

**OREGON ADMINISTRATIVE RULES
OREGON DEPARTMENT OF AGRICULTURE
CHAPTER 603, DIVISION 95
AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM**

Lower John Day

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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

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 4658B.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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

Attachment 1: Map—Lower John Day AgWQM Area

