not intended to prohibit riparian grazing where it can be managed to meet water quality standards.

(4) Effective upon adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 10-2004, f. & cert. ef. 3-22-04

603-095-3860

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, or through notification by another agency, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

- (2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.
- (3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.
- (4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3860(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
- (a) The waters of the state allegedly being damaged or impacted; and
- (b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.
- (c) As used in section OAR 603-095-3860(4), "person" does not include any local, state, or federal agency.
- (5) Notwithstanding OAR 603-095-3860(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.
- (6) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 10-2004, f. & cert. ef. 3-22-04

603-095-3900

Purpose

- (1) These rules have been developed to implement a water quality management area plan for the Lost River Subbasin Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900–568.933 and 561.190–561.191. The area plan is known as the Lost River Subbasin Agricultural Water Quality Management Area Plan.
- (2) The purpose of these rules is to outline requirements for landowners in the Lost River Subbasin Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with division 95 rules is expected to aid in the achievement of applicable water quality standards in the Lost River Subbasin Agricultural Water Quality Management Area.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2004, f. & cert. ef. 6-17-04

603-095-3920

Geographic and Programmatic Scope

- (1) The Lost River Subbasin Agricultural Water Quality Management Area is comprised of the Oregon portion of the Lost River subbasin, as defined by the US Geological Survey. The physical boundaries of the Management Area are indicated on the map included as Attachment 1 of these rules.
- (2) Operational boundaries for the land base under the purview of these rules include all lands within the Lost River Subbasin Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and Tribal Trust lands.
- (3) Current productive agricultural use is not required for the provisions of these rules to apply.
- (4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Lost River Subbasin Agricultural Water Quality Management Area.
- (5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

[ED. NOTE: Attachments referenced are available from the agency.]

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2004, f. & cert. ef. 6-17-04

603-095-3940

Requirements

(1)(a) A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances. Landowners will not be required to implement practices or management systems that are not practical and effective for their operation. Where a prohibited condition results from the requirement(s) of another government entity, the department will work with the other government entity and the landowner to resolve the condition. As long as the landowner is cooperating with the department in resolving the condition, the department will not assess a civil penalty against the landowner for that condition. Any enforcement action under this provision shall be consistent with the policies described in the water quality management area plan and OAR 603-090-0000(4)(e). The department will consider costs, benefits, and economic feasibility when working with a landowner to resolve a compliance issue. The department will seek input from the local management agency prior to requiring a schedule of corrective practices.

(b) Unless otherwise restricted by state or federal law, conditions resulting from limited duration activities are exempt.

(2) Sheet Rill and Wind Erosion:

(a) Combined sheet, rill, and wind erosion of soil, averaged through a crop rotation period, must be less than or equal to T.

(b) If an alternative standard is needed for certain soils, the department and the Klamath SWCD, acting as the Local Management Agency, will request an alternative recommendation from the NRCS State Conservationist for an appropriate erosion control standard.

(3) Streamside Areas:

(a) By December 31, 2005, agricultural activities must allow the establishment or improvement of vegetation to provide bank stability and shading of natural streams consistent with the vegetative capability of the site. Evaluation of vegetation will consider conditions for a stream reach in contiguous ownership.

(b) Except as provided in (a), grazing, weed control, and other common agricultural activities are allowed in riparian areas.

(c) Channel maintenance provided for under ORS 196.600 to 196.905 (Removal Fill laws) is not subject to 603-095-3940(3)(a).

(4) Livestock Waste Management:

(a) Effective on rule adoption, landowners must prevent movement of animal waste into waters of the state from animal handling or feeding operations that concentrate animal waste.

(b) Waste storage and application shall be done in such a way as to keep from exceeding beneficial use for forage and/or crops.

(5) Waste Management Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2004, f. & cert. ef. 6-17-04

603-095-3960

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3960(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-3960(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3960(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190 - 561.191 & 568.912

Statutes/Other Implemented: ORS 568.900 - 568.933

History:

DOA 18-2004, f. & cert. ef. 6-17-04

603-095-4000

Purpose and Applicability

The purpose of these rules is to simplify the process by which agricultural landowners may maintain channels used for agricultural drainage while ensuring that any maintenance is conducted in a manner that protects, maintains or improves ecological functions of the channels and upholds state objectives for fish recovery, and protects wetlands, waterways and fish and wildlife habitats. Maintenance of channels used for agricultural drainage is critical to the operational and economic viability of Oregon's farm and ranch lands.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.600 to 196.905

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4005

Definitions

As used in these rules unless the context requires otherwise:

(1) "Channel" means the defined bed and bank that serve to confine where a stream of water runs.

(2) "Converted wetland" means agriculturally managed wetlands that, on or before June 30, 1989, were brought into commercial agricultural production by diking, draining, leveling, filling or any similar hydrologic manipulation and by removal or manipulation of natural vegetation, and that are managed for commercial agricultural purposes. "Converted wetlands" does not include any stream, slough, ditched creek, spring, lake or any other waters of this state that are located within or adjacent to a converted wetland area.

(3) "Drainage ditch" means a manmade water conveyance channel that is for the purpose of draining water away from lands. A ditch that is used to drain water away from lands but may also be used to convey water to lands for irrigation during certain times of the year is considered a drainage ditch. Channels that are manipulated streams are not considered ditches.

(4) "Dry channel" means channel conditions where no flowing or standing water is present in the area to be maintained at the commencement of or during the channel maintenance activity, other than small quantities of water that may occur in low areas of the channel as a direct result of active maintenance activities. For the channel of a waterway that is subject to tidal influence, flowing or standing water may not be present during all tidal conditions. A dry channel that receives water from one or more precipitation events that results in pooling or flow of water is no longer dry for the purposes of this definition.

(5) "Essential Indigenous Anadromous Salmonid Habitat" means the streams designated pursuant to ORS 196.810 that are necessary to prevent the depletion of indigenous anadromous salmonid species during their life history stages of

spawning and rearing, and any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream.

(6) "Farming operations" means the use of land for the raising or production of livestock or livestock products, poultry or poultry products, milk or milk products, fur-bearing animals; or for the growing of crops such as, but not limited to, grains, small grains, fruit, vegetables, forage, nursery stock, Christmas trees; or any other agricultural or horticultural use or animal husbandry or any combination thereof. Pasture and woodlands accompanying land in the farming operations are also defined as part of the farming operations.

(7) "Intermittent Stream" means a stream or other waterway which flows during a portion of every year.

(8) "Maintenance" or "maintenance activity" means channel upkeep and removal from the channel of sediment, vegetation or debris, in the minimum amount necessary to restore the serviceability of the traditionally maintained channel for facilitating drainage.

(9) "Material" means rock, gravel, sand, silt and other inorganic substances and large woody debris, removed from waters of this state and any materials organic or inorganic that constitute fill placed in waters of this state.

(10) "Perennial Stream" means a stream that has continuous flow in parts of its bed all year long during years of normal precipitation.

(11) "Regional Dry Maintenance Time Period" means that period of time designated by the Oregon Department of Fish and Wildlife as the permissible time period for that region in which to begin and complete maintenance activities for a traditionally maintained channel.

(12) "Routinely subject to maintenance" means the periodic upkeep of a traditionally maintained channel to maintain the minimum drainage functions necessary to facilitate drainage related to farming operations.

(13) "Serviceable for facilitating drainage" as that term is used in the term "traditionally maintained channel" means a channel that in the past five years has been used to facilitate drainage of farming operations.

(14) "Streambank" or "bank" means the physical container of the waters of this state, bounded on freshwater bodies by the ordinary high water line or bankfull stage, and in tidal bays and estuaries by the limits of the highest measured tide. The "bed" is typically the horizontal section and includes non-vegetated gravel bars. The "bank" is typically the vertical portion.

(15) "Traditionally maintained channel" means the channel of a segment, set of segments or the entirety of a drainage ditch, intermittent stream or perennial stream that:

(a) Has been routinely subject to maintenance to facilitate drainage related to farming or ranching; and

(b) Has been serviceable for facilitating drainage within the past five years.

(16) "Valid notice" or "Valid Notification" means a completed notification on a form provided by the Oregon Department of Agriculture, reviewed by the Oregon Department of Agriculture, and posted on the Oregon Department of Agriculture website.

(17) "Waters of This State" means natural waterways, tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands, that portion of the Pacific Ocean that is in the boundaries of this state, all other navigable and non-navigable bodies of water in this state and those portions of the ocean shore, as defined in ORS 390.605, where removal-fill activities are regulated under a state-assumed permit program as provided in 33 U.S.C. 1344(g) of the Federal Water Pollution Control Act, as amended.

(18) "Wetland" or "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4010

Agricultural Drainage Maintenance Regions

The Oregon Department of Agriculture shall create five regions of the state for the purpose of implementing these rules.

(1) Region One shall include the following Oregon Counties: Washington, Yamhill, Polk, Marion, Benton, and Linn.

(2) Region Two shall include the following Oregon watershed basins : the remainder of the Willamette Basin not already included in Region One, Sandy, South Coast, and Umpqua.

(3) Region Three shall include the following Oregon watershed basins: North Coast/Lower Columbia, Mid Coast, Rogue, Klamath.

(4) Region Four shall include the following Oregon watershed basins: Middle Columbia-Hood, Deschutes, John Day, and Oregon Closed Lakes Basin.

(5) Region Five shall include the following Oregon watershed basins: Umatilla, Grande Ronde, Snake River/Hell's Canyon, Powder, Malheur River, and Owyhee.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4015

Notification to the Oregon Department of Agriculture – Maintenance Without a Permit; Types of Maintenance Activities

(1) Notification to the Oregon Department of Agriculture shall be given for the maintenance activities of existing traditionally maintained channels that meet the following:

(a) Limited to maintenance of dry traditionally maintained channels that are in existence or operation at the time of the activities; and

(b) Have been routinely subject to maintenance so as to facilitate drainage related to farming operations; and

(c) Have been serviceable for facilitating drainage within the past five calendar years as determined at the time of notification; and

(d) Maintenance activities do not include those activities prohibited by the mandatory conditions or otherwise prohibited by these rules.

(2) Activities not covered by notification. A notification may not be filed for the following activities:

(a) Activities within a channel that is not a traditionally maintained channel, as defined in 603-095-4005(15).

(b) Development or construction of new channels, or alteration of a channel that has not been serviceable for facilitating drainage within the past five calendar years as of the date of intended notification, or channel relocation activities as defined in ORS 196.800(1).

(c) Maintenance activities that will result in converting wetlands to uplands.

(d) Maintenance activities that will change the depth or functionality of a wetland.

(e) Maintenance activities that will result in the removal of more than 3,000 cubic yards per linear mile of traditionally maintained channels over the course of the five-year notification period.

(f) Maintenance activities that will result in the spreading of material in a wetland or converted wetland in a volume greater than 3,000 cubic yards per linear mile of traditionally maintained channels over the course of the five-year notification period.

(g) Maintenance activities that will result in a change in location of a channel caused by the digging of a new channel and the diversion of the flow from the old channel into the new channel.

(h) Maintenance activities that will result in an increase in the width or depth of the traditionally maintained channel beyond the width or depth of the traditionally maintained channel that is routinely maintained to facilitate drainage.

(i) Any activity not allowed in ORS 196.906 – 196.919 that would otherwise require a permit from the Oregon Department of State Lands as provided in ORS 196.682 et seq. or as required pursuant to OAR 603-095-4025(2).

(3) Nothing in OAR 603-095-4000 through 603-095-4060 limits or otherwise changes the exemptions under ORS 196.921.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

Notification to Oregon Department of Agriculture – Districts and Persons

(1) Notwithstanding the permit requirements of ORS 196.810, a person may engage in removal-fill activities, or both, for conducting maintenance of a traditionally maintained channel without a permit from the Oregon Department of State Lands if:

(a) The person has a valid notice on file with the Oregon Department of Agriculture prior to initiating activities for the maintenance of a traditionally maintained channel; or

(b) The Department has not responded within 45 days of receiving a complete notification per ORS 196.915(3) and OAR 603-095 4020(6); and

(c) The maintenance activities are conducted in compliance with the notice described in paragraphs (a) or (b) of this subsection and with ORS 196.913 and 196.915.

(2) Notwithstanding the permit requirements of ORS 196.810, a district organized under ORS chapter 545, 547, 552 or 553 or a district improvement company or district improvement corporation organized under ORS chapter 554 may engage in removal-fill activities, or both, for conducting maintenance of a traditionally maintained channel without a permit from the Oregon Department of State Lands if:

(a) The district, company or corporation has a valid notice on file with the Oregon Department of Agriculture prior to initiating activities for the maintenance of a traditionally maintained channel; or

(b) The Department has not responded within 45 days of receiving a complete notification per ORS 196.915(3) and OAR 603-095 4020(6); and

(c) The maintenance activities are conducted in compliance with the notice described in paragraphs (a) or (b) of this subsection and with ORS 196.913 and 196.915; and

(d) The governing body of the district, company or corporation, as part of the notice filed pursuant to subsection (3) of this section, agrees to submit to the jurisdiction of the Oregon Department of State Lands and the Oregon Department of Agriculture for purposes of enforcement of ORS 196.906 to 196.919.

(3) At least 45 days prior to initiating removal-fill activities consistent with these rules and ORS 196.906 – 196.919 any person or district seeking to conduct these maintenance activities must provide notice to the Oregon Department of Agriculture. The notice submitted to the Oregon Department of Agriculture must be complete and accurate.

(4) The Department shall determine if the notice is complete and accurate within five days of receiving a notice. The notice will be considered received only when the required information is complete and accurate and the necessary forms are on file at the Oregon Department of Agriculture. The Department shall promptly return incomplete or inaccurate notifications to the submitting party, and maintenance activities under ORS 196.906 – 196.919 and these rules may not be initiated.

(5) Submitted notifications shall be completed on forms provided by the Oregon Department of Agriculture. The level of detail required may vary by maintenance activity complexity, potential impact, and other factors. In addition to any additional information required by the Department, the notice must include:

(a) A map to scale or aerial photograph, on which all maintenance activities are clearly delineated. The following information shall be shown on or accompany the map or aerial photograph:

(A) The location of and linear miles of channel to be maintained shall be clearly depicted. The start and stop points of each segment proposed for maintenance shall be identified with the latitude and longitude coordinates.

(B) The estimated volume per linear mile of material that will be removed from the channel over the five-year period.

(C) The location of all temporary and permanent areas where the fill material will be placed and a description of the placement method.

(D) For all temporary areas where material will be placed, the date by when the material will be removed, and the location of where the material will be permanently placed and a description of the placement method.

(E) If the maintenance activities will be undertaken in part by a district, company or corporation described in paragraph (1) of this section and in part by persons subject to the jurisdiction of the district, company or corporation, clearly identify which activities will be undertaken by the district, company or corporation and which activities will be undertaken by a person subject to the jurisdiction of the district, company or corporation

(b) Where more than one maintenance activity is occurring under a single notification then each activity must be delineated as described in paragraph (4)(a).

(6) The person who signed the notice shall immediately contact the Oregon Department of Agriculture and report any subsequent change to information contained in the notification. However, any additions to the locations or increase in

volume of activities described in the notice shall require a separate notification. The separate notification shall be submitted prior to conducting any additional maintenance activities not covered by the original notice.

(7) Unless an application is determined to be incomplete or not eligible, the Oregon Department of Agriculture shall provide a response to a notice that is filed with the Department no later than 45 days after a complete notification is received. The response shall include any conditions in addition to those required under ORS 196.913 and OAR 605-095-4030(1), pursuant to the process described OAR 603-095-4025, for maintenance activities to occur in the traditionally maintained channel without a removal-fill permit. In addition to mandatory conditions that must be provided for each notice per OAR 603-095-4030(1), the Oregon Department of Agriculture shall include those conditions provided under ORS 196.913(2) and OAR 603-095-4025.

(8) Work as described in the notice may not commence until the notification has undergone review as described in these rules and all mandatory and required conditions for the notification are posted on the Oregon Department of Agriculture website. If the Department has not responded within 45 days of receiving a complete notification per ORS 196.915(3) and OAR 603-095 4020(7), then maintenance activities may proceed pursuant to ORS 196.913 and these rules. The five-year effective date for the valid notice starts on the date that the notification becomes valid.

(9) Valid notices posted on the Oregon Department of Agriculture website will contain all conditions required to proceed with maintenance activities for a traditionally maintained channel. Once posted to the website, a copy of the valid notice will be sent to the address on the notification via US mail and email.

(10) If a variance is granted by the Department, the terms and conditions of the variance shall be incorporated into the conditions of an amended valid notice and posted as part of the notification on the Department website.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4025

Review of Notification; Consultation with the Oregon Department of Fish and Wildlife; Final Determination by the Oregon Department of State Lands

(1) No later than five days after receiving a complete notification, the Oregon Department of Agriculture shall provide a copy of the notice to the Oregon Department of Fish and Wildlife.

(2) Upon receiving a copy of the notice, the Oregon Department of Fish and Wildlife has 30 days to respond to the Oregon Department of Agriculture. The Oregon Department of Fish and Wildlife response may indicate that a review was conducted and work may proceed, or may provide the Oregon Department of Agriculture with recommendations on:

(a) Whether the maintenance activities described in the notice will meet the requirements of ORS 196.913 ; and

(b) Whether conditions, in addition to those required ORS 196.913, are necessary to address the presence of endangered or threatened species, to protect endangered or threatened species' habitat quality or quantity, or to otherwise protect the existing functions of the channel.

(3) The Oregon Department of Agriculture will process the notice pursuant to ORS 196.906 to ORS 196.919 if ODFW does not respond within 30 days.

(4) The Oregon Department of Agriculture shall include in a valid notice any recommended conditions received unless the recommended conditions are denied as provided in paragraphs (4)(a) through (4)(c) below.

(a) If the Oregon Department of Agriculture disagrees with any Oregon Department of Fish and Wildlife recommended conditions, the Oregon Department of Agriculture may consult with the Oregon Department of Fish and Wildlife to resolve the disagreement.

(b) If the two agencies do not reach consensus on how to address the disagreement, the Oregon Department of Agriculture shall provide a copy of the notice, the recommendations of the Oregon Department of Fish and Wildlife, and a summary of the disagreement to the Oregon Department of State Lands.

(c) Within five days of receiving the information in paragraph (4)(b) above, the Oregon Department of State Lands has authority to make the final determination of what additional conditions may be necessary for the maintenance activity to occur without a removal-fill permit, or whether the activity may occur without a removal-fill permit.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4030

Mandatory Notice Conditions

A valid notice shall include the following mandatory conditions under which traditionally maintained channel maintenance activities must occur. A valid notice may also include recommended conditions as provided in OAR 603-095-4025(2) which become mandatory for the purposes of determining compliance with a valid notice.

- (1) A traditionally maintained channel must be dry before the commencement of any removal activities in the channel. If there is standing water in the channel that is due to a single rain event and the presence of the water is not indicative of a stream, a person must request a variance on a form provided by the Oregon Department of Agriculture prior to initiation of channel maintenance activities.
- (2) A person must begin and complete activities that require removal of material from the traditionally maintained channel during the applicable regional dry maintenance time period, as designated by the Oregon Department of Fish and Wildlife, for the region where the traditionally maintained channel is located.
- (3) The body of any motorized equipment that is used to conduct removal-fill activities must be operated from the streambank or bank of the channel, with only the bucket of the motorized equipment that actively removes material operating within the channel.
- (4) Any excavation of the bottom of the channel must be on a smooth grade and in a manner that does not create depressions or grade changes within the channel.
- (5) Maintenance activities must be conducted in a manner that minimizes new erosion in the channel.
- (6) Removal of woody vegetation must be limited to the minimum amount needed to complete the maintenance activity.
- (7) Revegetation must occur for any riparian areas that serve as a buffer adjacent to the channel and that experience vegetation loss as a result of the maintenance activity. This condition is satisfied whether revegetation occurs naturally or after seeding. Revegetation shall result in adequate ground cover to keep the banks stable and prevent erosion.
- (8) All work related to the maintenance activity must be conducted only from one bank of the channel, on either the north or east side, when practicable, to minimize the ecological impacts of the maintenance activity.
- (9) Motorized equipment used for maintenance activities must utilize existing crossings, if crossing the channel is necessary to complete maintenance activities.
- (10) Maintenance activities must begin at the most upstream location of the traditionally maintained channel and progress downstream.
- (11) Material that is removed from the channel may be temporarily placed in a wetland or converted wetland located adjacent to the channel to dry, provided that the material must, no later than one-year after the date that the maintenance activity was completed, be moved uplands or be spread in a thin layer outside the riparian area that serves as a buffer adjacent to the channel. Material may only be permanently spread in a thin layer where agricultural activity presently and historically has occurred
- (12) Maintenance activities may not result in converting wetlands to uplands and may not materially change the depth or functionality of a wetland. The determination of functionality of a wetland will vary for each property, but may include fish and wildlife habitat, hydrologic and water quality functions.
- (13) Impacts to wetlands caused by channel maintenance activities must be temporary and must be limited to wetlands adjacent to the channel, impacts related to accessing the site to conduct removal activities in the channel, and the removal of material and the disposal of material.
- (14) Maintenance activities may not result in a change in location of a channel through the digging of a new channel and the diversion of the flow from the old channel into the new channel. Maintenance activities may not cause or result in increasing the width or depth of the channel beyond the width or depth to which the channel has routinely been maintained to facilitate drainage.
- (15) Maintenance activities must not result in alteration of any existing inlet or outlet connections with other waterways.
- (16) The temporary placement of material along one side of the traditionally maintained channel must include gaps or flow paths to allow channel floodwaters to access the fields upland of the channel.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4035

Certifications of Compliance with Other Applicable Laws

- (1) No person may conduct channel maintenance activities in a manner that violates applicable laws related to fish passage or water quality.
- (2) In order to maintain a simple regulatory approach for the maintenance of traditionally maintained channels used for agricultural drainage and also to conduct maintenance activities in a manner that protects, maintains or improves the ecological functions of the channels, persons filing a notification must certify that the person conducting the maintenance activities will comply with OAR 603-095-4030 by certifying that all of the following are applicable to the location where the maintenance activities will be conducted:
 - (a) Non-point Source Pollution. A person filing a notification with the Oregon Department of Agriculture must certify that they have reviewed and, in conducting channel maintenance activities, will comply with relevant statutes and rules governing those activities as provided in ORS 568.900 et seq. and the agricultural water quality management plans and rules governing the area where maintenance activities will be conducted.
 - (b) Regional Dry Maintenance Time Period. A person filing a notification with the Department must certify that the planned maintenance activities will occur only during the regional dry maintenance time period for the area of the planned maintenance activities, as designated by the Oregon Department of Fish and Wildlife.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4040

Prohibitions

- (1) No person may commence any removal-fill activities for the maintenance of a traditionally maintained channel unless a valid notice is posted on the Oregon Department of Agriculture website, the Department has not responded within 45 days of receiving a complete notification per ORS 196.915(3) and OAR 603-095 4020(6), or unless a removal-fill permit, pursuant to ORS Chapter 196.911, is obtained from the Oregon Department of State Lands.
- (2) No person may commence any removal activities in a traditionally maintained channel that is not dry unless a variance is obtained from the Oregon Department of Agriculture. The variance may be granted for a channel that is not dry due to a rain event and not indicative of a perennial stream.
- (3) A person with a valid notice may not conduct activities that result in removal of more than 3,000 cubic yards per linear mile of a traditionally maintained channel over the course of the five-year period for which the notice is valid.
- (4) A person with a valid notice may only spread in a thin layer excavated material in a converted wetland or where agricultural activity presently and historically has occurred, and not in a volume of greater than 3,000 cubic yards per linear mile of traditionally maintained channel over the course of the five-year period for which the notice is valid.
- (5) A person with a valid notice may not conduct any maintenance activities, remove or place fill material in a channel that has been designated by the Oregon Department of State Lands as Essential Indigenous Anadromous Salmonid Habitat, as defined in ORS 196.810.
- (6) A person with a valid notice may not, through the conduct or result of any maintenance activities, enlarge a water right or cause injury to an existing water right.
- (7) Maintenance activities must not violate any condition in the applicable valid notification.
- (8) No work associated with a valid notice may result in the permanent conversion of wetlands to uplands.
- (9) Maintenance activities shall not include altering traditionally maintained channels to allow for storage of water that could be used for irrigation.
- (10) Maintenance activities shall not be conducted in channels other than traditionally maintained channels, as defined in 603-095-4005(15).
- (11) Placement of material in wetlands not presently or historically disturbed by agricultural activities constitutes a material change to the depth or functionality of the wetland and is prohibited.

Statutory/Other Authority: ORS 196.816, HB 2437 (2019) & ORS 196.906-919

Statutes/Other Implemented: ORS 196.816 & ORS 196.906-919

History:

603-095-4045

Variances

- (1) Prior to initiation of maintenance activities, a person with a notice on file with the Oregon Department of Agriculture may request a variance from any mandatory condition in the valid notice. Commencement of channel maintenance activities may not occur until the Department provides a concurrence or denial of the variance request. A variance may be requested at the same time as filing a notice.
- (2) Requests for a variance must be submitted on a form provided by the Department of Agriculture and shall include at a minimum the following information:
 - (a) The mandatory condition(s) that are the subject of the request for the variance;
 - (b) The reasons for the request for the variance; and
 - (c) Proposed alternative actions that avoid or reduce the adverse effects to the resource and that protects, maintains, or improves the ecological function of the channel(s).
- (3) Within five days of receiving a complete variance request form, the Oregon Department of Agriculture shall forward the request for variance to the Oregon Department of Fish and Wildlife for review and consultation.
- (4) After consultation with the Oregon Department of Fish and Wildlife, the Department of Agriculture may authorize the variance with additional conditions or modification of conditions.
- (5) The Oregon Department of Agriculture may decide to deny the variance request.
- (a) All actions performed under a variance must demonstrate that they avoid or reduce the adverse effects to the resource, and that they protect, maintain, or improve the ecological function of the channel(s).
- (b) If a request for variance is not granted, work under the notice may commence and proceed only in accordance with mandatory conditions posted in the valid notice on the Department website.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020

603-095-4050

Entry Upon Land

- (1) Subject to paragraph (2) of this subsection, the Oregon Department of Agriculture or the Oregon Department of Fish and Wildlife may enter onto and inspect lands for which notices have been filed under ORS 196.900 – 196.919 and these rules in order to develop the recommendations and response required by under ORS 196.900 – 196.919 and these rules or to ascertain compliance with ORS 196.900 – 196.919 and these rules.
- (2) To enter onto and inspect lands under this subsection:
 - (a) The Oregon Department of Agriculture shall first make a reasonable attempt to notify the landowner; and
 - (b) The Departments may only enter onto and inspect the lands at a reasonable time.
 - (c) Per ORS 196.915(6), the Oregon Department of Fish and Wildlife may not, without the express agreement of the person, district, company or corporation that filed the notice, enter onto and inspect the lands unless accompanied by the Oregon Department of Agriculture.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020

603-095-4055

Compliance and Enforcement Procedures

- (1) Upon finding that a person has engaged in removal-fill activities for the maintenance of a traditionally maintained channel without a permit required under ORS 196.810 and in violation of ORS 196.911, 196.913, or 196.915, and these rules, the Oregon Department of Agriculture, in consultation with the Oregon Department of State Lands and the Oregon Department of Fish and Wildlife, shall notify the person and direct the person to take any actions necessary to

bring the maintenance activities into compliance with ORS 196.911, 196.913, or 196.915 and these rules within a reasonable period of time.

(2) In all cases, the Oregon Department of Agriculture, in consultation with the Oregon Department of State Lands, shall make reasonable efforts to induce voluntary compliance, prior to the assessment of any civil penalty under ORS 196.890 for violation of ORS 196.911, 196.913, or 196.915 and these rules.

(3) The Oregon Department of Agriculture may refer noncompliance concerns to the Oregon Department of State Lands to initiate any enforcement actions.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

603-095-4060

Expedited Review

(1) Upon a request from the person submitting a notice under ORS 196.911 and these rules, the Oregon Department of Agriculture and the Oregon Department of Fish and Wildlife may provide for expedited review under ORS 196.915(4) and these rules, if the expedited review is necessary to allow for maintenance activities to occur within a specific time period.

(2) Expedited review requests shall be completed on a form provided by the Oregon Department of Agriculture. The form must be filled out completely and accurately. If not the Oregon Department of Agriculture may deny the request. The Department, in consultation with the Oregon Department of Fish and Wildlife, will consider immediate threats to public health, safety, or substantial property, including crop and farm land.

Statutory/Other Authority: ORS 196.816

Statutes/Other Implemented: ORS 196.816

History:

[DOA 17-2020, adopt filed 09/08/2020, effective 09/08/2020](#)

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