

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

Lower Willamette

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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 – 568.933

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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 – 568.933

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 ORS468B.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 to 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 to 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).

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 Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 – 568.933

Attachment 1: Map

