



## PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 603

DEPARTMENT OF AGRICULTURE

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FILING CAPTION: Updates the Clackamas Management Area Agricultural Water Quality Rules

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RULES:

603-095-1260, 603-095-1280

AMEND: 603-095-1260

NOTICE FILED DATE: 07/17/2025

RULE SUMMARY: Removes language regarding voluntary plans. Voluntary plans are not used by ODA or landowners. This removal aligns the Clackamas Management Area Rules with other rules statewide.

CHANGES TO RULE:

603-095-1260

~~Voluntary Water Quality Farm Plan~~ Complaints and Investigations

~~(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. 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 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. The department may determine whether an investigation is warranted.¶¶

(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. 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.¶¶

(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 indicates 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 the hearing and a description of the hearing.¶¶

(a) The waters of the state 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.¶¶

(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 landowner or operator, and the department.¶¶

(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 603-095-1260(3), "person" does not include any local, state or federal agency, a representative of the department, 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 federal agency.¶

(6) 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.¶

(d7) 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 apdepartment 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 provced voluntary plan shall be approved by the Local Management Agency in accordance with ures of the department outlined in OARs 603-095-1260(5) and (6)0-0060 through 603-090-0120.

Statutory/Other Authority: ORS 561.190-561.18.915, 568.918, 568.91233

Statutes/Other Implemented: ORS 568.900--568.933

REPEAL: 603-095-1280

NOTICE FILED DATE: 07/17/2025

RULE SUMMARY: Removes language about voluntary plans. This removal aligns the Clackamas Management Area Rules with other rules statewide.

CHANGES TO RULE:

~~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~~