

**Oregon Administrative Rules
Oregon Department of Agriculture
Chapter 603, Division 95
Agricultural Water Quality Management Program**

Upper Mainstem and South Fork John Day River

603-095-2000

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Upper Mainstem and South Fork John Day River Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900 – ORS 568.933 and ORS 561.190 – ORS 561.191. The area plan is known as the Upper Mainstem and South Fork John Day Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Upper Mainstem and South Fork John Day River 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 Upper Mainstem and South Fork John Day River Water Quality Management Area.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 – 568.933

OAR 603-095-2020

Geographic and Programmatic Scope

(1) The Upper Mainstem and South Fork John Day River Management Area include the area that drains into the John Day River upstream of Picture Gorge. 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 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.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in the 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 shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided does not occur.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 – 568.933

OAR 603-095-2040

Prevention and Control Measures

(1) Limitations

(a) All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-2040(2)-(6) (Prevention and Control Measures).

(A) A landowner or operator shall be responsible for water quality caused only by conditions on land managed by the landowner or operator.

(B) Criteria 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.

(2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provisions of ORS 468B.025 or 468B.050.

(3) Livestock Management: By January 1, 2006, livestock areas shall be managed to control direct discharge of pollutants.

(4) Uplands Management: By January 1, 2006, within the vegetative growth capability of the site, private land and access route management must foster sufficient vegetation to protect water quality by providing infiltration, filtering of sediment and animal wastes, and stabilization of soil.

(5) Streamside Management: By January 1, 2006, management of streamside areas must allow the establishment, growth and active recruitment of vegetation, consistent with the vegetative growth capability of the site, for protection of water quality by filtering sediment, stabilizing streambanks, and providing shade.

(6) Irrigation Management: By January 1, 2006, irrigation must be done in a manner that limits the amount of pollutants entering waters of the state.

Statutory Authority: ORS 561.190 – 561.191, and ORS 568.912

Statutes Implemented: ORS 568.900 – 568.933

OAR 603-095-2060

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 603-095-2060(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 603-095-2060(4), “person” does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2060(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 569.900 to 568.933 or any rules adopted therefore 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

