

Chapter 570

2015 EDITION

Plant Pest Control; Invasive Species

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GENERAL PROVISIONS

570.001 Definitions. As used in ORS 570.010 to 570.050, 570.105 to 570.190, 570.210 to 570.225, 570.320 to 570.360 and 570.405:

(1) "Infected" means any appearance of a disease on trees or plants that may be a menace to horticultural or farm crops.

(2) "Infested" means when the adult, egg, larvae or pupae of an insect or other plant pest is found in such numbers as, in the opinion of the State Department of Agriculture, to be a menace to horticultural or farm crops.

(3) "Plant pest" means:

(a) A disease, microscopic organism, insect, nematode, arthropod, parasite or a noxious weed as defined in ORS 569.175, capable of having a significant adverse effect on the environmental quality of this state or of causing a significant level of economic damage in this state, including but not limited to damage to agricultural, horticultural or forest plants, crops, commodities or products; and

(b) Any biotic agent identified in an order or rule of the department as capable of having a significant adverse effect on the environmental quality of this state, or of causing a significant level of economic damage in this state, including but not limited to damage to agricultural, horticultural or forest plants, crops, commodities or products. [2015 c.203 §4]

570.005 [Repealed by 2009 c.98 §31]

COUNTY HORTICULTURAL INSPECTORS

570.010 County horticultural inspectors; appointment; term; powers and duties. (1) Upon petition of not less than 25 resident fruit growers of any county of this state, the governing body of a county may, subject to the approval of the Director of Agriculture, appoint a county horticultural inspector, whose duties are:

(a) To inspect orchards, nurseries, trees, shrubs, vines, fruits, vegetables, plants, packing houses, warehouses, storerooms, farms and other places within the county.

(b) To visit and inspect the fruit drying and packing plants while the plants are in operation.

(c) To enforce the regulations required by the State Department of Agriculture governing the handling, drying and packing of apples, loganberries or other fruits evaporated and packed for human consumption.

(d) To enforce all laws of the state relating to insects or other plant pests that affect trees, vines, plants of any kind or fruit or vegetables of any kind and all other horti-

cultural laws, rules and regulations of the state.

(2) The county horticultural inspector shall hold office during the pleasure of the county governing body. [Amended by 1971 c.397 §1; 2013 c.120 §3; 2015 c.203 §5]

570.015 Deputy inspectors. Upon a petition of not less than 25 resident fruit growers of any county of this state, the county court of such county may, subject to the approval of the Director of Agriculture, appoint one or more deputy county horticultural inspectors. Each deputy inspector shall hold office during the pleasure of the county court and shall have and perform all the powers and duties of a county horticultural inspector.

570.020 Inspectors may enter premises. The county horticultural inspectors, deputy county horticultural inspectors and all other persons authorized to enforce the horticultural and inspection laws of Oregon may enter upon or into any premises, land, buildings, enclosures or other places for the purpose of:

(1) Inspecting any article that is subject to or may be subject to infestation with any insect or other plant pest injurious to any article that grows upon, in or from the soil by processes of plant growth, or the eggs, larvae or pupae of an insect or other plant pest injurious to an article or articles; or

(2) Enforcing any of the laws of this state relating to horticultural quarantine or horticultural inspection or the abatement of horticultural nuisances or any other duties imposed by law upon the inspectors and other persons authorized to enforce the inspection and horticultural laws of Oregon. [Amended by 2015 c.203 §6]

570.025 Instruction, education and supervision of inspectors; reports. The State Department of Agriculture shall instruct and educate the county and deputy county horticultural inspectors as to the laws and quarantine regulations of the state, and the rules and regulations of the department. The inspectors shall perform their duties under the general supervision of the department, to which they shall make reports in the manner prescribed by the department.

570.030 Compensation of inspectors; office supplies; clerical help. (1) Each county horticultural inspector and deputy inspector shall be paid for services by the county and actual necessary expenses incurred in the performance of duties. The county horticultural inspector and each deputy inspector shall report monthly to the State Department of Agriculture the time for which the inspector or deputy inspector is entitled to pay during the month for which

such report is made, and a statement of actual necessary expenses incurred in the performance of duties as such inspector, and the department shall certify the report to the county court before such compensation and expenses shall be paid.

(2) The county court shall supply the county and deputy county horticultural inspectors with such blanks, stationery, postage, equipment and clerical hire as are needed in the performance of their official duties.

570.035 Appeals from inspectors' decisions. The State Department of Agriculture shall hear and promptly decide all appeals from the county or deputy county horticultural inspectors. Its decisions shall have full force and effect until set aside by the courts of the state. All appeals from inspectors to the department shall be under the form and regulations prescribed by the department.

570.040 Inspection where inspector unavailable. If any county for any reason fails to appoint a county horticultural inspector or if for any reason the inspector is not available, the nearest inspector available may perform such services, and the compensation of the inspector and the necessary expenses incurred in the performance of duty shall be charged against the county where the service is performed, as if the inspector had been appointed by the county court of such county.

570.045 Assistance of employees of common carriers in locating horticultural articles; refusal or neglect is misdemeanor. All clerks, bookkeepers, express agents, railroad officials, employees, or employees of common carriers shall render to the State Department of Agriculture and its inspectors all assistance in their power in tracing, finding or discovering the presence of any article named in the horticultural laws. Any refusal or neglect on the part of said persons to render such friendly aid to assist in the carrying out of ORS 564.020, 570.010 to 570.050, 570.125, 570.320, 570.335 to 570.360 is a misdemeanor.

570.050 Cooperation of peace officers in enforcing quarantines. All peace officers in this state shall enforce all quarantine measures promulgated by the United States Department of Agriculture and the State Department of Agriculture.

570.055 [Repealed by 2011 c.597 §118]

INSPECTION AND QUARANTINE GENERALLY; ABATEMENT OF NUISANCES

570.105 Definitions for ORS 570.110 to 570.190. As used in ORS 570.110 to 570.190, unless the context requires otherwise, "nursery stock" includes all trees, shrubs, vines, plants, cuttings, grafts, scions, buds, fruit pits, nuts and other seeds of fruit, forest and ornamental trees and shrubs, both deciduous and evergreen, grown for sale or propagation or planting or collected in the wild, and all flowering bulbs, corms, roots, rooted herbaceous plants, or cuttings used or to be used for ornamental purposes, or cut greenery either cultivated or collected in the wild, used for ornamental purposes, but does not include cut flowers, or such cut greenery as ferns, and foliage grown under glass or other artificial covering.

570.110 Inspections and visitations by director and deputies. The Director of Agriculture, and such officers, employees and deputies as the director assigns to such duty, shall visit the different parts of the state and shall see that all regulations of the State Department of Agriculture and all provisions of law to prevent the introduction or spread of fruit pests and diseases of trees or plants injurious to the horticultural interests of the state are enforced. The director forthwith shall, upon the complaint of interested parties, inspect or cause to be inspected by some officer, employee or deputy of the department, orchards, nurseries and other places suspected to be infested with fruit pests or infected with diseases injurious to trees, plants or fruits.

570.115 Quarantine establishment; revocation. (1) If upon report of any officer, employee or deputy of the State Department of Agriculture, the Director of Agriculture is of the opinion that any locality, district, orchard or place is infested with fruit pests or infected with disease injurious to trees, plants or fruits, and liable to spread to other orchards or localities to their damage or injury so as to be a public danger, the director shall, by an order entered in the records of the department, declare such place to be under quarantine. The director shall give notice thereof by posting a notice in writing in a conspicuous place upon the premises, specifying with convenient certainty what place or premises are under quarantine regulations and by delivering a copy of such notice to the owner or person in charge of the premises, if the owner or person in charge may be found thereon. Such place thereafter shall be subject to quarantine regulations of the department.

(2) As soon as, in the opinion of the director the danger from such quarantine lo-

cality has ceased, the director may revoke the quarantine.

570.120 Quarantine powers exercised only in emergencies. The powers conferred in ORS 570.110 and 570.115 shall be exercised only in great and imminent danger to the fruit interests of the state and with utmost caution and regard for the rights of individuals affected, consistent with the safety and welfare of the fruit interest of the whole state.

570.125 Inspector of outgoing shipments. (1) Upon request of any nurseryman or tree dealer doing business within this state, the Director of Agriculture may deputize a suitable person to inspect outgoing shipments from such nurseryman or tree dealer. The nurseryman or tree dealer shall pay the person so deputized for services while they are required by such nurseryman or tree dealer.

(2) In case the shipping business of any two or more nurserymen and tree dealers is not in the aggregate more than one person can inspect properly and such group makes satisfactory arrangements for payment of the person making such inspection, the director may deputize a person to inspect the shipment of all members of such group.

(3) No person deputized by the director to inspect outgoing shipments of nursery stock shall make any certificate concerning such shipments which is not true. No person so deputized shall allow a certificate of inspection given by the person to be attached to any tree, shrub, vine, plant, scion, bud, or box, crate, bale, bundle or container of the same or of any of them unless the person personally has inspected the articles and all of them immediately before signing such certificate, which must be dated in writing at the time it is signed.

(4) The director may revoke deputization of any such person at any time if the director believes such person is not properly doing the duty of the person.

570.130 Shipments marked to indicate place of origin; must be free from plant pests. When any shipment of nursery stock, fruits, vegetables, seed, nuts or field crops is brought into this state or shipped within the state, the required permits, tags or markings of the state of origin must be attached to the container, and the shipment must be free of injurious insects or other plant pests and of eggs, larvae or pupae of injurious insects or other plant pests. [Amended by 2015 c.203 §7]

570.135 Premises may be entered for inspection. The officers, employees, deputies and inspectors of the State Department of Agriculture and the county horticultural inspectors and their deputies may enter at any

time into any car, warehouse, depot, or upon any ship within the boundaries of this state, whether in the stream or at the dock, wharf, mole or any other place where nursery stock, fruit, vegetables, seed, field crops or other articles are received, or in which any articles are imported into the state, for the purpose of making the investigation or examination to ascertain whether the articles are infested with any injurious insects or other plant pests or the eggs, larvae or pupae of injurious insects or other plant pests. [Amended by 2015 c.203 §8]

570.140 Shipment found to contain plant pest; notice to shipper. When any shipment of nursery stock, fruits, vegetables, seed, nuts or field crops is found upon inspection to be infested with injurious insects or other plant pests or the eggs, larvae or pupae of injurious insects or other plant pests, the inspector shall give the shipper notice of the pests found and the manner of disposition, as provided for in ORS 570.145 to 570.165. [Amended by 2015 c.203 §9]

570.145 Procedure when shipment articles can be separated. (1) If, in the judgment of the inspector, materials not infested or infected can be separated from the infested or infected article without danger of the insects or other plant pests or the eggs, larvae or pupae of insects or other plant pests escaping from the article, and the owner or the person having control or possession of the articles desires to separate as instructed, the officer making the inspection shall give permission in writing to make the separation:

- (a) Within a specified time;
- (b) At the expense of the owner or responsible party who authorized the separation; and
- (c) Under the supervision of an official or of a person authorized by the inspector to exercise supervision.

(2) If the official who makes the inspection has other official work awaiting and it appears that the time required for separating and destroying the articles may exceed one hour, the official may authorize and deputize an appropriate person to supervise the separation of the infested or infected articles from the uninfested or uninfected articles and the destruction of the infested and infected articles. The person so authorized shall be paid by the owner or the party who authorized the separation, or by both, for services while supervising the separation and destruction of the articles. [Amended by 2015 c.203 §10]

570.150 Procedure when shipment articles can be treated. When, in the judgment of the inspector, all or part of a

shipment can be treated to exterminate the plant pests or diseases, the owner or responsible agents of the owner shall be so notified. The notice shall include the exact method and materials to be used, and provide that all treatments shall be given under direct supervision of an authorized inspector and shall be done at the expense of the owner or the party who authorized such treatment or both.

570.155 Disposition of shipment when articles not separated or treated. (1) If no provision is made by the inspecting official for disposition by separation or treatment, the notice provided for in ORS 570.140 must require that all condemned materials be promptly shipped out of the state within a specified time, the limit of which may not be less than 48 hours or more than 10 days, according to the nature of the insects or other plant pests. The owner or person in charge of the materials shall ship the materials under the direction of the officer making the inspection and at the expense of the owner or agent of the owner.

(2) If the owner or the agent of the owner fails to comply with the notice, the articles shall be destroyed by the officer at the expense of the owner or agent. If the articles cannot be reshipped out of the state without danger of the insect or other plant pest escaping to the orchards, vineyards, farms, gardens or ornamentals and their products of Oregon, the articles shall immediately be destroyed by, or under the direction of, the inspecting official or the person who inspected the articles. [Amended by 2015 c.203 §11]

570.160 Procedure when shipment is sound, but from infested or infested area. In case the shipment, although apparently sound and not infested or infected by any pests, is from an infested or infected district beyond the limits of this state, the inspector shall notify the owner or person in charge thereof, and shall require such owner or person to fumigate or sterilize such shipment, or to destroy or to treat such shipment in the manner directed by the inspector and under the supervision of the inspector or under the supervision of some person appointed by the inspector for that purpose, or to return it to the point of origin or ship out of the state.

570.165 Service and sufficiency of notices provided for in ORS 570.140 to 570.165. Any notice required by ORS 570.140 to 570.165 must be delivered in person or sent by mail to the owner or person in charge of the infested or infected articles at the last-known place of address of the owner or person in charge. A notice mailed to the shipper or shippers of infested or infected

articles at the return address on any such shipment of infested or infected articles is considered sufficient notice to the owner or owners thereof within the requirements of ORS 570.140 to 570.165. [Amended by 2005 c.22 §387]

570.170 Department to make inspections; infested or infested matter declared public nuisance. The State Department of Agriculture, whenever the department deems necessary, shall cause an inspection to be made of any orchards, nurseries, trees, plants, vegetables, vines or field crops or any fruit packing house, storeroom, salesroom or any other place or thing within this state. Any places, orchards, nurseries, trees, plants, shrubs, vegetables, vines, fruit, field crops or articles found infested or infested with any insects or other plant pests injurious to fruits, plants, trees, vegetables, vines, grain or other field crops, or with seeds, eggs, larvae or pupae of injurious insects or other plant pests liable to spread to other places or localities, or of such a nature as to be a public danger, are declared to be a public nuisance. The department shall give the record owner or owners written notice that the articles, things or places are infested or infected. [Amended by 2015 c.203 §12]

570.175 Procedure for abatement of public nuisance. (1) Whenever any public nuisance as described in ORS 570.170 exists at any place in the state on property of any owner upon whom notice has been served and who has failed or refused to abate such nuisance within the time and in the manner specified in such notice, or when any such nuisance exists on the property of a nonresident or on any property the owner of which cannot be served with notice in the manner provided in ORS 570.190, after diligent search within the county in which such nuisance exists, the State Department of Agriculture shall make a report to the district attorney of the county in which the nuisance exists, or if the nuisance exists on property which lies in two or more counties, to the district attorney of any of such counties, setting forth the description of the property upon which the nuisance exists and naming the pest or other condition which renders such property a nuisance. The district attorney shall prepare from such report and any other available information a petition to the circuit court of the county, signed in manner and form required for a complaint in a civil action, in which the property or premises sought to be declared a nuisance shall be described with reasonable certainty. The petition shall set forth the names of each owner, encumbrancer or other person interested in such property or premises so far as the same can be ascertained from the public records, and pray that the court enter an or-

der declaring such premises or property a public nuisance and directing the abatement of such nuisance by destruction or otherwise.

(2) Such action shall be brought in the name of the State of Oregon by the Director of Agriculture in the official capacity of director and shall proceed as an action not triable by right to a jury.

(3) Service of summons shall be made in the manner provided for service of summons in a civil action; provided, that where service is had by publication, the period of publication required shall be shortened to once a week for two consecutive weeks, and such service by publication is deemed complete upon the expiration of 21 days from and after the date of the first publication of such notice. The person or persons so served by publication shall appear and answer within 31 days from the date of the first publication of such notice.

(4) The court may, upon the application of any party, or upon its own motion, and for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

(5) At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the property or premises have been duly served with notice as prescribed in this section, and further satisfied by competent proof that the conditions of such premises or property warrant its being declared a public nuisance, it shall enter an order condemning such property as a public nuisance and directing that the owner or other person ordered by the court shall destroy such property or abate such nuisance in such other manner as the court shall direct. If the nuisance is abated by any person other than the owner, then in the order of the court directing the abatement of the nuisance the court shall further order that an accurate account of the cost and expense necessary to the abatement be kept and a report made to the court within five days after the completion of the abatement of the nuisance. The report shall be in writing, verified by the one making it and shall be served and filed as a cost bill in a civil action. Objections to the statement, if any, shall be made, served, filed and determined as objections to a cost bill in a civil action. The judgment which orders the abatement of a nuisance shall also provide that the owner or owners of the property upon which the nuisance exists pay the expense of abating the nuisance, that it shall be a judgment lien on the property prior to all other liens and, if not paid within 60 days

after the statement of expense is filed, execution may issue. [Amended by 1979 c.284 §174]

570.180 Summary abatement of nuisance. Any authorized officer, employee or inspector of the State Department of Agriculture may, in any case where an urgent emergency exists, abate any public nuisance, as described in ORS 570.170, in a summary manner, doing as little damage as possible to the things or premises on which or in which such nuisance exists, with notice to the owner or owners sent by mail at or subsequent to the time of such abatement.

570.185 Application of ORS 570.170 to 570.180 limited. The provisions of ORS 570.170 to 570.180 shall not be construed to apply to shipments of infested or infected articles mentioned in ORS 570.135.

570.190 Notices; manner of service; persons authorized to make service; reputed owner considered owner. (1) All notices provided for in ORS 570.140 to 570.190 shall be served upon each owner of the infested or infested premises or chattel, or upon the owner of each, if the premises and chattel are under different ownership. Service shall be made in the following manner:

(a) If the owners are individuals and can with reasonable diligence be found within the county where the infested or infested premises or chattel are, notice shall be served upon one or more of the owners personally, by delivering a copy of the notice certified by the officer making the inspection.

(b) If the owner is a corporation, by delivery of a certified copy to the president or other head of the corporation or to a secretary, cashier or managing agent, or if none of the officers of the corporation can with reasonable diligence be found within the county:

(A) By delivery of a certified copy to any clerk or agent of the corporation who may with reasonable diligence be found within the county; or

(B) If no person described in subparagraph (A) of this paragraph is found, by mailing a certified copy to the principal office of the corporation or to any person authorized to accept legal service for the corporation.

(c) If the owner is a minor under the age of 14 years:

(A) To the minor's father, mother or guardian; or

(B) If no father, mother or guardian of the minor is found within the county, then to any person:

(i) Having the care or control of the minor;

(ii) With whom the minor resides; or

(iii) In whose service the minor is employed.

(d) If the owner is a person judicially declared to be of unsound mind, or incapable of conducting the affairs of the person, and for whom a guardian has been appointed, on the guardian.

(e) If any owner is a resident of the county and personal service of the notice cannot, with diligence, be had, personal service may be made on some person of the family, above the age of 14 years, at the residence or usual place of abode of the owner.

(f) If a notice cannot with reasonable diligence be served as provided in this section, the notice shall be posted by any person qualified to make personal service of the notice in a conspicuous place on the infected or infested premises, or on the premises or conveyance containing the infected or infested chattel.

(2) A notice may be served by any representative of the State Department of Agriculture, or by a sheriff or deputies of the sheriff. The notice shall state the spray to be used or the treatment to be applied for the eradication of insects or other plant pests or the eggs, larvae or pupae of insects or other plant pests. The treatment may include the destruction of infested or infected articles, if destruction is necessary in the judgment of the person inspecting the articles under the authority conferred by law.

(3) For the purposes of ORS 570.130 to 570.190 any reputed owner shall be considered as the owner of any infected or infested premises or chattel. [Amended by 2015 c.203 §13]

570.195 [Repealed by 1961 c.394 §1 (570.196 enacted in lieu of 570.195)]

570.196 [1961 c.394 §2 (enacted in lieu of 570.195); repealed by 2009 c.98 §31]

570.200 [1961 c.394 §4; repealed by 2009 c.98 §31]

570.205 [2009 c.98 §4; repealed by 2015 c.203 §28]

PLANT PESTS

570.210 Control of plant pests not subject to quarantine; rules. The State Department of Agriculture may adopt rules requiring the use of measures to control the spread of a specific plant pest that is not the subject of a quarantine if:

(1) Failure to control the plant pest will have an identifiable effect on plants, with a resulting unacceptable level of economic impact in the state; and

(2) The measures required by the department are of a type proven effective to

achieve the control levels determined by the department for the plant pest. [2009 c.98 §5]

570.215 Prohibition against movement of plant pests; permits; rules. (1) A person may not possess or knowingly move a plant pest within this state unless the person possesses:

(a) A plant protection and quarantine permit issued by the United States Department of Agriculture's Animal and Plant Health Inspection Service, or by a successor to that service, authorizing the possession or movement; or

(b) A State Department of Agriculture permit authorizing the possession or movement.

(2) The State Department of Agriculture may not issue a permit to possess or move a plant pest unless the department determines that the proposed possession or movement will not create a hazard to agricultural, forest or horticultural interests within the state or to the environmental quality of the state.

(3) If the department issues a permit to move a plant pest, the permittee must ensure that a copy of the permit is affixed to or accompanies the shipping container, box, package or other receptacle containing the plant pest. The department may adopt rules governing the attachment or accompaniment. [2009 c.98 §6]

570.220 Research regarding plant pests. The State Department of Agriculture may conduct research to prevent the introduction or spread of plant pests into or within the state. The department may conduct the research independently or as part of a cooperative effort involving other entities. The research may include, but need not be limited to, researching the feasibility of controlling or eradicating plant pests. [2009 c.98 §7]

570.225 Public nuisances; abatement; compensation. (1) The Legislative Assembly finds and declares that:

(a) A plant pest, other than a plant pest possessed or moved in compliance with a permit described in ORS 570.215, is a public nuisance.

(b) A plant, crop or agricultural, horticultural or forest commodity or product, that is infested with or harbors a plant pest is a public nuisance.

(2) The State Department of Agriculture may abate a public nuisance described in subsection (1) of this section by using the public nuisance abatement processes described in ORS 570.170 and 570.180.

(3) The State Department of Agriculture is not required to compensate a person for any loss incurred from the abatement of a

public nuisance under this section or ORS 570.170 or 570.180. This subsection does not apply to compensation for an abatement-related loss that results from the application of a pesticide in a faulty, careless or negligent manner. [2009 c.98 §8]

PROTECTIVE MEASURES AGAINST SPREAD OF PLANT PESTS

570.305 Department officials to prevent introduction of plant pests. The Director of Agriculture, and the chief of the division of plant industry, are authorized and directed to use such methods as may be necessary to prevent the introduction into this state of dangerous insects or other plant pests, and to apply methods necessary to prevent the spread, to establish control and to accomplish the eradication of insects or other plant pests that may seriously endanger agricultural and horticultural interests of the state. The methods may be established or introduced if the director or chief considers control or eradication to be possible and practicable. [Amended by 2015 c.203 §14]

570.310 Cooperation with interested groups and agencies. (1) The Director of Agriculture, and the chief of the division of plant industry, may cooperate with any group of citizens, municipalities and counties in the state, Oregon State University, the extension service, the Secretary of Agriculture of the United States, and such agencies as the director designates to carry out the provisions of this section and ORS 570.305.

(2) The director, acting by and through the chief of the division of plant industry, may in the discretion of the director, provide funds, labor, materials and supplies for the purposes of this section and ORS 570.305.

570.320 Horticultural inspectors to prevent introduction of diseased matter into state. It is the special duty of all officers, employees and deputies to whom the duty to act as horticultural inspectors is assigned, to inspect nursery stock, trees, shrubs, plants, fruits, bulbs and vegetables and other articles mentioned in ORS 570.320 to 570.330, coming from points within the state, and to enforce the provisions of ORS 570.320 to 570.330 and all other horticultural laws of the state relating thereto. Any such officer, employee or deputy of the State Department of Agriculture also shall have all the duties, powers and rights of a county horticultural inspector and are granted jurisdiction to act throughout the state.

570.325 Collaboration with federal department. The officers, employees and inspectors of the State Department of Agriculture and county inspectors are authorized to collaborate with the United

States Department of Agriculture in all matters relating to the inspection of nursery stock, plants, fruits, vegetables, bulbs, seeds or other plant products shipped into this state from foreign countries or from other states or territories.

570.330 Containers and wrappers to be labeled. Each carload, case, box, package, crate, bundle, or bale of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruit or vegetables imported or brought into this state shall have plainly and legibly marked thereon in a conspicuous manner and place, the name and address of the person, firm or corporation shipping the same and the name and address of the consignee; also the name of the country, state or territory where the contents were grown and must show that it contains nursery stock, seedlings or seeds.

570.335 Prunings and cuttings to be burned. No person, firm or corporation owning or operating any nursery, fruit orchard of any kind, hopyards, flower gardens or ornamental trees shall throw any cuttings or prunings or parts of any fruit trees, nursery stock, ornamental trees, or hop vines into any public road, highway, lane, field or other enclosure, or into any watercourse of any kind; but shall destroy such cuttings or prunings or parts with fire within a reasonable time, except when infested or infected with a contagious pest or disease. Such infested or infected prunings, cuttings or parts shall immediately be destroyed by fire.

570.345 Spraying or destroying infested or infected matter; notice. Any person, firm or corporation owning or operating a nursery, fruit orchard, hopyard, flower garden or ornamental trees, and knowing the nursery, fruit orchard, hopyard, flower garden or ornamental trees to be infested or infected with any kind of insect or other plant pest that is or may become a menace to horticultural or farm crops, or on being served with a written notice by the State Department of Agriculture that the nursery, fruit orchard, hopyard, flower garden or ornamental trees are infested or infected, shall immediately spray or destroy the nursery, fruit orchard, hopyard, flower garden or ornamental trees as the department directs. [Amended by 2005 c.22 §388; 2015 c.203 §15]

570.350 Traffic in infested or infected fruit prohibited; seizure; failure of owner to show fruit; sale to canneries and factories permitted. (1) A person may not import into this state, transport within this state or sell or offer for sale by displaying in stores, in or at fruit stands, along public highways or in any other manner within this state fruit that is infested with any insect or other plant pest. The fact that any fruit

bears the marks of scale, insects or disease or is worm eaten, in excess of tolerances permitted by the State Department of Agriculture, is prima facie evidence that the fruit is infested or infected.

(2) If an inspector, or other authorized person of the department, making an inspection of fruit finds that the fruit does not meet the requirements of this section or of other provisions of law, the inspector or other authorized person shall place a seizure on the fruit and immediately serve written notice of the seizure upon the owner or person having possession. The owner or person having possession may not sell or dispose of the seized fruit or move the seized fruit from the place of location provided for in the notice of seizure without written permission from the inspector. The failure of the person in possession of the seized fruit to show the fruit in possession, or a written release signed by a person authorized by the department, is prima facie evidence that the owner or person having possession of the fruit at the time of seizure has violated the provisions of this section.

(3) In addition to the penalties provided for in ORS 570.990, fruit seized for violation of this section shall:

(a) Be disposed of by court order or by consent of the owner or person in possession; or

(b) Be destroyed by the inspector making the seizure or by other persons authorized by the department, by burning or by other means that will completely eradicate the insect or other plant pest, without compensation to the owner, agent or person in possession of the fruit, if it reasonably appears to the inspector or other authorized person that the infestation presents an immediate danger of spreading the insects or other plant pests to orchard or farm crops in this state.

(4) Infested or infected fruit may be sold to evaporators, fruit canneries, fruit product factories or other by-product factories if:

(a) The fruit is used solely for the production of manufactured fruit products, beverages or other manufactured products or by-products; and

(b) The nature of the infestation or infection is not such as to make the article of food or beverage manufactured from the fruit unhealthful or unfit for use as a food or beverage.

(5) The sale of fruit under subsection (4) of this section is subject to grades and regulations adopted by the department. [Amended by 2015 c.203 §16]

570.355 Packing or delivery for shipment of infected fruit is misdemeanor; manufacture into by-product permitted.

Each person who packs or prepares for shipment to any point within this state, or who delivers or causes to be delivered to any express agent or railroad agent or other person or to any transportation company or corporation for shipment to any point outside of this state, any fresh, cured or dried fruit infested with insects or other plant pests injurious to trees, shrubs, plants, fruits or vegetables is guilty of a misdemeanor. This section does not prevent the grower of infected fruit grown within this state from manufacturing the fruit into a by-product or selling and shipping the fruit to a by-product factory. [Amended by 2015 c.203 §17]

570.360 Department to present evidence of violations; prosecution in justice court.

The State Department of Agriculture shall present evidence of violation of any provision of ORS 564.020, 570.010 to 570.050, 570.125, 570.320, 570.335 to 570.355, and 632.490 to the district attorney for the county in which any such violation may occur. Prosecution for such violation may be brought in any of the justice courts of this state.

570.365 [Repealed by 2011 c.597 §118]

570.370 [Repealed by 2009 c.98 §31]

570.375 [Repealed by 2009 c.98 §31]

CONTROL AREAS

570.405 Department may establish control areas; limitations.

(1) The State Department of Agriculture may establish, in accordance with the provisions governing the procedure for the declaring of quarantines contained in ORS 561.510 to 561.590, control areas within this state, if after careful investigation the department determines that the areas are necessary for the general protection of the horticultural, agricultural or forestry industries in this state from insects or other plant pests, or for the eradication or exclusion from the areas of certain plants or their produce, trees or insects or other plant pests that may be a menace to the areas and generally to horticultural, agricultural or forestry industries.

(2) The power and authority to establish control areas and for the eradication or exclusion of certain plants or their produce, trees or insects or other plant pests existing in the areas or to be excluded from the areas shall be exercised reasonably and justly considering the exigencies of the particular situation, the danger to the interests sought to be protected and the immediate and continuing effect upon the property and the owners of the property in the areas established. The department may not exercise the power to

establish control areas unreasonably, unjustly or arbitrarily.

(3) The department, in making a determination, shall define the boundaries of the control areas and specify the character and kinds of plants or their produce, trees or insects or other plant pests to be eradicated or excluded and the manner and method of eradication or exclusion. The provisions of ORS 561.510 to 561.590 apply to this section. [Amended by 1987 c.228 §1; 2015 c.203 §18]

570.407 [1987 c.228 §3; repealed by 2009 c.98 §31]

570.410 Violation of order prohibited.

From and after the date an order creating a control area becomes finally effective, no person shall violate, in whole or in part, any provision of such order.

570.412 Making contracts and receiving funds to carry out control order. The State Department of Agriculture is authorized to contract with and to receive funds from any person, including but not limited to, any governmental agency, county or municipal corporation, for the purpose of carrying on such work as is necessary in enforcing or carrying out the provisions of a control order. Any unexpended funds paid into the department as provided by this section may be returned to such person, governmental agency, county or municipal corporation. Funds received under this section shall be deposited with the State Treasurer and credited to the Department of Agriculture Account. Such funds are continuously appropriated for the purpose of carrying out the purpose of the contract and the control area order under which the money is paid. [1959 c.300 §2; 1967 c.637 §11]

570.415 Revocation of control area order. The Director of Agriculture may, at any time the director believes necessary, revoke any order concerning control areas made by the director. The revocation shall become effective upon the director giving notice by publication in a newspaper of general circulation in the control area. The director shall also give notice by one or more additional methods that reasonably ensure that affected persons and other members of the public have knowledge of the revocation. [Amended by 2015 c.203 §19]

570.420 Cherry fruit fly control area inspector; appointment; duty; pay. The county court or board of county commissioners of each county in which a control area, or any part thereof, has been established for cherry fruit fly control according to ORS 570.405, shall appoint a control area inspector for that county upon the petition of 50 interested persons or 50 percent of the interested persons, whichever is smaller, who are farm owners within the county. The inspector shall work under the direction of and be

responsible to the State Department of Agriculture. The inspector shall carry out the provisions of the control area order. The inspector shall be paid out of the general funds of the county such wages as are fixed by the county court or board of county commissioners.

570.425 Inspector has access to land in area; refusal to comply with control area order. (1) The control area inspector has access to the land within the control area that is within the county for which the inspector was appointed.

(2) In the event an owner or occupant of any land fails or refuses to treat the trees, plants or their produce as provided by the control area order, the inspector shall at once notify the appointing authority of such fact and they shall authorize the inspector and such assistants as the inspector may employ to go upon the land or premises and treat the trees, plants or their produce thereon. The most effective and practical method as approved by the Director of Agriculture shall be used.

570.430 Procedure for collection of expenses incurred by inspector. (1) On the completion of the work, the inspector shall file with the county clerk an itemized statement of expenses necessarily incurred in the operation, including the wages of the inspector for time spent therein, both on the preparation and completion of the operation, verified by the oath of the inspector. When such statement is filed, the county clerk shall cause the same to be entered upon a lien docket prepared for that purpose. The amount of the expenses when so docketed shall constitute a first lien upon such land and premises, except as to taxes. The county court or board of county commissioners shall hear and promptly decide any objection to the amount of expenses assessed.

(2) If the expenses are not paid and the lien discharged by the owner or occupant of the lands within 90 days from the date the lien is docketed, the county may recover the expenses in an action at law. [Amended by 1991 c.459 §436]

570.435 Expenses to be paid by county. If no objection has been filed, as authorized in ORS 570.430, within 10 days from the date of filing and docketing the lien, the county court or board of county commissioners shall pay out of the general funds of the county to the persons to whom the expenses are owing the amount thereof.

570.450 Rapeseed control areas. The State Department of Agriculture may establish control areas for the production of rapeseed as provided in ORS 570.405. The department may appoint advisory boards to

advise and counsel the department on the boundaries of the control areas, the type of rapeseed species and varieties which may be produced in the various control areas and the enforcement of control area orders. [1989 c.287 §2]

(Temporary provisions relating to 2013-2019 limits on Willamette Valley canola production)

Note: Sections 1 to 5, chapter 724, Oregon Laws 2013, provide:

Sec. 1. (1) As used in this section:

(a) "Canola" means plants of the genus Brassica:

(A) In which seeds having a high oil content are the primary economically valuable product; and

(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.

(b) "Raising" means personal or commercial growing for oil, seed, forage, cover crop or other use.

(c) "Willamette Valley Protected District" means the area encompassed within a rectangle formed by the point in Tillamook County that is the northwest corner of township 1 north, range 6 west, the point in Multnomah County that is the most northeastern point of township 1 north, range 2 east within Oregon, the point in Lane County that is the southeast corner of township 19 south, range 2 east and the point in Lane County that is the southwest corner of township 19 south, range 6 west.

(2) The amount of canola planted per year within the Willamette Valley Protected District may not exceed 500 acres. Any canola grown within the protected district must be grown for the purpose of allowing the College of Agricultural Sciences of Oregon State University to carry out the research duties of the college under section 4 of this 2013 Act. Any growing of canola within the protected district is subject to prior approval by the State Department of Agriculture.

(3) The department may assess a civil penalty, not to exceed \$25,000, against a person that raises canola in violation of subsection (2) of this section. [2013 c.724 §1]

Sec. 2. Section 1 of this 2013 Act applies to the growing of canola planted on or after the effective date of this 2013 Act [August 14, 2013]. [2013 c.724 §2]

Sec. 3. Section 1, chapter 724, Oregon Laws 2013, is repealed on July 1, 2019. [2013 c.724 §3; 2015 c.638 §4]

Sec. 4. (1) As used in this section, "Willamette Valley Protected District" has the meaning given that term in section 1, chapter 724, Oregon Laws 2013.

(2) Subject to the Willamette Valley Protected District production cap established in section 1 (2), chapter 724, Oregon Laws 2013, the State Department of Agriculture may authorize the growing of canola to allow the College of Agricultural Sciences of Oregon State University to carry out the research duties of the college under this section. Any authorization for the growing of canola under this section must be limited to canola crop production cycles that are completed prior to January 1, 2017.

(3) Canola may be grown for purposes of research under this section only if the isolation distance between the canola and other crops equals or exceeds the industry-recommended isolation distance between Brassica specialty seed crops and other crops.

(4)(a) The college shall use field monitoring and other research to develop information and recommendations regarding whether, and under what conditions, canola growing in the Willamette Valley Protected Dis-

trict is compatible with the growing of other crops. The information must include, but not be limited to, a comparison of the compatibility of canola with the growing of other crops to the compatibility of other Brassica seed with the growing of other crops. The college shall submit the information for review by experts having sufficient knowledge of vegetable seed production to provide a thorough and proper evaluation of the quality, significance and originality of the research. The assessment shall include, but not be limited to, a review of available published materials and historical data on canola and Brassica specialty seed production from northern France and from England and New Zealand and a review of how western Washington, western Idaho and central and eastern Oregon manage canola for seed production.

(b) In addition to any other required content, the information and recommendations described in paragraph (a) of this subsection must include, but not be limited to, a map of the Willamette Valley Protected District showing the places within the district where plants of the genus Brassica could be grown while maintaining typical isolation distances from vegetables, vegetable seeds and other crops.

(5) All research described in subsection (4) of this section must be peer reviewed.

(6) The college shall submit a report containing preliminary study information and recommendations as described in subsection (4) of this section to an interim committee of the Legislative Assembly dealing with agriculture no later than November 1, 2017. [2013 c.724 §4; 2015 c.638 §5]

Sec. 5. (1) To the extent that the College of Agricultural Sciences of Oregon State University deems practicable, the college shall conduct field monitoring:

(a) On the acreage that has been used to grow canola for purposes of research under section 4, chapter 724, Oregon Laws 2013;

(b) On the acreage that has been used to grow canola for commercial purposes under section 1 of this 2015 Act [section 1, chapter 638, Oregon Laws 2015]; and

(c) On lands adjacent to acreage used for the research under section 4, chapter 724, Oregon Laws 2013, or used for commercial purposes under section 1 of this 2015 Act, for a period of five years after completing the research under section 4, chapter 724, Oregon Laws 2013.

(2) Monitored areas adjacent to the acreage that has been used to grow canola must include, but need not be limited to, fields planted in forage turnip seed crops, tillage radish seed crops and Brassica specialty seed crops. Any monitoring of acreage that has been used to grow canola or of fields planted in forage turnip seed and radish seed crops must include monitoring for volunteer plants, diseases and insects. Any monitoring of fields planted with Brassica specialty seed crops, other than acreage that has been used to grow canola, must include monitoring for diseases and insects. [2013 c.724 §5; 2015 c.638 §6]

Note: Sections 1 to 3, chapter 638, Oregon Laws 2015, provide:

Sec. 1. (1) As used in this section:

(a) "Canola" means plants of the genus Brassica:

(A) In which seeds having a high oil content are the primary economically valuable product; and

(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.

(b) "Willamette Valley Protected District" means the area encompassed within a rectangle formed by the point in Tillamook County that is the northwest corner of township 1 north, range 6 west, the point in Multnomah County that is the most northeastern point of township 1 north, range 2 east within Oregon, the point

in Lane County that is the southeast corner of township 19 south, range 2 east and the point in Lane County that is the southwest corner of township 19 south, range 6 west.

(2) Notwithstanding sections 1, 2 and 4, chapter 724, Oregon Laws 2013, the State Department of Agriculture may authorize the growing of canola within the Willamette Valley Protected District for commercial purposes as provided in this section. The amount of canola planted under this section within the Willamette Valley Protected District may not exceed 500 acres per year.

(3) The College of Agricultural Sciences of Oregon State University shall use the results of research and field monitoring conducted under sections 4 and 5, chapter 724, Oregon Laws 2013, and any information or recommendations developed under those sections, to identify acreages on which canola may be grown within the Willamette Valley Protected District in a manner that is compatible with the growing of other crops, including but not limited to, the maintenance of isolation distances between the canola and other crops that equals or exceeds the industry-recommended isolation distance between specialty seed crops of the genus Brassica and other crops.

(4) Any growing of canola within the protected district is subject to prior approval by the department. The department may authorize the growing of canola under this section only:

(a) On acreages identified by the college under subsection (3) of this section that were not used for growing canola under chapter 724, Oregon Laws 2013;

(b) In a manner that the college has determined to be compatible with the growing of other crops; and

(c) Under the same conditions that the college imposed by contract for growing canola under chapter 724, Oregon Laws 2013.

(5) Any authorization for the growing of canola under this section must be limited to canola crop production cycles that begin on or after July 1, 2016, and are completed no later than December 31, 2019. The growing of canola in a canola crop production cycle that begins after July 1, 2019, is not subject to this section.

(6) The department may assess a civil penalty, not to exceed \$25,000, against a person that raises canola in violation of the terms of any authorization issued to the person under this section. [2015 c.638 §1]

Sec. 2. (1) The State Department of Agriculture shall develop recommendations regarding means for ensuring the coexistence of the production of canola and the production of other agricultural crops. The recommendations shall include, but need not be limited to, means for providing protections adequate to maintain the unique attributes of the specialty seed industry in this state. The department shall develop the recommendations based upon the information and recommendations reported by the College of Agricultural Sciences of Oregon State University under section 4, chapter 724, Oregon Laws 2013.

(2) The department shall report the recommendations developed by the department under subsection (1) of this section in the manner provided by ORS 192.245, and may provide recommendations for legislation, to an interim committee of the Legislative Assembly dealing with agriculture no later than November 15, 2018. [2015 c.638 §2]

Sec. 3. Section 1 of this 2015 Act is repealed January 2, 2020. [2015 c.638 §3]

570.500 [1999 c.472 §1; repealed by 2009 c.98 §31]

570.505 [Amended by 1985 c.621 §1; renumbered 569.350 in 2009]

570.510 [Amended by 1985 c.621 §2; renumbered 569.355 in 2009]

570.515 [Amended by 1985 c.621 §3; renumbered 569.360 in 2009]

570.520 [Amended by 1975 c.555 §12; renumbered 569.370 in 2009]

570.525 [Renumbered 569.375 in 2009]

570.530 [Amended by 2001 c.219 §1; renumbered 569.380 in 2009]

570.535 [Renumbered 569.390 in 2009]

570.540 [Renumbered 569.395 in 2009]

570.545 [Renumbered 569.400 in 2009]

570.550 [Amended by 1957 c.99 §1; 1985 c.621 §4; 1991 c.459 §437; renumbered 569.410 in 2009]

570.555 [Renumbered 569.415 in 2009]

570.560 [Renumbered 569.420 in 2009]

570.562 [1985 c.621 §5a; 1989 c.570 §1; renumbered 569.425 in 2009]

570.565 [Renumbered 569.435 in 2009]

570.570 [Renumbered 569.445 in 2009]

570.575 [Renumbered 569.450 in 2009]

570.580 [1975 c.555 §10; renumbered 569.470 in 2009]

570.585 [1975 c.555 §9; renumbered 569.475 in 2009]

570.590 [1975 c.555 §11; renumbered 569.480 in 2009]

570.595 [1975 c.555 §13; renumbered 569.490 in 2009]

570.600 [1975 c.555 §§14,15; renumbered 569.495 in 2009]

570.650 [1981 c.699 §1; repealed by 2015 c.203 §28]

570.655 [1981 c.699 §7; repealed by 2015 c.203 §28]

570.660 [1981 c.699 §2; repealed by 2015 c.203 §28]

570.665 [1981 c.699 §3; repealed by 2015 c.203 §28]

570.670 [1981 c.699 §4; repealed by 2015 c.203 §28]

570.675 [1981 c.699 §5; repealed by 2015 c.203 §28]

570.680 [1981 c.699 §6; repealed by 2015 c.203 §28]

IMPORTED TIMBER PRODUCTS INSPECTION PROGRAM

570.700 Definitions for ORS 570.700 to 570.710. As used in ORS 570.700 to 570.710:

(1) “Bone dry ton” means 2,000 pounds of wood chips dried to zero percent moisture.

(2) “Imported” means from any source outside North America and includes those states in Mexico not adjacent to the United States.

(3) “Timber products” means any wood product, including, but not limited to, finished lumber, rough cut lumber, cants, logs, wood chips, sawdust and wood waste.

(4) “Untreated” means not previously treated so as to completely eliminate external and internal insect pests and plant pathogens. [1995 c.450 §2]

570.705 Legislative findings; timber product inspection; assessment of costs.

(1) The Legislative Assembly finds that imported, untreated timber products increase the hazards of introducing and spreading injurious plant pests and diseases in this state and that the State Department of Agriculture is directed to establish and implement an inspection and control program to

safeguard the health of trees and plants in this state.

(2) In carrying out the duties, functions and powers of the department to prevent the introduction and spread of and to control injurious plant pests and diseases, with regard to imported, untreated timber products, the department may:

(a) Inspect such timber products at any facility that receives, handles, transports or processes such products.

(b) Conduct testing and detection activities aimed at plant pests and diseases that may be associated with receiving, handling, transporting or processing such products.

(c) Inspect import permits and bills of lading relating to such products.

(d) Establish regulations controlling the handling, transportation and processing of such products.

(e) Assess and collect from receivers, handlers, transporters and processors of such products fees to recover for the department the cost of conducting the program referred to in this section. [1995 c.450 §3; 2009 c.98 §22]

570.710 Fee for timber products health program. (1) Each person who takes first delivery in this state of imported, untreated timber products on or after July 1, 1995, within one month after taking delivery of such products, shall pay to the State Department of Agriculture a timber products health program fee.

(2) The department, by rule, shall establish a fee schedule as follows:

(a) For wood chips, a fee of not more than 50 cents per bone dry ton.

(b) For timber products in any form other than wood chips, not more than \$5 per one thousand board feet.

(3) All moneys received by the State Department of Agriculture from the timber products health program fee shall be paid into the State Treasury and credited to the Department of Agriculture Service Fund. All such moneys are appropriated continuously to the State Department of Agriculture to carry out the program required by ORS 570.705. [1995 c.450 §4]

FIREWOOD

570.720 Firewood sources; treatment; transportation; supply; sales; rules. (1) As used in this section:

(a) "Firewood" means whole or split pieces of wood that are:

(A) Less than 48 inches in length; and

(B) In a form commonly used for burning in campfires, stoves or fireplaces.

(b) "Invasive species" has the meaning given that term in ORS 570.755.

(2) A person may not transport into or within this state firewood for personal use or sale at, or delivery to, a destination in this state unless:

(a) The firewood is harvested from a source located in this state, Idaho or Washington; or

(b) The firewood has been treated in a manner prescribed by the State Department of Agriculture.

(3) A person may not sell firewood within this state unless:

(a) The firewood is harvested from a source located in this state, Idaho or Washington; or

(b) The firewood is labeled as required by the department and the seller can provide documentation that the firewood has been treated as prescribed by the department.

(4)(a) Persons that transport or supply firewood in this state for other than personal use that is harvested from a source outside of this state, Idaho or Washington shall maintain records, certificates or other documents as required by the department. Persons that sell firewood in this state that is harvested from a source outside of this state, Idaho or Washington shall maintain records, certificates or other documents as required by the department.

(b) The records, certificates or other documents of a person described in paragraph (a) of this subsection that transports or supplies firewood in this state must include, but need not be limited to, information regarding the source of the firewood, any treatment of the firewood and the disposition of the firewood. The records, certificates or other documents of a person described in paragraph (a) of this subsection that sells firewood must include, but need not be limited to, information regarding the source and supplier of the firewood. The department shall adopt rules establishing the required retention time for the records, certificates or documents.

(c) The department may inspect the records, certificates and other documents described in paragraph (b) of this subsection and the inventory and facilities of a person that transports firewood or of a firewood supplier or seller at any time during reasonable business hours and may take samples for purposes of detecting invasive species.

(5) In addition to any other requirement of this section, if firewood is harvested from a source in an area of this state, Idaho or Washington that is subject to a state or federal quarantine for the control of a plant

disease or pest, any harvesting, treating, transporting, supplying or selling of the firewood must be performed in conformance with the quarantine.

(6) The department shall adopt rules for carrying out this section. [2011 c.439 §1]

INVASIVE SPECIES COUNCIL

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

(1) The land, waters and other natural resources of this state are severely affected by an increasing number of invasions by harmful nonnative species;

(2) Invasions by harmful nonnative species are damaging to the environment and cause economic hardship within this state;

(3) The Invasive Species Council is a leader for the conducting of a coordinated and comprehensive effort to prevent the entry of invasive species into this state and to eliminate, reduce and mitigate the effects of invasive species present in this state;

(4) The Invasive Species Council has a strong network of local, state, federal, tribal and private entities that actively and cooperatively combat the threat posed by harmful invasive species;

(5) Rapid response and eradication are the most effective, least costly and most feasible strategies for combating harmful invasive species and preventing expansion by those invasive species;

(6) Invasive species present a serious threat that adversely affects industries vital to the economy of this state, including but not limited to the agriculture, forestry, fishing and tourism industries;

(7) Failure to eradicate or control new infestations and infections of invasive species will reduce the productivity of industries in this state and adversely affect marketing by those industries, resulting in a loss of business and the loss of existing jobs; and

(8) The eradication or control of new infestations or infections of invasive species using funding provided through the Invasive Species Council will benefit the economy of this state by preventing the loss of existing jobs, by promoting and expanding business and by preventing the decline of business. [2009 c.825 §1]

570.755 Definition of invasive species; Invasive Species Council duties. (1) As used in this section, "invasive species" means nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. "Invasive species" does not include humans,

domestic livestock or nonharmful exotic organisms.

(2) The Invasive Species Council shall:

(a) Create and maintain appropriate Internet sites, toll-free telephone numbers or other means of communication for statewide use in reporting sightings of invasive species.

(b) Encourage the reporting of invasive species sightings by publicizing means of communication made available by the council under paragraph (a) of this subsection.

(c) Forward reports of invasive species sightings to appropriate agencies.

(d) Produce educational materials and press releases concerning invasive species.

(e) Conduct educational meetings and conferences.

(f) Develop a statewide plan for dealing with invasive species. The plan should include, but need not be limited to, a review of state authority to prevent the introduction of invasive species and to eradicate, contain or manage existing invasive species.

(g) Solicit proposals and review applications for grants or loans to further projects providing education about invasive species.

(h) Provide grants or loans to agencies, organizations or individuals for eradicating new invasions.

(3) The council may:

(a) Approve the expenditure of funds by the council, or any member thereof, for the production of educational materials or the presentation of educational materials.

(b) Enter into contracts and other agreements with persons, the federal government, state governments and local governments or units of federal, state or local governments or with Indian tribes, on matters pertaining to invasive species.

(c) Adopt rules or perform other acts the council considers reasonable for carrying out the powers, duties and functions of the council. [Formerly 561.685]

570.770 Invasive Species Council; membership; terms. (1) The Invasive Species Council is established within the State Department of Agriculture. The council shall consist of 18 members. The State Invasive Species Coordinator appointed under ORS 570.780 is a nonvoting ex officio member of the council. The following persons are voting ex officio members of the council:

(a) The Director of Agriculture or a designated representative.

(b) The president of Portland State University or a designated representative.

(c) The State Fish and Wildlife Director or a designated representative.

(d) The administrative head of the Sea Grant College of Oregon State University or a designated representative.

(e) The State Forester or a designated representative.

(f) The Director of the Department of Environmental Quality or a designated representative.

(g) The State Marine Director or a designated representative.

(2) The voting ex officio members of the council described in subsection (1) of this section shall collectively appoint 10 voting members to the council.

(3) The term of office of each appointed voting member is two years, but an appointed voting member serves at the pleasure of the voting ex officio members of the council. Before the expiration of a term, the voting ex officio members of the council shall appoint a successor whose term begins on January 1 next following. An appointed voting member may not serve more than two successive terms on the council. If there is a vacancy in an appointed voting member position for any cause, the voting ex officio members of the council shall make an appointment to become immediately effective for the unexpired term.

(4) In making appointments to the council, the voting ex officio members of the council shall endeavor to appoint persons representative of the geographic, cultural and economic diversity of this state. The voting ex officio members of the council may give consideration to nominations submitted by federal and state agencies, local governments, universities, industry and other groups having an interest in invasive species.

(5) A voting appointed member of the council is not entitled to compensation under ORS 292.495. A member of the council is not entitled to reimbursement for expenses. At the discretion of the council, council members may be reimbursed from funds available to the council for actual and necessary travel and other expenses incurred by members of the council in the performance of their official duties, subject to the limits described in ORS 292.495. [Formerly 561.687; 2013 c.181 §1; 2015 c.486 §1]

570.775 Officers; quorum; schedule. (1) The Invasive Species Council shall select a voting ex officio member of the council as chairperson and another voting ex officio member as vice chairperson. Each voting ex officio member of the council shall serve one year as chairperson and one year as vice chairperson during any five-year period. The chairperson and vice chairperson shall have duties and powers necessary for the performance of the functions of those offices as a

majority of the voting ex officio members determines.

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

(3) The council shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the council. [Formerly 561.689]

570.780 Invasive Species Coordinator; administrative expenses of Invasive Species Council. (1) The Invasive Species Council shall appoint a State Invasive Species Coordinator to serve at the pleasure of the voting members of the council.

(2) The State Department of Agriculture is responsible for ensuring payment of the administrative expenses of the council. The State Department of Agriculture may enter into interagency agreements under ORS 190.110 with the State Department of Fish and Wildlife, the State Forestry Department, the Department of Environmental Quality, the State Marine Board, Portland State University and Oregon State University for sharing the administrative expenses of the council.

(3) The State Department of Agriculture shall act as the fiscal agent of the council for purposes of:

(a) Budgeting, interagency agreements for sharing administrative expenses or other mechanisms for paying the administrative and other expenses of the council;

(b) Drafting and processing contracts, other agreements, grant applications or other documents;

(c) Receiving gifts, grants, donations or other moneys on behalf of the council and ensuring the appropriate crediting of those moneys to the Invasive Species Council Account or the trust account described in ORS 570.800; and

(d) Taking all reasonable actions to ensure the council is in compliance with state financial administration laws. [Formerly 561.691; 2013 c.181 §2; 2015 c.486 §2]

570.790 Advisory and technical committees. (1) The Invasive Species Council may establish advisory and technical committees that it considers necessary to aid and advise the council in the performance of its functions. The committees may be continuing or temporary committees. The council shall determine the representation, membership, terms and organization of the committees and appoint their members.

(2) Members of the committees are not entitled to compensation, but at the discretion of the council may be reimbursed from funds available to the council for actual and

necessary travel and other expenses incurred by members of the committees in the performance of their official duties, subject to ORS 292.495. [Formerly 561.693]

570.800 Invasive Species Council Account; trust account. (1) The Invasive Species Council Account is established in the General Fund of the State Treasury. Except as provided under subsection (2) of this section, all moneys received by the Invasive Species Council shall be paid into the State Treasury and credited to the account. All moneys in the account are continuously appropriated to the council and may be used by the council for purposes authorized by law, including but not limited to providing grants or loans as described under ORS 570.755.

(2) The Invasive Species Council may accept moneys through gifts, grants and donations from public and private sources. The council shall deposit the gifts, grants and donations with the State Treasurer for credit to a trust account separate and distinct from the General Fund. Interest earned by the trust account shall be credited to the trust account. Except as otherwise provided by the donor, the council may use trust account moneys for any purpose described in ORS 570.755. [Formerly 561.695]

570.810 Invasive Species Control Account; control effort funding; reimbursement of administrative expenses. (1) As used in this section, "invasive species" has the meaning given that term in ORS 570.755.

(2) The Invasive Species Control Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Invasive Species Control Account shall be credited to the account. Moneys in the account are continuously appropriated to the Invasive Species Council for the purpose of carrying out this section.

(3) The Invasive Species Council may expend moneys from the account to provide funding for efforts by agencies, organizations and individuals to eradicate or control new infestations and infections of invasive species. The council shall adopt criteria and procedures for the funding of efforts to eradicate or control new infestations and infections of invasive species.

(4) Invasive species eradication and control effort costs that may be funded from the account include, but are not limited to, costs associated with:

- (a) Surveys to delimit areas infested or infected by invasive species;
- (b) Inspections;
- (c) Enforcement actions;
- (d) Diagnosis of infestation and infection problems;

(e) Rapid response planning and coordination;

(f) Administration;

(g) Eradication or control of infestations and infections;

(h) Treatment and disposal of infested or infected materials;

(i) Cleaning and disinfecting of infested or infected premises or vessels; and

(j) Payment of indemnity to owners of infested or infected materials destroyed under an eradication or control program.

(5) In addition to any costs described under subsection (4) of this section, if the State Department of Agriculture pays an administrative expense of the council related to the provision of funding from the account, account moneys may be expended to reimburse that administrative expense in an amount equal to the lesser of the actual expense paid by the department or 10 percent of the funding that was provided from the account. [2009 c.825 §2]

570.850 [2009 c.764 §1; renumbered 830.587 in 2011]

570.855 [2009 c.764 §2; 2011 c.683 §1; renumbered 830.589 in 2011]

570.860 [2009 c.764 §3; renumbered 830.594 in 2011]

570.865 [2009 c.764 §4; renumbered 830.999 in 2011]

BEDBUGS

570.880 Confidentiality of bedbug infestation reports. (1) As used in this section:

(a) "Bedbug" means a member of the Cimicidae family of parasitic insects.

(b) "Public health authority" means:

(A) A local public health authority, as defined in ORS 431.003; or

(B) The Oregon Health Authority.

(2) The following information reported by pest control operators to a public health authority must be maintained confidentially and is not subject to disclosure under ORS 192.410 to 192.505:

(a) The location of a site where a pesticide intended to prevent, destroy, repel or mitigate an infestation of bedbugs has been applied or is to be applied;

(b) The identity of any person who owns, rents or leases property at the site described in paragraph (a) of this subsection; and

(c) Any information describing or pertaining to the infestation or suspected infestation at the site described in paragraph (a) of this subsection.

(3) Nothing in this section prevents a public health authority from publishing statistical compilations or reports relating to reportable disease investigations if the com-

pilations or reports do not identify individual cases or sources of information. [2013 c.19 §1; 2015 c.736 §104]

PENALTIES

570.990 Penalties. Violation of a provision of ORS 570.010 to 570.050, 570.105 to 570.190, 570.215, 570.320 to 570.360 or 570.410 is a Class A violation. [Amended by 1955 c.166 §1; 1961 c.394 §5; 1985 c.621 §6; 1999 c.1051 §202; 2009 c.98 §23; 2011 c.9 §78; 2011 c.683 §2; subsections (2) and (3) renumbered 830.998 (1) and (2) in 2011]

570.995 Civil penalties for quarantine or control area order violations. (1) In addition to any applicable fine under ORS 570.990 or other penalty, a person is subject to imposition by the State Department of Agriculture of a civil penalty, not to exceed \$10,000, if the person:

(a) Violates a quarantine order issued under ORS 570.115;

(b) Violates ORS 570.410; or

(c) Fails to timely pay a fee required under ORS 570.710.

(2) Each violation of a quarantine order issued under ORS 570.115, violation of ORS 570.410 or failure to timely pay a fee required under ORS 570.710 is a separate offense subject to a separate civil penalty.

(3) The department shall develop one or more schedules setting the amounts of civil penalties that may be imposed for particular types of violations.

(4) The imposition of a civil penalty under this section is subject to ORS 183.745.

(5) The State Treasurer shall deposit all moneys from penalties recovered under this section into the Department of Agriculture Account.

(6) Moneys from civil penalties recovered under this section for violation of a quarantine order issued under ORS 570.115 are continuously appropriated to the department for the administration and enforcement of quarantine laws under ORS 570.110 to 570.190.

(7) Moneys from civil penalties recovered under this section for a violation of ORS 570.410 are continuously appropriated to the

department for the administration and enforcement of control area programs.

(8) Moneys from civil penalties recovered under this section for failure to timely pay a fee under ORS 570.710 are continuously appropriated to the department for the administration of the timber products health program described under ORS 570.705 and 570.710. [1999 c.390 §4; 2009 c.98 §24]

570.997 Civil penalties for plant pest control or movement violation. (1) In addition to any applicable fine under ORS 561.993 or 569.990 or other penalty, a person is subject to imposition by the State Department of Agriculture of a civil penalty, not to exceed \$10,000, if the person:

(a) Violates a rule adopted under ORS 570.210; or

(b) Violates the conditions of a permit described in ORS 570.215.

(2) Each violation of a rule adopted under ORS 570.210 or of a condition of a permit described in ORS 570.215 is a separate offense subject to a separate civil penalty.

(3) The department shall develop one or more schedules setting the amounts of civil penalties that may be imposed for particular types of violations.

(4) The imposition of a civil penalty under this section is subject to ORS 183.745.

(5) The State Treasurer shall deposit all moneys from penalties recovered under this section into the Department of Agriculture Account. Moneys deposited under this subsection are continuously appropriated to the State Department of Agriculture for carrying out plant pest prevention and control activities. [2009 c.98 §10]

570.998 Civil penalty for firewood violation. Violation of ORS 570.720 or a State Department of Agriculture rule adopted under ORS 570.720 is punishable by a civil penalty, not to exceed \$10,000. The imposition of a civil penalty under this section is subject to ORS 183.745. Any civil penalty recovered under this section shall be deposited in the Invasive Species Control Account established under ORS 570.810. [2011 c.439 §2]