

**OREGON ADMINISTRATIVE RULES
OREGON DEPARTMENT OF AGRICULTURE
AGRICULTURAL WATER QUALITY MANAGEMENT AREA**

Burnt River Basin

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 OAR 603-095-0010 to OAR 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 OAR 603-095-3260.

Statutory Authority: ORS 561.190 - 561.191, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

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 OAR 603-095-0040 and OAR 603-095-3200 to OAR 603-095-3260, except those lands excluded under paragraph (b) of this section.

(b) Lands excluded from OAR 603-095-3220 (2)(a) are:

(i) Public lands managed by federal agencies,

(ii) Tribal Trust Lands, and

(iii) 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.

Statutory Authority: ORS 561.190 - 561.191, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

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 ORS 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 Authority: ORS 561.190 - 561.191, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

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 Authority: ORS 561.190 - 561.191, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

APPENDIX 1 – BURNT RIVER AGRICULTURAL WATER QUALITY MANAGEMENT AREA

