

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

AGRICULTURAL WATER QUALITY MANAGEMENT PROGRAM

Inland Rogue

603-095-1400

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Inland Rogue Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900 - 568.933 and ORS 561.190 - 561.191, due to a determination by the Environmental Quality Commission to establish Total Maximum Daily Loads and allocate a load to agricultural nonpoint sources. The area plan is known as the Inland Rogue Agricultural Water Quality Management Area Plan. After adoption of the Total Maximum Daily Loads, these rules will be reviewed and modified as needed to provide reasonable assurance that the load allocations for agriculture will be met.

(2) The purpose of these rules is to outline requirements for landowners in the Inland Rogue 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 Inland Rogue Water Quality Management Area.

(3) Failure to comply with any provision of the Inland Rogue 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 603-095-1440;

(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 Inland Rogue 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 603-095-1400 to OAR 603-095-1440.

Statutory Authority: ORS 561.190 - 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 - 568.933

603-095-1420

Geographic and Programmatic Scope

(1) The Inland Rogue Agricultural Water Quality Management Area includes the drainage area of the Rogue River primarily within the political boundaries of Jackson and Josephine counties. It does not include a) the drainage area of the lower Rogue outside the Josephine county boundary or b) the drainage area within the Bear Creek Subbasin as identified in OAR 603-095-0220(1). The physical boundaries of the Inland Rogue Agricultural Water Quality 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 Inland Rogue 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.

(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 Inland Rogue 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

603-095-1440

Unacceptable Conditions

All landowners or operators conducting activities on lands in agricultural use shall be in compliance with the following rules. A landowner shall be responsible for only those unacceptable conditions caused by activities conducted on land managed by the landowner or operator. Rules do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated. Limited duration activities may be exempt from these conditions subject to prior written approval by the Department or its designee as part of an overall farm plan.

(1) Excessive Soil Erosion

(a) Effective four years following adoption of these rules, there shall be no visible evidence of erosion resulting from agricultural management in a location where erosion has contributed or will contribute sediment to waters of the state. Visible evidence of erosion consists of the following features:

(A) Sheet wash, noted by visible pedestalling, surface undulations, and/or flute marks on bare or sparsely-vegetated ground;

(B) Visibly active gullies, as defined by OAR 603-095-0010(1);

(C) Multiple rills, which have the form of gullies, but are smaller in cross-sectional area than one square foot.

(b) Written, limited duration exemptions to the condition described in OAR 603-095-1440(1)(a)(A) above will be considered for short-term activities included in a department (or its designee) approved plan intended to enhance the long-term soil stability of an agricultural site.

(2) Riparian Vegetation Destruction. Agricultural management of riparian areas shall not impede the development of adequate riparian vegetation to control water pollution.

(a) Effective four years after rule adoption, vegetation and streambank conditions in riparian areas shall not result in the following:

(A) Sloughing of streambanks due to management practices which result in sediment entering a stream beyond what would be expected; or

(B) Destabilized streambanks beyond what would be expected in that specific hydrologic regime; or

(C) Damage to riparian vegetation that degrades its proper function and the vegetative recovery that is reasonably necessary to withstand a 25-year high flow event; or

(D) Absence of seasonally appropriate regeneration and recruitment, according to site capability.

(b) This condition is not intended to prohibit riparian grazing where it can be done while managing for proper functioning riparian condition.

(c) Exceptions:

(A) Written, limited duration exemptions to conditions described in OAR 603-095-1440(2)(a)(C) and (D) above will be considered for short-term activities included in a department

(or its designee) approved plan intended to enhance the long-term function and quality of the riparian area.

(B) Constructed irrigation delivery and drainage ditches are exempt from conditions described in OAR 603-095-1440(2)(a)(C) and(D).

(3) Irrigation Surface Return Flows

(a) Effective two years after rule adoption, unmanaged surface irrigation returns from unchanged sets that are above state standards and that flow into waters of the state are unacceptable.

(b) This condition is not intended to discourage flood irrigation where it can be done beneficially.

(c) Exceptions:

(A) An exemption to OAR 603-095-1440(3)(a) and (b) will be considered if an irrigator has no direct control over delivery of irrigation water. Irrigation systems that collect and discharge surface or sub-surface drainage shall implement a return flow mitigation system that prevents pollution of waters of the state. Tailwater used by multiple irrigators should be treated as waters of the state for return flow quality.

(4) Excessive Nutrient Introductions

(a) 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

Appendix 1

