

## **Oregon Department of Agriculture Water Quality Program: History and Regulatory Authority**

The Agricultural Water Quality Management Act was approved and signed in 1993. The legislation is codified at Oregon Revised Statute (ORS) 568.900.

ORS 568.909(1) states, “The State Department of Agriculture may describe the boundaries of agricultural and rural lands that are subject to a water quality management plan.” ORS 568.909(2) states, “... the Department shall develop and carry out a water quality management plan for the prevention and control of water pollution from agricultural activities and soil erosion.”

In 1995, the Oregon Legislature approved additional language to clarify the role and authority of the Oregon Department of Agriculture (ODA) to regulate agricultural operations for water quality. This legislation is codified at ORS 561.191. ORS 561.191(1) and says the ODA shall “develop and implement any program or rules that directly regulate farming practices, as defined in ORS 30.930, that are for the purpose of protecting water quality...”

## **Oregon Department of Agriculture’s Water Quality Program: Compliance and Enforcement Process**

The ODA Agricultural Water Quality Management Program (AgWQ Program) addresses water pollution associated with agricultural activities. Although the AgWQ Program philosophy is to encourage voluntary approaches, statutes and administrative rules provide the AgWQ Program the jurisdiction to use compliance and enforcement actions when needed to correct water quality violations.

ODA has the legal authority to develop and implement Area Plans and Area Rules for the prevention and control of water pollution from agricultural activities and soil erosion, where such plans are required by state or federal law (ORS 568.909 and ORS 568.912). ODA is responsible for any actions related to enforcement or determination of noncompliance with Area Rules (OAR 603-090-0080 through OAR 603-090-0120). ORS 568.912(1) and ORS 568.912(2) give ODA the authority to adopt rules that require landowners to perform actions necessary to prevent and control pollution from agricultural activities and soil erosion.

The Area Rules are a set of standards that landowners must meet on all agricultural or rural lands. (“Landowner” includes any landowner, land occupier or operator per OAR 603-95-0010(24)). All landowners must comply with the Area Rules. ODA will use enforcement where appropriate and necessary to gain compliance with Area Rules. ODA will pursue enforcement action only when reasonable attempts at voluntary solutions have failed (OAR 603-090-0000(5)(e)). If a violation is documented, ODA may issue a pre-enforcement notification or an enforcement Order such as a Notice of Noncompliance. If a Notice of Noncompliance is issued, ODA will direct the landowner to remedy the condition through required corrective actions (RCAs) under the provisions of the enforcement procedures outlined in OAR 603-090-060 through OAR 603-090-120. If a landowner does not implement the RCAs, ODA may assess civil penalties for continued violation of the rules. If and when other governmental policies, programs, or rules conflict with the Area Plan or Area Rules, ODA will consult with the appropriate agencies to resolve the conflict in a reasonable manner.

All Area Rules address the placement of waste by referencing ORS 468B.025 to make the AgWQ Program responsible for enforcing the statute with respect to agriculture. This statute prohibits causing pollution or placing wastes where they are likely to escape or be carried into waters of the state. It addresses a wide variety of water quality issues, including manure and fertilizer runoff, sediment delivery, and irrigation return flow.

Area Rules requires that agricultural activities allow for the natural or managed development of riparian vegetation based on site capability. Site-capable vegetation is the plant community that is expected to grow in a location given the current site characteristics and limitations. These include down-cut streambeds, reduced stream flows, altered stream flow regimes (from dams), presence of roads, etc. The riparian vegetation needs to provide streambank stability and filtration of surface runoff on intermittent streams. On perennial streams, the riparian vegetation needs to provide streambank stability, filtration of surface runoff, and shade.

