

**OREGON ADMINISTRATIVE RULES
OREGON DEPARTMENT OF AGRICULTURE
CHAPTER 603, DIVISION 95
AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM**

North and Middle Forks John Day River

603-095-1000

Purpose

(1) These rules have been developed to implement a water quality management area plan pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the North and Middle Forks John Day River Management Area, for the prevention and control of 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 North and Middle Forks John Day River subbasins.

(3) Failure to comply with any provisions of the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan:

(a) Does not constitute a violation of OAR 603-090-0000 through 603-090-0120, or of OAR 603-095-0010 through OAR 603-095-1060;

(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 North and Middle Forks John Day River Agricultural Water Quality Management Area Plan shall be used to interpret any requirement of OAR 603-095-1000 through OAR 603-095-1060.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-1020

Geographic and Programmatic Scope

(1) The North and Middle Forks John Day River Agricultural Water Quality Management Area includes the area that drains into the North and Middle Forks of the John Day River upstream from the confluence with the mainstem John Day River near Kimberly. The physical boundaries of the North and Middle Forks John Day River Management Area 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 North and Middle Forks John Day River subbasins 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 (USFS and BLM) and activities that are subject to the Oregon Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, fallow croplands or rested pastures 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 North and Middle Forks John Day River Agricultural Water Quality Management Area.

(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, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-1040

Required Prevention and Control Measures

(1) Limitations:

(a) All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-1040 (Prevention and Control Measure).

(A) A landowner or operator shall be responsible for water quality resulting from conditions caused by the management of the landowner or operator.

(B) Rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures.

(b) Rule implementation schedule:

(A) OAR 603-095-1040(2) is effective upon adoption;

(B) OAR 603-095-1040 (3) through (6) are effective January 1, 2006;

(C) Effective upon adoption of these rules, all landowners or operators should immediately begin technically sound, economically feasible efforts where needed to achieve measurable progress towards compliance with these rules.

(c) These rules may be modified as a result of the biennial review of the progress of implementation of the North and Middle Forks John Day River Agricultural Water Quality Management Area Plan.

(2) Waste Management:

Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Uplands Management:

(a) Cropland, rangeland and pasture condition must allow, within the capability of the site, vegetation sufficient to protect water quality.

(b) Private roads and farmsteads must be in a condition that protects water quality by controlling soil erosion and suspended sediment concentrations in runoff.

(4) Riparian Area Management:

Riparian area condition must allow the establishment, growth and active recruitment of riparian vegetation, consistent with the vegetative capability of the site, for protection of water quality.

(5) Irrigation Management:

Irrigation must be done in a manner that limits the amount of pollutants in the runoff from the irrigated area.

(6) Livestock Management:

(a) Livestock confinement areas must have an adequate runoff control system or equally effective pollution control practice sufficient to control runoff of sediment and animal waste.

(b) OAR 603-095-1040(6)(a) applies to all livestock confinement areas except those required to have a permit under ORS 468B.050.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-1060

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 apparent occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 through 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 through 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 603-095-1060(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 through 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-1060(4), “person” does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-1060(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 through 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933