

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

Lost River Subbasin

603-095-3900

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Lost River Subbasin 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 Lost River Subbasin Agricultural Water Quality Management Area Plan.

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

Statutory Authority: ORS 561.190 - 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-3920

Geographic and Programmatic Scope

(1) The Lost River Subbasin Agricultural Water Quality Management Area is comprised of the Oregon portion of the Lost River subbasin, as defined by the US Geological Survey. 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 Lost River Subbasin 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 Tribal Trust lands.

(3) Current productive agricultural use is not required for the provisions of these rules to apply.

(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 Lost River Subbasin 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 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, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-3940

Required Prevention and Control Measures

(1)(a) 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. Landowners will not be required to implement practices or

management systems that are not practical and effective for their operation. Where a prohibited condition results from the requirement(s) of another government entity, the department will work with the other government entity and the landowner to resolve the condition. As long as the landowner is cooperating with the department in resolving the condition, the department will not assess a civil penalty against the landowner for that condition. Any enforcement action under this provision shall be consistent with the policies described in the water quality management area plan and OAR 603-090-0000(4)(e). The department will consider costs, benefits, and economic feasibility when working with a landowner to resolve a compliance issue. The department will seek input from the local management agency prior to requiring a schedule of corrective practices.

(b) Unless otherwise restricted by state or federal law, conditions resulting from limited duration activities are exempt.

(2) Sheet Rill and Wind Erosion

(a) Combined sheet, rill, and wind erosion of soil, averaged through a crop rotation period, must be less than or equal to T.

(b) If an alternative standard is needed for certain soils, the department and the Klamath SWCD, acting as the Local Management Agency, will request an alternative recommendation from the NRCS State Conservationist for an appropriate erosion control standard.

(3) Streamside Areas

(a) By December 31, 2005, agricultural activities must allow the establishment or improvement of vegetation to provide bank stability and shading of natural streams consistent with the vegetative capability of the site. Evaluation of vegetation will consider conditions for a stream reach in contiguous ownership.

(b) Except as provided in (a), grazing, weed control, and other common agricultural activities are allowed in riparian areas.

(c) Channel maintenance provided for under ORS 196.600 to 196.905 (Removal Fill laws) is not subject to 603-095-3940(3)(a).

(4) Livestock Waste Management

(a) Effective on rule adoption, landowners must prevent movement of animal waste into waters of the state from animal handling or feeding operations that concentrate animal waste.

(b) Waste storage and application shall be done in such a way as to keep from exceeding beneficial use for forage and/or crops.

(5) 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, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-3960

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 603-095-3960(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 603-095-3960(4), “person” does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3960(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, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

Attachment 1 – Map

