

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

AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM

Greater Harney Basin

603-095-3300

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Greater Harney 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. The area plan is known as the Greater Harney Basin Agricultural Water Quality Management Area Plan.

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

Statutory Authority: ORS 561.190 - 561.191, ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-3320

Geographic and Programmatic Scope

(1) The Greater Harney Basin Agricultural Water Quality Management Area consists of the Malheur Lake Basin, as defined by the State of Oregon, with the exclusion of the Thousand Virgin Subbasin. 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 Greater Harney Basin 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 held 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 Greater Harney Basin 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

603-095-3340

Required Prevention and Control Measures

(1) Landowners must comply with OAR 603-95-3340(2) through (3) within the following limitations. A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Desired Streamside Riparian Condition

(a) Effective January 1, 2006, consistent with site capability, persons shall allow regeneration and growth of riparian vegetation along natural waterways to provide for:

(i) Bank stabilization,

(ii) Filtration of sediments and nutrients,

- (iii) The sustainability of riparian community integrity through spring runoff and larger storm events, and
 - (iv) Shade and aquatic habitat.
 - (b) Part (a) allows water gaps, livestock watering, and hardened livestock crossings in streams that otherwise have desired streamside riparian conditions.
 - (c) Part (a) does not apply to natural waterways, such as sloughs and backwater areas, that only hold water for short periods of time during spring runoff.
 - (d) Technical criteria to determine compliance:
 - (i) Management activities maintain or improve streambank integrity, with a goal of withstanding a 25-year storm event; and
 - (ii) Ongoing renewal and growth of riparian vegetation demonstrates sustainability and vigor.
 - (e) Compliance will be determined through objective methods using commonly accepted monitoring protocols.
 - (f) Definitions that apply specifically to OAR 603-095-3340(2):
 - (i) Riparian means a wetland transition zone that connects riverine aquatic habitats to upland areas.
 - (ii) Natural waterways are streams or rivers that were created through natural processes. They may be altered by human activities, but not created as a result of human activities. Irrigation ditches that contain water diverted from the main channel are not natural waterways.
 - (iii) Riparian Community Integrity is the sustainability of a healthy and vigorous riparian community over time.
 - (3) Waste Management
- 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

603-095-3360

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 603-095-3360(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 603-095-3360(4), “person” does not include any local, state or federal agency.
- (6) Notwithstanding OAR 603-095-3360, 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

