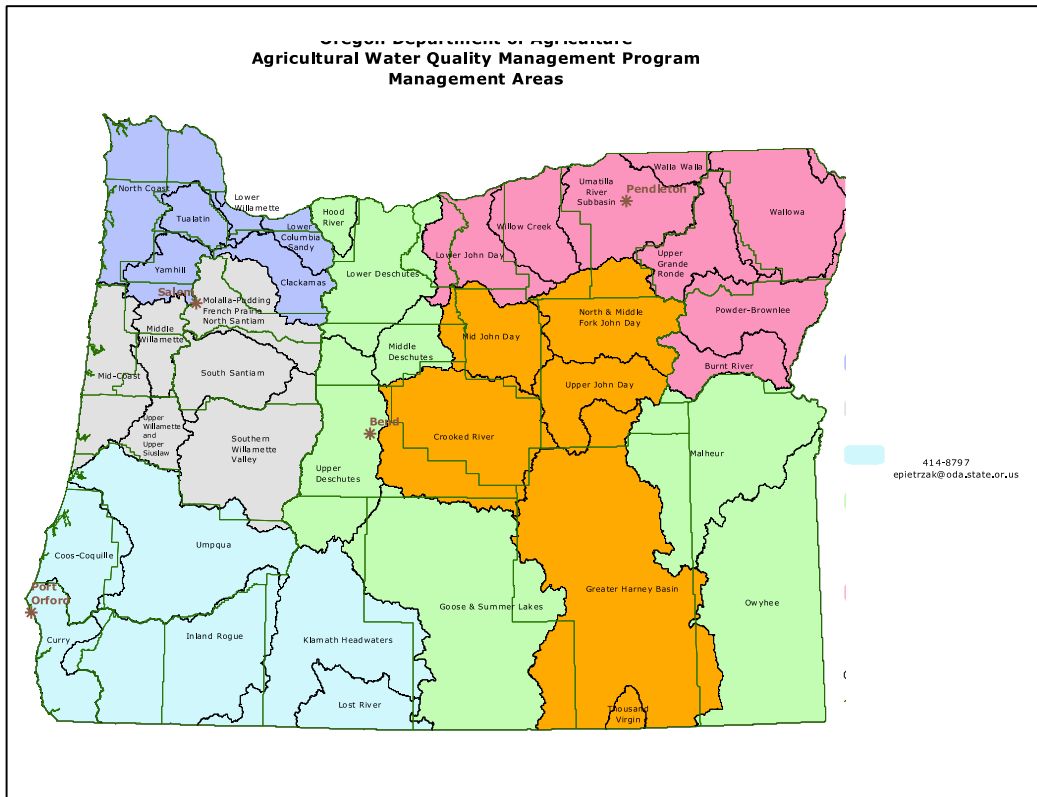


**Oregon Department of Agriculture, Water Quality Program
Polk Soil and Water Conservation District Workshop
Questions and ODA Responses**

Oregon Department of Agriculture (ODA) Water Quality Program’s staff provide the following responses to questions raised during the Polk Soil and Water Conservation District’s June 22, 2015 workshop. Additional information can be found at the ODA’s website at <http://www.oregon.gov/ODA/programs/NaturalResources/Pages/AgWaterQuality.aspx> or by contacting ODA staff at 503-986-4712.

What are the Oregon Department of Agriculture regulations for maintaining riparian areas in Polk County agricultural land, to benefit water quality?

The goal of Oregon’s Agricultural Water Quality Management Program is to prevent and control water pollution from agricultural activities. Agricultural activities must not prevent the establishment of vegetation (that would naturally occur) along streams to provide shade, stabilize streambanks, and filter runoff. There are 38 watershed-based Agricultural Water Quality Management Areas (Management Areas) in Oregon. Each management area is governed statewide by Oregon Revised Statutes (ORS), along with Oregon Administrative Rules (OAR) developed to address local agricultural land uses and other features of each management area¹.



¹ ORS 468B.025 and OAR Chapter 603, Division 95, Rules 0010 through 3960.

County boundaries do not coincide with Agricultural Water Quality Management Areas. Polk County has portions of three Management Areas: the Middle Willamette, Yamhill, and Mid Coast.

Why does the width requirement for riparian vegetation differ between counties?

The regulations do not prescribe widths because the width necessary to achieve water quality functions depends on many site-specific factors. Factors used by ODA to determine the appropriate width include type of stream (perennial, seasonal, or ephemeral), width of stream, what vegetation will grow there ("site capable" vegetation), and adjacent agricultural activities. Heavier use adjacent to a stream would require a wider area. The desired outcome is vegetation adequate for site-specific functions that provide shade, bank stability, and filtration.

The Agricultural Water Quality Management Area regulations for the Middle Willamette, Mid Coast, and Yamhill areas are attached. ORS 468B.025 is also included, as it is referenced in these regulations.

What is the reasoning behind saying it's ok to keep invasive shrubs like blackberries, etc. along riparian areas? Shouldn't we be asked to maintain at least non-invasive or native shrubs?

To be in compliance with regulations, agricultural activities must allow riparian vegetation to establish (this may be passive, and may include non-native vegetation). If an agricultural activity is removed from a riparian area, non-native vegetation may establish. Landowners are not required to actively restore riparian vegetation. They are required to prevent negative impacts from agricultural activities to riparian vegetation. To meet the objectives of the management area plans, non-native vegetation in agricultural areas would be addressed as well.

The area plans provide a blueprint for achieving water quality standards that makes use of both regulations and voluntary measures. Area plans do ask producers to voluntarily provide native and non-invasive trees and shrubs along our streams. To meet the objectives of the management area plans, producers should control non-native vegetation in agricultural areas.

To be in compliance with water quality regulations, agricultural activities must allow adequate riparian vegetation to establish, grow, and mature. Agricultural activities must not harm existing vegetation.

If an agricultural activity is removed from a riparian area (or, there is no agriculture along the stream), non-native vegetation may establish. Landowners are not required to eliminate the non-native vegetation and actively restore riparian vegetation. However, they are required to prevent negative impacts from agricultural activities to riparian vegetation.

Preferred management practices can be found in the area plans, as well as from your local SWCD or NRCS representative. The area plans recommend the use of native plants, or if non-native plants are used to avoid using invasive species.

ODA also provides assistance to landowners to address invasives through The Noxious Weed Program. Additional information can be found on ODA's website at <http://www.oregon.gov/ODA/programs/Weeds/Pages/AboutWeeds.aspx>.

The area plans can also be found on ODA's website at <http://www.oregon.gov/ODA/programs/NaturalResources/Pages/AgWaterQuality.aspx>. Click on the map. Copies are also available from ODA or the Polk SWCD.

I've been asked to re-plant my riparian area in the summer. I disagree with this because there are no bare-root plants available, I can't plant cuttings, and my survival rate will probably be zero. Can't I wait until late fall or winter when planting conditions are better?

ODA understands that it takes time to successfully establish streamside vegetation. ODA and the SWCDs work with landowners to find solutions that works for them. Planting should be completed between the months of November and March for the best success. ODA recommends that landowners work with the SWCD staff or other professionals to make planting plans that are implemented during the appropriate time.

To help ensure survival of planted streamside vegetation, additional measures such as irrigation, mulching, and control of invasive species may help with plant survival. Landowners may also implement interim measures to stabilize banks and filter sediment. Interim measures, if needed, might include mulch, straw bales, contouring slopes or fencing out livestock and providing off-channel water.

Of course, streamside vegetation sufficient to provide shade to cool water temperature takes time to grow. Interim measures might include establishing grasses and legumes as groundcover vegetation while shrubs and trees are getting established.

Is there a pamphlet on the web explaining ODA's riparian rules? Is there one available to be kept at SWCD offices?

[Water Quality & Agriculture: It's Your Responsibility is a landowner's guide to Oregon's Agricultural Water Quality Management Program.](http://www.oregon.gov/ODA/programs/NaturalResources/Pages/AgWaterQuality.aspx) Copies are available upon request and also on the ODA's website at <http://www.oregon.gov/ODA/programs/NaturalResources/Pages/AgWaterQuality.aspx>. The guide is found under Program Resources "Agricultural Water Quality Program Quick Guide."

Oregon Revised Statute (ORS) 468B.025 Prohibited activities.

(1) Except as provided in ORS 468B.050 or 468B.053, no person shall:

(a) 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.

(b) 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.

(2) No person shall violate the conditions of any waste discharge permit issued under ORS 468B.050.

(3) Violation of subsection (1) or (2) of this section is a public nuisance.

[Formerly 449.079 and then 468.720; 1997 c.286 §5]

Oregon Water Quality Regulations

Middle Willamette Agricultural Water Quality Regulations

OAR 603-095-2340

Prevention and Control Measures

All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the landowner. A landowner is not responsible for violations of the Prevention and Control Measures resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior written approval by the department.

(1) Effective upon rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(2) By January 1, 2003, agricultural activities shall allow the growth and establishment of vegetation along perennial streams consistent with site capability to promote infiltration of overland flow, streambank stability and provide moderation of solar heating. Minimal breaks in shade vegetation for essential management activities are considered appropriate.

Stat. Auth: ORS 561.190 - 561.191, ORS 568.912

Stats. Implemented: ORS 568.900 - 568.933

Hist.: DOA 6-2003, f. & cert. ef. 1-7-03

Yamhill River Subbasin Agricultural Water Quality Regulations

OAR 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.

Stat. Auth.: ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 20-2000, f. & cert. ef. 7-12-00; DOA 36-2003, f. & cert. ef. 9-24-03

Mid Coast Agricultural Water Quality Regulations

OAR 603-095-2240

Prevention and Control Measures

(1) All landowners or operators conducting activities on lands in agricultural use shall comply with the following criteria. A landowner shall be responsible for only those conditions caused by activities conducted on land controlled by the landowner. A landowner is not responsible for violations of Prevention and Control Measures resulting from actions by another landowner. Conditions resulting from unusual weather events (equaling or exceeding a 25-year, 24-hour storm event) or other exceptional circumstances are not the responsibility of the landowner. Limited duration activities may be exempted from these conditions subject to prior approval by the department.

(2) Near-Stream Management Areas. Effective January 1, 2005:

(a) Agricultural activities must allow for the establishment and development of riparian vegetation consistent with site capability. Vegetation must be sufficient to provide the following riparian functions: shade, streambank integrity during stream flows following a 25-year storm event, and filtration of nutrients and sediment.

(b) Exemptions:

(A) Levees and dikes are exempt from OAR 603-095-2240(2)(a) 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 water bodies is through pumps shall be exempt from OAR 603-095-2240(2)(a).

(C) Access to natural waterways for stream crossings and livestock watering are allowed provided OAR 603-095-2240(2)(a) is met.

(D) Legally constructed drainage and irrigation ditches as defined in Division of State Lands Rules and ditches subject to Division of State Lands fill-removal laws are exempt from OAR 603-095-2240(2).

(3) Effective on rule adoption, landowners or operators shall prevent nutrient applications that cause pollution to waters of the state.

(4) Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(5) Erosion and Sediment Control:

(a) Effective January 1, 2004, agricultural activities will not cause the following visual indicators of erosion where erosion may cause sediment runoff into waters of the state:

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

(B) Visible active gullies;

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

(b) This prevention and control measure applies to farm roads and staging areas, pastures, cropland, and other areas where agricultural activities occur.

(6) By January 1, 2003, landowners must prevent pollution from irrigation return flow to waters of the state.

Stat. Auth.: ORS 561.190 - 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - 568.933

Hist.: DOA 22-2002, f. & cert. ef. 9-30-02