

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

North Coast Basin

603-095-0800

Purpose

(1) These rules have been developed to implement a water quality management area plan for the North Coast Basin pursuant to authorities vested in the department through ORS 568.900-568.933. Development of this plan is due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads (TMDL) and allocate loads to agricultural water pollution sources. This plan also contributes to the state's program to restore and protect coastal waters in response to the federal Coastal Zone Management Act. The area plan is known as the North Coast Basin Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the North Coast Basin Agricultural Water Quality Management Area for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with these rules is expected to aid in the achievement of applicable water quality standards in the North Coast Basin.

(a) Failure to comply with any provisions of the North Coast Basin Agricultural Water Quality Management Area Plan:

(A) does not constitute a violation of OAR 603-090-0000 to 603-090-0120, or of OAR 603-095-0010 to OAR 635-095-0860;

(B) is not intended by the department to be evidence of a violation of any federal, state, or local law by any person.

(b) Nothing in the North Coast Basin Agricultural Water Quality Management Area Plan shall be:

(A) construed as an effluent limitation or standard under the federal Water Pollution Control Act 33, USC §§ 1251-1376;

(B) used to interpret any requirement of OAR 603-095-0800 through 603-095-0860.

Statutory Authority: ORS 568.909

Stats. Implemented: ORS 568.900-568.933

603-095-0820

Geographic and Programmatic Scope

(1) The physical boundaries of North Coast Basin subject to these rules are indicated on the map included as Appendix A of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the North Coast Basin in agricultural use, agricultural and rural lands which 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 activities which 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, highly erodible lands 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 Coast Basin.

(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.

603-095-0840

Required Prevention and Control Measures

(1) All landowners or operators conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or operator shall be responsible for only those required and prohibited conditions caused by activities conducted on land managed by the landowner or operator. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated.

(2) Healthy Riparian Streambank Condition. Effective upon rule adoption.

(a) Allow the natural and managed regeneration and growth of riparian vegetation trees, shrubs, grasses, and sedges along natural waterways (as defined in OAR 141-085-0010(27)) to provide shade to moderate water temperatures and bank stability to maintain erosion near background levels.

(b) The technical criteria to determine compliance with OAR 603-095-0840(2)(a) are:

(A) Ongoing renewal of riparian vegetation that depends on natural processes (including processes such as seed fall, seed bank in soil, or sprouting from roots, rhizomes, or dormant crowns) is evident.

(B) Ongoing growth of riparian vegetation that has a high probability of remaining or becoming vigorous and healthy is evident.

(C) Management activities minimize the degradation of established native vegetation while allowing for the presence of nonnative vegetation.

(D) Management activities maintain at least 50% of each year's new growth of woody vegetation -- both trees and shrubs.

(E) Management activities are conducted in a manner so as to maintain streambank integrity through 25-year storm events.

(c) Exemptions:

(A) Levees and dikes are exempt from the Healthy Riparian Streambank Condition OAR 603-095-0840(2)(a) and (b), except for areas on the river-side of these structures that are not part of the structures and which can be vegetated without violating U.S. Army Corps of Engineers vegetation standards.

(B) Drainage areas where the only connection to other waterbodies are through pumps shall be exempt from the Healthy Riparian Streambank Condition OAR 603-095-0840(2)(a) and (b).

(C) Access to natural waterways for livestock watering and stream crossings are allowed such that livestock use is limited to only the amount of time necessary for watering and crossing the waterway.

(D) Drainage and irrigation ditches managed in compliance with OAR 603-095-0840(3) are exempt from the Healthy Riparian Streambank Condition OAR 603-095-0840(2)(a) and (b).

(3) Drainage and irrigation ditches (channels legally constructed). Effective upon rule adoption.

(a) Construction, maintenance, and use of surface drainage ditches shall not result in sediment delivery to waters of the state from soil erosion caused by excessive channel slope, unstable channel cross section, or placement of disposed soils.

(b) Ditch bank vegetation shall be present to stabilize earthen ditch banks.

(c) Technical criteria to determine compliance with OAR 603-095-0840(3)(a) and (b) are:

(A) Construction and maintenance of drainage and irrigation ditches utilize ditch slope and ditch cross section that are appropriate to the site.

(B) Disposed soils from construction and maintenance of drainage and irrigation ditches are placed such that sediment delivery to waters of the state from the placement of these soils is consistent with natural background sediment delivery from these sites.

(d) Exemptions:

(A) Bank vegetation damaged and soils exposed during maintenance (as defined in OAR 141-085-0010(22)) and construction, in accordance with Division of State Lands rules. Bank vegetation must be reestablished as soon as practicable after construction and maintenance are completed. However, sediment delivery to waters of the state shall not result from inappropriate ditch slope and cross section or from placement of disposed soils.

(4) Tide Gates. Effective upon rule adoption.

(a) Tide gates shall open and close as designed.

(5) Erosion and Sediment Control. Effective upon rule adoption.

(a) No cropland erosion in excess of the soil loss tolerance factor (T) for the subject field, as determined by the Revised Universal Soil Loss Equation (RUSLE) for soil loss, will occur.

(A) Exceptions: The department shall establish an alternate erosion control standard for croplands which the department determines cannot practically or economically achieve the soil loss tolerance factor. Any alternate erosion control standard for croplands established by the department shall assure that delivery of sediment to adjacent water sources is reduced to the maximum extent practicable.

(b) Private roads that traverse rural lands or private roads used for agricultural activities shall be constructed and maintained such that road surfaces, fill and associated structures are designed and maintained to limit contributing sediment to waters of the state. All private roads on agricultural lands not subject to the Oregon Forest Practices Act are subject to this regulation.

(A) Exceptions: Roads subject to the Oregon Forest Practices Act.

(c) Agricultural lands shall be managed to prevent and control runoff of sediment to public road drainage systems.

(d) Except for operations governed by the Oregon Forest Practices Act, no activities related to the conversion of woodland to non-woodland agricultural uses that require removal of the majority of woody material from a parcel of land, such that the land no longer meets the definition of woodland, shall be conducted in a manner which results in the placement of soil, the delivery of sediment, the sloughing of soil into waters of the state, the initiation or aggravation of streambank erosion, or the loss of an adequate vegetative buffer, in the near-stream management area.

(6) Manure and Nutrients. Effective upon rule adoption.

(a) No person conducting agricultural land management shall cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means (ORS 468B.025(1)(a)).

(b) No person conducting agricultural land management shall discharge any wastes into the waters of the state if the discharge reduces the quality of such waters below the water quality standards established by rule for such waters by the Environmental Quality Commission (ORS 468B.025(1)(b)).

(c) No person shall violate the conditions of any waste discharge permit issued pursuant to ORS 468B.050.

(d) Exceptions:

(A) Access to natural waterways for livestock watering and stream crossings are allowed such that livestock use is limited to only the amount of time necessary for watering and crossing the waterway.

(7) Pesticide Management

(a) Pesticides shall be used in accordance with label requirements as required in ORS 634 (Oregon Pesticide Control Law).

Statutory Authority: ORS 568.909

Stats. Implemented: ORS 568.900-568.933

603-095-0860

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, or through notification by another agency, 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 shall 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 not evaluate or investigate a complaint filed by a person under section OAR 603-095-0N80(3) unless the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The property and 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 603-095-0860(4), “person” does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-0860, 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) Actions based on investigation findings:

(a) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and a Voluntary Water Quality Farm Plan approved by the department or its designee exists and the landowner or operator is making a reasonable effort to comply with the plan:

(A) The department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder.

(B) The department may acknowledge the existence of the approved Voluntary Water Quality Farm Plan and direct the landowner to seek appropriate technical assistance and revise the plan and its implementation in a manner necessary to eliminate the violation.

(C) The landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

(b) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and a Voluntary Water Quality Farm Plan approved by the department or its designee does not exist:

(A) The department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder.

(B) 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 568.915, 568.918, and 568.933

Stats. Implemented: ORS 568.900 - 568.933

