

**OREGON ADMINISTRATIVE RULES
OREGON DEPARTMENT OF AGRICULTURE
CHAPTER 603, DIVISION 95**

AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM

Upper Deschutes

603-095-3000

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Upper Deschutes Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900-568.933 and ORS 561.190 - 561.191. The area plan is known as the Upper Deschutes Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Upper Deschutes 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 Upper Deschutes Agricultural Water Quality Management Area.

Statutory Authority: ORS 561.190 - 561.191, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-3020

Geographic and Programmatic Scope

(1) The Upper Deschutes Agricultural Water Quality Management Area consists of the Upper and Little Deschutes Subbasins, as defined by the State of Oregon. Additionally, it includes lands in the Crooked River drainage south of the Crooked River and west of the range line between R12E and R13E in T14S in order to include the entire Crooked River Ranch subdivision. The physical boundaries of the 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 Upper Deschutes 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, with the exception of public lands managed by federal agencies and lands that are in Tribal Trust.

(3) 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 Upper Deschutes Agricultural Water Quality Management Area.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will 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

603-095-3040

Requirements

(1) Landowners must comply with OAR 603-95-3040(2) through (3) within the following limitations:

(a) A landowner is responsible for only those conditions resulting from activities controllable by the landowner. A landowner is not responsible for conditions resulting from activities on other lands.

(2) Streamside Vegetation

(a) Effective January 1, 2005, agricultural activities must allow the establishment and development of appropriate vegetation along natural and channelized streams, consistent with site capability. Noxious weeds are not appropriate vegetation. Vegetation must be adequate to

prevent unnatural streambank erosion, moderate water temperature, and filter sediment and nutrients from surface runoff.

(b) Part (a) does not apply to irrigation water conveyance systems, including but not limited to irrigation canals, ditches, and laterals.

(3) ODA Authority to Control Water Pollution

(a) Effective on rule 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, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-3060

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 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 603-095-3060(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 603-095-3060(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3060(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 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

Attachment 1 - MAP

