

**Oregon Administrative Rules
Oregon Department of Agriculture
Chapter 603, Division 95
Agricultural Water Quality Management Program**

Umpqua Basin

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 ORS 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 OAR 603-095-0010 to OAR 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 OAR 603-095-0760

Statutory Authority: ORS 561.190-561.191, 568.909

Stats. Implemented: ORS 568.900 - 568.933

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 Authority: ORS 561.190-561.191, 568.909, and 568.927

Stats. Implemented: ORS 568.900 - 568.933

603-095-0740

Conditions

(1) All landowners or operators 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 ORS 468B.050.

Statutory Authority: ORS 561.190-561.191, 568.909, and 568.912

Stats. Implemented: ORS 568.900 - 568.933

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 Authority: ORS 568.915, 568.918, and 568.933

Statutes Implemented: ORS 568.900 - 568.933

Appendix 1

