

**OREGON ADMINISTRATIVE RULES
OREGON DEPARTMENT OF AGRICULTURE**

**CHAPTER 603, DIVISION 95
AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM**

Willow Creek

603-095-2800

Purpose

(1) These rules have been developed to implement a water quality management area plan for the subbasin pursuant to authorities vested in the department through ORS 568.900-568.933. The area plan is known as the Willow Creek Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Willow Creek Agricultural Water Quality 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 Willow Creek subbasin.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-2820

Geographic and Programmatic Scope

(1) The Willow Creek Agricultural Water Quality Management Area includes the area that drains into Willow Creek or the Columbia River between Willow Creek and the Umatilla River. The physical boundaries of the Willow Creek subbasin 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 Willow Creek Agricultural Water Quality Management Area 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 and activities that are subject to the Oregon Forest Practices Act.

(3) The provisions of these rules apply to all agricultural land whether or not in current productive agricultural use.

(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 Willow Creek subbasin.

(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

603-095-2840

Required Prevention and Control Measures

(1) Limitations: All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-2840 (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
- (c) The Department may allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.

(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) Upland Management and Soil Erosion: By January 1, 2008, landowners must control upland soil erosion using practical and available methods.

(a) Landowners must control active channel (gully) erosion to protect against sediment delivery to streams.

(b) On croplands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)- approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Operating in accordance with an SWCD-approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation; and farming non-HEL cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or

(C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or

(D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(c) On rangelands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources, or

(B) Maintaining sufficient live vegetation cover and plant litter to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

(4) Streamside Management: By January 1, 2008, landowners must promote the establishment and development of adequate riparian vegetation for streambank stability, filtering sediment and shading, consistent with site capability.

(5) Irrigation Management: By January 1, 2008, irrigation must be done in a manner that limits the amount of pollutants in the runoff from the irrigated area or that leaches into groundwater.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-2860

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 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 evaluate or investigate a complaint filed by a person under section OAR 603-095-2860(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 603-095-2860(4), “person does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2860(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 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

Attachment 1: Map

