

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

AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM

Yamhill River Subbasin

603-095-0500

Purpose

(1) These rules have been developed to effectuate the implementation of a water quality management area plan for the Yamhill River Subbasin pursuant to authorities vested in the Department through ORS 568.900-568.933. The area plan is known as the Yamhill River Subbasin Agricultural Water Quality Management Area Plan and is described in a guidance document that accompanies these rules.

(2) Failure to comply with any provisions of the Yamhill River Subbasin Agricultural Water Quality Management Area Plan:

(a) does not constitute a violation of OAR 603-090-0000 to 603-090-120, or of OAR 603-095-0010 to OAR 603-095-0560;

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

(3) Nothing in the Yamhill River Subbasin 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 603-095-0500 to OAR 603-095-0560.

(4) The purpose of these rules is to outline requirements for landowners in the Yamhill River Subbasin for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with Division 095 rules is expected to aid in the achievement of applicable water quality standards in the Yamhill River Subbasin.

Statutory Authority: ORS 568.909

Stats. Implemented: ORS 568.900 - 568.933

603-095-0520

Geographic and Programmatic Scope

(1) The Yamhill River Subbasin includes the drainage area of the Yamhill River upstream from the confluence with the Willamette River near Dayton. The Chehalem Creek drainage basin and a few other small creeks in Yamhill County which directly feed the Willamette River are also included. The physical boundaries of the Yamhill River Subbasin 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 Yamhill River Subbasin in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of lands which make up the Reservation of the Confederated Tribes of Grand Ronde and activities which are subject to the Forest Practices Act.

(3) Current 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 Yamhill River Subbasin.

(5) For lands in agricultural use within other Designated Management Agency 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 568.909

Stats. Implemented: ORS 568.900 - 568.933

603-095-0540

Prevention and Control Measures

All landowners or occupiers conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or occupier shall be responsible for only those violations of the following prevention and control measures caused by activities conducted on land managed by the landowner or occupier. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.

(1) Erosion prevention and sediment control:

(a) Landowners or occupiers shall prevent sheet and rill erosion in excess of four times the tolerable soil loss (T) leaving the property or being transported to streams.

(b) By January 1, 2005, landowners or occupiers shall prevent sheet and rill erosion in excess of two times the tolerable soil loss (T) leaving the property or being transported to streams.

(c) Sediment from sheet and rill, gully, or drainage way erosion shall not reduce the quality of waters below the water quality standards established by rule for such waters by the Environmental Quality Commission.

(d) Indicators of non-compliance for (a) through (c) above are:

(A) visible soil deposition that could enter natural stream areas;

(B) visible sloughing from drainage ways as a result of livestock grazing, tillage, or human destruction of riparian vegetation; or

(C) underground drainage tile outlets either improperly installed or maintained allowing soil or bank erosion to actively occur.

(2) Landowners or occupiers shall not apply irrigation water in a manner that results in irrigation water discharge entering waters of the state.

(a) Indicator of non-compliance is irrigation water discharge entering waters of the state.

(3) Placement, Delivery, or Sloughing of Wastes:

(a) Effective upon adoption of these rules,

(A) Except as provided in ORS 468B.050, no person conducting agricultural land management shall:

(i) 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 be carried into the waters of the state by any means.

(ii) discharge any wastes into any 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.

(B) No person shall violate the conditions of any waste discharge permit issued pursuant to ORS 468B.050 or ORS 568.

(b) Indicators of non-compliance are:

(A) runoff flowing through areas of high livestock usage and entering waters of the state; or

- (B) livestock waste located in drainage ditches or areas of flooding.
- (4) Landowners or occupiers shall prevent crop nutrient applications that result in adverse impacts to waters of the state.
- (a) Indicators of non-compliance are:
 - (A) nutrients applied to open water; or
 - (B) visible trail of compost, ash, or bio-solids to waters of the state.
- (5) Landowners or occupiers shall prevent the application of chemicals in combination with irrigation water that results in transport into waters of the state.
- (a) Indicator of non-compliance is chemigated water flowing into waters of the state.
- (6) Roadways, staging areas, farmsteads, and heavy use areas shall be constructed and maintained to prevent sediment or runoff contaminants from reaching waters of the state. All roads on agricultural lands not subject to the Oregon Forest Practices Act (OFPA) are subject to this regulation. Public roads are excluded from this prevention and control measure.
- (a) Indicators of non-compliance are:
 - (A) surface runoff from farmsteads, roads, and staging areas that pick up contaminants and flow to waters of the state; or
 - (B) visible gully erosion in roads or staging areas.
- (7) Landowners or occupiers shall manage streamside areas to allow the establishment, growth, and/or maintenance of riparian vegetation appropriate to the site. Vegetation must be sufficient to provide shade and to protect the streamside area such that it maintains its integrity during high stream flow events such as those events which are reasonably expected to occur following a 25-year, 24-hour storm event.
- (a) If any agricultural activity degrades riparian vegetation, the landowner or occupier shall replant or restore the disturbed area to an adequate cover as soon as practical.
- (b) Indicator of non-compliance is active streambank sloughing or erosion as a result of tillage, grazing, or destruction of vegetation by the landowner or occupier.

Statutory Authority: ORS 568.912

Stats. Implemented: ORS 568.900 - 568.933

603-095-0560

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 adopted 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 thereunder may file a complaint with the Department.
- (4) The Department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0560(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:
 - (a) The property and/or 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 603-095-0560(4), “person” does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-0560, 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 an approved Voluntary Plan exists and the landowner or occupier 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; and

(B) The Department shall acknowledge the existence of the Voluntary 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.

(b) The landowner shall be subject to the enforcement procedures of the Department outlined in OARs 603-090-0060 through 603-090-0120 if:

(A) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan does not exist; or

(B) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan exists and the landowner or occupier is not making a reasonable effort to comply with the plan; or

(C) The Department determines that a landowner or occupier has not revised a plan per paragraph (a)(B) of this section within the time specified by the Department.

Statutory Authority: ORS 568.915, 568.918, and 568.933

Stats. Implemented: ORS 568.900 - 568.933

Yamhill Subbasin Agricultural Water Quality Management Area

