

Chapter 569

2013 EDITION

Weed Control

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AGRICULTURE

Note: 569.010, 569.020, 569.030, 569.040, 569.050, 569.060, 569.070, 569.080, 569.090, 569.100, 569.110, 569.120, 569.130, 569.140, 569.150 and 569.160, all relating to lime manufacture and distribution, repealed by 1953 c.41 §2.

POLICY AND MANAGEMENT

569.175 Definitions for ORS 569.175 to 569.195. As used in ORS 569.175 to 569.195:

(1) “Noxious weed” means a terrestrial, aquatic or marine plant designated by the State Weed Board under ORS 569.615 as among those representing the greatest public menace and as a top priority for action by weed control programs.

(2) “Person” means a person as defined in ORS 174.100, the federal government or any of its agencies, the State of Oregon or any of its agencies, or any city, county, district or municipal corporation of this state. [Formerly 452.610]

569.180 Noxious weeds as public nuisance; policy. In recognition of the imminent and continuous threat to natural resources, watershed health, livestock, wildlife, land and agricultural products of this state, and in recognition of the widespread infestations and potential infestations of noxious weeds throughout this state, noxious weeds are declared to be a public nuisance and shall be detected, controlled and, where feasible, eradicated on all lands in this state. It is declared to be the policy of this state that priority shall be given first to the prevention of new infestations of noxious weeds and then to the control and, where feasible, eradication of noxious weeds in infested areas. [Formerly 452.615]

569.185 State Department of Agriculture authority; rules; integrated weed management approach. The State Department of Agriculture shall administer and enforce ORS 569.175 to 569.195. The department may:

(1) Adopt rules to carry out ORS 569.175 to 569.195. In adopting the rules the department shall consider:

(a) The effect on the immediate environment of the use of chemical, biological or other means for control or eradication; and

(b) The overall benefit to be derived compared to the costs to be incurred.

(2) Implement an integrated weed management approach that focuses on the prevention of noxious weeds through:

(a) A combination of techniques that may include, but need not be limited to, the use of:

(A) Surveillance and monitoring;

(B) Early detection;

(C) Eradication or other rapid response techniques;

(D) Mechanical control;

(E) The selective use of pesticides;

(F) Cultural practices;

(G) Modified land management; and

(H) Biological controls; and

(b) Control practices selected and applied to achieve desired weed management objectives in a manner that minimizes risks to human health, non-target organisms, native fish and wildlife habitat, watersheds and the environment.

(3) Cooperate with Oregon State University or any other person in the administration and enforcement of ORS 569.175 to 569.195.

(4) Collect, publish, disseminate and furnish information, statistics and advice concerning the research, experimentation, control and eradication of noxious weeds and the land management and cultural practices recommended for such control and eradication.

(5) Notwithstanding any provisions of ORS 279.835 to 279.855 and 561.240 and ORS chapters 279A, 279B and 279C to the contrary, enter into contracts with Oregon State University or any other person for the purpose of research, experimentation, control or eradication of noxious weeds, to receive and expend funds pursuant to such contracts and to employ or authorize personnel to act on behalf of the department.

(6) Rear, propagate and release biological control agents approved by the United States Department of Agriculture, including insects or disease organisms, and to construct, purchase, maintain and operate facilities and equipment for such purpose.

(7) Control, or direct control of, predators and diseases of biological control agents, and to limit or prohibit the movement or use of pesticides or other agriculture chemicals that reasonably could damage or injure such biological control agents.

(8) Purchase, use and apply chemical control agents, including pesticides, and purchase, maintain and operate any application equipment for such purpose.

(9) Regulate, restrict or prohibit the movement or sale of hay, straw, seed, other agricultural crops or residues thereof, that are found to contain noxious weeds or seeds or propagules of noxious weeds.

(10) Limit or prohibit the collection or taking of any biological control agents from public or private lands within this state.

(11) Develop appropriate measures for the control or eradication of noxious weeds on any lands in this state.

(12) Have access to all lands within this state to carry out ORS 569.175 to 569.195, including survey, control and eradication activities and the establishment of quarantines.

(13) Request any person owning or controlling land within this state to control, prevent the spread of or, when feasible, eradicate noxious weeds, and to supervise such activities.

(14) If abatement procedures are required of a landowner, recommend that the landowner and the department jointly develop a management strategy or plan that describes a course of action to address the abatement requirement.

(15) To the extent funds are available for such purpose, employ or use personnel of other agencies of this state, including but not limited to persons acting under work-release, rehabilitation or youth programs or persons employed and paid from funds received under federal or state programs intended primarily to alleviate unemployment or to advance research.

(16) Establish advisory committees to assist the department and the State Weed Board in carrying out ORS 569.175 to 569.195. [Formerly 452.620; 2011 c.9 §76]

569.190 Authority of Oregon State University. Oregon State University, acting by itself or in cooperation with the State Department of Agriculture, may:

(1) Collect, publish, disseminate and furnish information, statistics and advice concerning the research, experimentation, control and eradication of noxious weeds and the land management and cultural practices recommended for such control and eradication.

(2) Rear, propagate and release biological control agents approved by the United States Department of Agriculture, including insects or disease organisms, and construct, purchase, maintain and operate facilities and equipment for such purpose. [Formerly 452.625]

569.195 Cooperation with department; court suit. (1) No person shall fail to cooperate with the State Department of Agriculture in the administration or enforcement of ORS 569.175 to 569.195, or rules promulgated pursuant thereto, nor otherwise violate any provision of ORS 569.175 to 569.195.

(2) In addition to any other remedy provided by law, the department may bring suit in circuit court to enjoin or restrain any person from violating any provision of ORS 569.175 to 569.195 or any rule promulgated thereunder. [Formerly 452.630]

CONTROL EFFORTS

(Generally)

569.350 Necessity of eradication of weeds; cooperation in control and eradication. Noxious weeds have become so thoroughly established and are spreading so rapidly on state, county and federally owned lands, as well as on property in individual ownership and in transition to county ownership through tax delinquency, that they hereby are declared a menace to the public welfare. While it is recognized that complete eradication may not be practicable, it hereby is established that steps leading to eradication and control are necessary and that responsibility rests not only on the individual landowner and operator but also on the county, state and federal government, and that the county, state and federal government should cooperate with individual owners in the control and eradication of noxious weed pests. [Formerly 570.505]

569.355 State and counties to control noxious weeds. The state and the respective counties shall control any weeds designated as noxious by the state or the respective counties in any such county on land under their respective ownerships. [Formerly 570.510]

569.360 County governing body may create weed control district; petition for special weed control district. (1) The county governing body of each county may declare the county, or any portion of the lands in a county, a weed control district for the purpose of destroying such weeds and of preventing the seeding and spread of such other weeds and plants as the governing body may for the purposes of ORS 569.360 to 569.495 declare noxious.

(2) If the county is not made a weed control district or if the county weed control district does not include all such weeds or plants desired as included as noxious, interested parties may present a petition for a special weed control district. The petition shall describe the area to be included in the special weed control district and name the noxious weeds to be destroyed or prevented from blooming and producing seed within the district, and must be signed by more than half of the landowners in the area described in the petition who also own more than half of the acreage in the area. Upon presentation of such a petition, the county governing body shall declare such area a special weed control district and such weeds noxious within the district, in accordance with the petition. [Formerly 570.515]

569.370 Weed inspectors; appointment; duties; compensation. (1) The court shall, upon declaring a weed control district, appoint a weed inspector or inspectors, whose duties it shall be:

(a) To find out if any noxious weeds or plants are being permitted to grow and produce bloom or seed within the district or districts contrary to the provisions of ORS 569.360 to 569.495;

(b) To serve notices;

(c) When necessary to destroy or cut or to supervise the destruction or cutting of the noxious weeds growing or seeding within the weed control district; and

(d) To conduct investigations, approve plans and certify expenditures pertaining to weed control projects pursuant to ORS 569.480.

(2) The person or persons appointed by the county court shall receive for their services reasonable wages, as determined by the county court, for the time actually employed in the performance of duty under ORS 569.360 to 569.495. [Formerly 570.520]

569.375 Notice of district creation and weeds to be controlled. The county court shall, upon declaring a weed control district or districts, cause to be published an official notice describing each district and naming weeds to be destroyed and to be prevented from producing seed within the districts. The notice shall be published in a newspaper or newspapers, not exceeding three in number, serving the districts, in two consecutive issues if weekly, or two times at intervals of one week if daily or semiweekly. Immediately after the last publication of the official notice, the provisions of ORS 569.360 to 569.495 shall be enforced. [Formerly 570.525]

569.380 Weed inspector right of entry; service of notice to eradicate weeds; department or district control measures. (1) The weed inspector shall have access to the land within the district.

(2) When the provisions of ORS 569.360 to 569.495 are not being complied with, the weed inspector shall serve a written notice to the owner or occupant of the land. When the weed inspector is unable to serve the notice personally, the weed inspector shall post the notice and two copies thereof in three conspicuous places on the land. The notice shall contain:

(a) The date of service or posting of notice.

(b) The name of the weed or weeds growing on the land, and a statement setting forth that the weeds must be destroyed or must be prevented from producing seed within a specified time of not less than two

days or more than 20 days, to be established by the inspector, from the date of service of the notice.

(3) The service of notice as provided in subsection (2) of this section imposes a requirement on the owner or occupant of the land to destroy or prevent the weeds from seeding or spreading during the continuation of ownership or occupancy of the land or until the district is dissolved. A copy of the notice, together with proof of service indorsed thereon, shall be filed with the county court.

(4) Notwithstanding subsections (2) and (3) of this section, ORS 569.370 or 569.390, with permission of the owner or occupant of land, employees of the State Department of Agriculture, or of designated weed control districts, may enter the land to identify noxious weeds and to implement or provide for the implementation of integrated noxious weed control measures, including but not limited to the application of pesticides to the land. The control or eradication of noxious weeds may be conducted with or without charge to the owner or occupant of the land. A notice as described in subsection (2) of this section is not required for the conduct of activities described in this subsection. [Formerly 570.530]

569.390 Owner or occupant to eradicate weeds. Each person, firm or corporation owning or occupying land within the district shall destroy or prevent the seeding on such land of any noxious weed within the meaning of ORS 569.360 to 569.495 in accordance with the declaration of the county court and by the use of the best means at hand and within a time declared reasonable and set by the court, except that no weed declared noxious shall be permitted to produce seed. [Formerly 570.535; 2011 c.597 §233]

569.395 Eradication of weeds on public lands and rights of way. The State Highway Commission, the respective county courts, reclamation districts and municipalities shall destroy or prevent the spread or seeding of any noxious weed within the meaning of ORS 569.360 to 569.495 on any land owned by them or constituting the right of way for any highway, county road, drainage or irrigation ditch, power or transmission line, or other purposes under their respective jurisdictions. [Formerly 570.540]

569.400 Eradication of weeds when owner or occupant refuses to do so; request for quarantine; statement of expenses to be filed. (1) If the owner or occupant of the land fails or refuses to immediately destroy or cut the noxious weeds in accordance with ORS 569.360 to 569.495, the weed inspector shall at once notify the district attorney of the county who shall at

once take necessary steps for enforcement of ORS 569.360 to 569.495. The county court shall authorize the weed inspector or such assistants as the weed inspector may employ to go upon the land or premises and destroy the noxious weeds or control them in such manner as will destroy all seeds of such noxious weeds; provided, however, that if destruction or control of the weeds on any farm is in the judgment of the county weed inspector impracticable because the weeds may be too far advanced, or if for any other reason the means of control available are unsatisfactory, the weed inspector shall so notify the county court, which shall request the State Department of Agriculture to immediately quarantine any such uncontrolled noxious weed infested farm within the county to prevent the movement of infested crops or of livestock from such farm except under conditions prescribed in the quarantine that will prevent spread of the weeds by such crops or livestock. In all cases where the inspector undertakes to destroy or control noxious weeds, the most effective and practical method, in the judgment of the inspector, and with least injury to the land or crops, shall be used.

(2) Upon the completion of such work the person so appointed and authorized by the county court shall file with the county clerk an itemized statement of the expenses necessarily incurred in the destruction of such weeds, including the wages of the person as provided in ORS 569.370, verified by the oath of the person. [Formerly 570.545]

569.410 Statement to be entered on lien docket; recovery of unpaid amount. When the statement of expenses is filed, the county clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the charges and expenses when so docketed shall constitute a first lien upon such lands or premises, except as to taxes. If the charges and expenses are not paid and the lien discharged by the owner or occupant of such lands within 90 days from the date the lien is docketed, the county may recover the expenses in an action at law. [Formerly 570.550]

569.415 Payment for work. If within 10 days from the date of filing and docketing the lien as provided in ORS 569.400 and 569.410, no objections have been filed thereto, the county court shall pay to the person or persons appointed by the court, as provided in ORS 569.370 (1), out of the general funds of the county, the amount of such lien. [Formerly 570.555]

569.420 County tax for weed control fund; expenditure. (1) The county courts of the several counties of this state hereby are required to levy a tax and create a fund to

be known as the weed control fund for the control of weeds on county highways and public lands and for cooperation with individuals, state and federal agencies in controlling noxious weeds within weed control districts. The amount estimated by the county court as being sufficient for such purposes may be placed in the county budget and after consideration at the meeting held for the purpose of passing upon the tax levy by the electors of the county, may become one of the items for which expenditure may be made during the ensuing year.

(2) When such a fund is created, it shall be expended under the supervision of the county court in such manner as to effectuate the purposes of ORS 569.360 to 569.495. [Formerly 570.560]

569.425 Special assessment. Notwithstanding ORS 569.420, in addition to or in lieu of the tax authorized by ORS 569.420, a county governing body may levy a special assessment based upon benefit to finance weed control activities. All such assessments shall be treated in the same manner as the tax referred to in ORS 569.420. [Formerly 570.562]

569.435 Dissolution of weed control district; disposition of funds. If in the judgment of the court the enforcement of ORS 569.360 to 569.495 in any county which has been declared a weed control district seems impracticable or likely to work injury to the people of the district, it may after a hearing declare that such weed control district no longer exists. Any special weed control district shall be declared terminated by the county court when a majority of landowners in the district, by petition or by public hearing state that they desire such district terminated for any weeds declared noxious in the district. Any moneys remaining in any fund for weed control shall, after the termination of the district, be credited to the general fund of the county. [Formerly 570.565]

569.445 Duty to clean machinery before moving; weed infested residue not to be moved. No person operating or having control of any threshing machinery, clover huller, hay baler, seed cleaning or treating machinery or other machinery shall move said machinery over any public road or from one farm to another without first thoroughly cleaning it. Before moving it, all hay or bundle racks and all other equipment shall be thoroughly swept and cleaned. All hay, straw or other crop residue infested with noxious weeds under the meaning of ORS 569.360 to 569.495 having partially or fully formed seeds shall not be moved from the land on which grown to other lands not infested with any of the weeds in the field from

which such crop material came. [Formerly 570.570]

569.450 [Formerly 570.575; repealed by 2013 c.195 §1]

(Cost-Share Assistance Grants)

569.470 Cost-share assistance grants for weed control; application. Any person owning or occupying land within a weed control district or special weed control district who conducts a weed control project in accordance with the provisions of ORS 569.370 and 569.470 to 569.495 may apply to the county court or commission for a cost-share assistance grant. [Formerly 570.580]

569.475 Cost-share assistance grants for weed control; source of expenditures; limit on grants. (1) The county courts of the several counties of this state hereby are required to provide cost-share assistance grants to persons owning or occupying land within such counties who conduct a weed control project in accordance with the provisions of ORS 569.370 and 569.470 to 569.495. Expenditures by any county court or commission for cost-share assistance grants shall be made from the county's weed control fund pursuant to ORS 569.420.

(2) In any fiscal year, the amount of cost-share assistance to any person eligible for such assistance under ORS 569.470 and 569.480 shall be an amount equal to, but not exceeding, 50 percent of the actual cost of the eligible person's weed control project. [Formerly 570.585]

569.480 Eligibility for grants. No person shall be eligible for a cost-share assistance grant under ORS 569.370 and 569.470 to 569.495 unless:

(1) A weed control inspector has:

(a) Conducted a field inspection of the weed control site;

(b) Approved the eligible person's plan for implementing a weed control project; and

(c) Certified that specific expenditures are appropriate for implementation of the project.

(2) The eligible person has made certified expenditures for the purpose of implementing an approved weed control project. Adequate proof of such expenditures shall consist of:

(a) Receipts, invoices or other evidence indicating the amount and cost of the project; and

(b) Such other weed control information as the county court or commission may require. [Formerly 570.590]

569.490 Department funds for grants; reports by county. (1) Subject to ORS 291.232 to 291.260, the State Department of Agriculture may distribute in the manner

prescribed in subsection (3) of this section to each county court an amount equal to 50 percent of the amount of cost-share assistance grants actually provided by the county court to eligible persons pursuant to ORS 569.470 to 569.480.

(2) Any funds available and received by any county court under this section shall be placed in the county's weed control fund and shall be expended by the county court to carry out the purposes of ORS 569.370 and 569.470 to 569.495.

(3) Each county court receiving funds under this section shall report to the department, at such times as the department shall require:

(a) The total number of eligible owners who have received cost-share assistance grants under ORS 569.470; and

(b) Any other weed control information the department shall require to carry out the purposes of ORS 569.370 and 569.470 to 569.495. The department shall make any necessary adjustments in the amounts due each county court at such times as the department determines appropriate in order to avoid overpayment. [Formerly 570.595]

569.495 Financial assistance by department for weed control; limit on county responsibility. (1) The State Department of Agriculture may provide financial assistance to counties to promote the implementation of noxious weed control projects.

(2) Notwithstanding any other provision of ORS 569.370 and 569.470 to 569.495, a county court is not required to perform any duty, function or power provided in ORS 569.370 and 569.470 to 569.495 unless the department provides financial assistance to the county pursuant to subsection (1) of this section. [Formerly 570.600]

(Grants to Counties)

569.515 Legislative findings. The Legislative Assembly finds and declares that:

(1) Noxious weeds present a serious threat that adversely affects industries vital to the Oregon economy, including but not limited to the agriculture, forestry, fishing and tourism industries;

(2) Failure to control the spread of noxious weeds in Oregon will reduce the productivity of Oregon industries and adversely affect marketing by those industries, resulting in a loss of business and the loss of existing jobs;

(3) The use of aggressive measures to control the spread of noxious weeds will improve the actual and perceived quality of Oregon products and further the promotion

and expansion of markets for those products; and

(4) The control of noxious weeds through county weed control district programs will benefit Oregon's economy by preventing the loss of existing jobs, by promoting and expanding Oregon business and by preventing the decline of Oregon business. [2011 c.392 §1]

569.520 Grants for carrying out county weed control district duties; rules.

(1) The State Department of Agriculture shall establish a grant program for the purpose of assisting counties in carrying out weed control district duties, functions and powers under ORS 569.360 to 569.495. After deducting department administrative expenses for the program, the department shall apply the balance of moneys received for the grant program to fund grants as described in this section.

(2) A county qualifies for a grant under this section if the county has:

(a) Established a weed control district under ORS 569.360 to 569.495;

(b) Provided county moneys to carry out the duties, functions and powers of the district in an amount that equals or exceeds the grant amount available to the county under this section; and

(c) Complied with any department rules adopted under this section.

(3) The department may establish rules for carrying out the grant program described in this section. The rules may include, but need not be limited to, rules:

(a) Requiring that priority in the use of grant moneys be given to noxious weed control projects that restore, enhance or protect water quality, watersheds and riparian habitats;

(b) Requiring a participating county to report to the department concerning the use of grant moneys by the county; and

(c) Adopting a methodology for the recovery of the direct and indirect costs necessarily incurred as administrative expenses for the grant program. [2011 c.392 §2]

STATE WEED BOARD

569.600 State Weed Board; membership; terms. (1) The State Weed Board is created in the State Department of Agriculture. The board shall consist of seven members appointed by the Director of Agriculture as follows:

(a) At least two members shall be residents of that portion of the state east of the summit of the Cascade Mountains.

(b) At least two members shall be residents of that portion of the state west of the summit of the Cascade Mountains.

(c) Two members shall be selected from among those individuals recommended by the Association of Oregon Counties.

(d) The director or a designee of the director shall serve as a member.

(2) The term of each member is four years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(3) As used in subsection (1) of this section, "summit of the Cascade Mountains" means a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Hood River County; thence southerly along the western boundaries of Hood River, Jefferson, Deschutes and Klamath Counties to the southern boundary of the State of Oregon. [Formerly 561.650]

569.605 Compensation of members. A member of the State Weed Board is entitled to compensation and expenses as provided in ORS 292.495. [Formerly 561.660]

569.610 Officers; quorum; meetings. (1) The State Weed Board shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of those offices as the board determines appropriate.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at such times and places as are specified by the call of the Director of Agriculture or the chairperson. [Formerly 561.670]

569.615 Duties of board. The State Weed Board shall:

(1) Act in conjunction with the State Department of Agriculture to identify those weeds growing in this state that represent the greatest public menace and establish those weeds as the top priority for action by weed control programs in this state.

(2) Assist the Director of Agriculture in allocating moneys made available to the State Department of Agriculture for the payment of weed control expenses to weed control programs conducted in the various counties on the basis of the plan implemented under ORS 569.620.

(3) Help the department to coordinate the weed control program efforts of the various counties and advise the director in performing weed control duties, functions and powers assigned to the State Department of Agriculture. [Formerly 561.680]

569.620 Implementation of weed control effort improvement plan. (1) The State Department of Agriculture, in conjunction with the State Weed Board, shall implement a board plan to improve the effectiveness of noxious weed control efforts by weed control districts, state agencies and others within this state. The department shall act as the primary state agency for assisting weed control districts, state agencies and others in coordinating their noxious weed control efforts.

(2) The department and the board shall initiate and actively pursue efforts to secure an optimum level of federal and private funding for noxious weed control efforts in this state. The department and the board shall give priority under this subsection to

securing funding for noxious weed control projects that are consistent with the plan implemented under subsection (1) of this section. [Formerly 561.683]

PENALTIES

569.990 Violations punishable by fine.

(1) Violation of a provision of ORS 569.175 to 569.195 or a rule adopted under ORS 569.175 to 569.195 is a Class B violation.

(2) Violation of a provision of ORS 569.360 to 569.495 is a Class A violation. [2009 c.98 §9(1),(3); 2011 c.9 §77]

569.995 Civil penalties. In addition to any applicable fine under ORS 569.990 or other penalty, a person that violates any provision of ORS 569.175 to 569.195 or 569.360 to 569.495 or a rule adopted under ORS 569.175 to 569.195 is subject to the imposition of a civil penalty by the State Department of Agriculture. A civil penalty the department imposes under this section may not exceed \$10,000. [2013 c.195 §2]

