Chapter 467

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Noise Control

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467.010 Legislative findings and policy. The Legislative Assembly finds that the increasing incidence of noise emissions in this state at unreasonable levels is as much a threat to the environmental quality of life in this state and the health, safety and welfare of the people of this state as is pollution of the air and waters of this state. To provide protection of the health, safety and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions, it is hereby declared that the State of Oregon has an interest in the control of such pollution, and that a program of protection should be initiated. To carry out this purpose, it is desirable to centralize in the Environmental Quality Commission the authority to adopt reasonable statewide standards for noise emissions permitted within this state and to implement and enforce compliance with such standards. [1971 c.452 §1]

467.020 Emission of noise in excess of prescribed levels prohibited. Except as provided in ORS 467.131 and 467.133, no person may emit, cause the emission of, or permit the emission of noise in excess of the levels fixed therefor by the Environmental Quality Commission pursuant to ORS 467.030. [1971 c.452 §3; 1995 s.s. c.3 §40c; 1996 c.8 §2]

467.030 Adoption of noise control rules, levels and standards. (1) In accordance with the applicable provisions of ORS chapter 183, the Environmental Quality Commission shall adopt rules relating to the control of levels of noise emitted into the environment of this state and including the following:

(a) Categories of noise emission sources, including the categories of motor vehicles and aircraft.

(b) Requirements and specifications for equipment to be used in the monitoring of noise emissions.

(c) Procedures for the collection, reporting, interpretations and use of data obtained from noise monitoring activities.

(2) The Environmental Quality Commission shall investigate and, after appropriate public notice and hearing, shall establish maximum permissible levels of noise emission for each category established, as well as the method of measurement of the levels of noise emission.

(3) The Environmental Quality Commission shall adopt, after appropriate public notice and hearing, standards for the control of noise emissions which shall be enforceable by order of the commission.

(4) In adopting noise control rules, levels and standards under this section, the Environmental Quality Commission shall not adopt any rule that would impose liability for any activity for which immunity from civil and criminal liability is granted or for which an action for nuisance is prohibited under ORS 467.131 and 467.133. [1971 c.452 §2; 1973 c.107 §1; 1973 c.835 §159; 1995 s.s. c.3 §40d; 1996 c.8 §4]

467.035 Determination of exempt noise emission sources; rules. (1) In addition to the powers of the Environmental Quality Commission described in ORS 467.060, the commission by rule may exempt a class of activity within a category of noise emission sources from the application of a rule establishing maximum permissible levels of noise emission for that category of noise emission sources.

(2) In determining whether to grant an exemption pursuant to subsection (1) of this section, the commission shall consider:

(a) Protection of the health, safety and welfare of the citizens of this state;

(b) Feasibility and cost of noise abatement; and

(c) Past, present and projected patterns of land use and such state and local laws and regulations as are applicable thereto. [1977 c.511 §3]

467.040 Powers of Environmental Quality Commission; rules. The Environmental Quality Commission has the power to investigate complaints regarding excessive noise emission, to hold hearings, to issue orders, to make rules, to impose sanctions, and to do any other thing necessary to carry out the policies of this state as set forth in this chapter. [1971 c.452 §4]

467.050 Enforcement powers. The Environmental Quality Commission shall have the further power to enforce compliance with or restrain violation of this chapter or rules or orders made thereunder in the same manner provided for enforcement proceedings under ORS chapters 468, 468A and 468B. [1971 c.452 §5; 1973 c.826 §5; 1973 c.835 §160; 1974 c.36 §16]

467.060 Variances; issuance, revocation or modification; grounds; rules. (1) The Environmental Quality Commission by order may grant specific variances from the particular requirements of any rule or standard to such specific persons or class of persons or such specific noise emission source, upon such conditions as it may consider necessary to protect the public health, safety and welfare. The specific variance may be limited in duration. The commission shall grant a specific variance only if it finds that strict compliance with the rule or standard is inappropriate because:

(a) Conditions exist that are beyond the control of the persons applying for the variance;

(b) Special circumstances render strict compliance unreasonable, unduly burdensome or impractical due to special physical conditions or cause;

(c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or

(d) No other alternative facility or method of operating is yet available.

(2) The commission by rule may delegate to the Department of Environmental Quality, on such conditions as the commission may find appropriate, the power to grant variances and to make the finding required by subsection (1) of this section to justify any such variance.

(3) In determining whether or not a variance shall be granted, the commission or the department shall consider the equities involved and the advantages and disadvantages to residents and to the person conducting the activity for which the variance is sought.

(4) A variance may be revoked or modified by the commission. The commission may revoke or modify a variance if it finds:

(a) Violation of one or more conditions of the variance;

(b) Material misrepresentation of fact in the variance application or other representations of the variance holder;

(c) Material change in any of the circumstances relied upon by the commission or department in granting the variance; or

(d) A material change or absence of any of the circumstances set forth in subsection (1)(a) to (d) of this section.

(5) The procedure for denial, modification, or revocation of a variance shall be the procedure for a contested case as provided in ORS chapter 183. [1977 c.511 §2]

467.100 Local regulation of noise sources; exemption from state enforcement; rules. (1) Pursuant to this chapter, in order to protect the health, safety and welfare of its citizens, a city or county may adopt and enforce noise ordinances or noise standards otherwise permitted by law. A city or county may also adopt such standards for a class of activity exempted by the commission or noise emission sources not regulated by the commission.

(2) The commission may by rule withdraw from enforcement any or all of its rules or standards adopted pursuant to this chapter within the boundaries of any city or county, if the commission finds such city or county:

(a) Has adopted noise standards that are at least as stringent as and no less protective than those standards adopted by the state; and

(b) Has a program of active enforcement of such standards which, in the commission's view, is at least as protective of the public health, safety and welfare as would be the enforcement provided by the department.

(3) The commission may modify or repeal such a rule as is made in accordance with subsection (2) of this section with regard to any particular city or county if it finds material change in any of the circumstances relied upon by the commission in making such rule. Such rulemaking shall be in conformance with the provisions of ORS chapter 183.

(4) Nothing in this section is intended to preclude contractual arrangements between a city or county and a state agency for services provided for the enforcement of state or local noise emission control standards. [1977 c.511 §4]

467.120 Agricultural and forestry operations; mining or rock processing. (1) Except as provided in subsection (3) of this section, agricultural operations and forestry operations are exempt from the provisions of this chapter.

(2) As used in this section:

(a) "Agricultural operations" means the current employment of land and buildings on a farm for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, vermiculture products or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural operations or any combination thereof including the propagation and raising of nursery stock and the preparation and storage of the products raised for human use and animal use and disposal by marketing or otherwise by a farmer on such farm.

(b) "Forestry operations" means an activity related to the growing or harvesting of forest tree species on forestland as defined in ORS 526.324 (1).

(3) The following operations are not exempt from the provisions of subsections (1) and (2) of this section:

(a) The mining or processing of rock, aggregate or minerals within one-half mile of a noise sensitive area, if:

(A) The operation operates more than nine hours per day during the period subject to the daytime standards established by the Environmental Quality Commission under ORS 467.030; or

(B) The operation operates more than five days per week.

(b) Any mining or processing of rock, aggregate or minerals within one-half mile of a noise sensitive area during the period subject to the nighttime noise emission standards established by the Environmental Quality Commission under ORS 467.030. [1979 c.413 §2; 1983 c.730 §2; 1985 c.681 §1; 2005 c.657 §6]

467.130 [1995 s.s. c.3 §40; repealed by 1996 c.8 §5 (467.131 enacted in lieu of 467.130)]

467.131 Exemption from civil or criminal liability based on noise or noise pollution from shooting range. Any owner, operator or lessee of a rifle, pistol, silhouette, skeet, trap, blackpowder or other shooting range in this state shall be immune from civil or criminal liability based upon an allegation of noise or noise pollution so long as:

(1) The allegation results from the normal and accepted activity on the shooting range;

(2) The owner, operator or lessee complied with any applicable noise control law or ordinance existing at the time construction of the shooting range began or no noise control law or ordinance was then existing; and

(3) The allegation results from activity on the shooting range occurring between 7 a.m. and 10 p.m. or conducted for law enforcement training purposes. [1996 c.8 §6 (enacted in lieu of 467.130)]

Note: 467.131 to 467.138 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 467 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

467.132 [1995 s.s. c.3 §40a; repealed by 1996 c.8 §7 (467.133 enacted in lieu of 467.132)]

467.133 Exemption from action for nuisance on basis of noise caused by shooting range. The owner, operator or lessee of a rifle, pistol, silhouette, skeet, trap, blackpowder or other shooting range in this state shall not be subject to any action for nuisance and no court in this state shall enjoin the use or operation of such shooting range on the basis of noise or noise pollution so long as:

(1) The allegation results from the normal and accepted activity on the shooting range;

(2) The owner, operator or lessee complied with any applicable noise control law or ordinance existing at the time construction of the shooting range began or no noise control law or ordinance was then existing; and

(3) The allegation results from activity occurring between 7 a.m. and 10 p.m. or conducted for law enforcement training purposes. [1996 c.8 §8 (enacted in lieu of 467.132)]

Note: See note under 467.131.

467.135 [1995 s.s. c.3 §40b; repealed by 1996 c.8 §9 (437.136 enacted in lieu of 467.135)]

467.136 Preemption of certain local regulation of shooting range. Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a shooting range a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to a shooting range for which no action or claim is allowed under ORS 467.131 and 467.133. [1996 c.8 §10 (enacted in lieu of 467.135)]

Note: See note under 467.131.

467.137 [1995 s.s. c.3 §40e; repealed by 1996 c.8 §11 (467.138 enacted in lieu of 467.137)]

467.138 Limitation on law enforcement training exemption for shooting range. The exemption allowed under ORS 467.131 and 467.133 for shooting activity conducted for law enforcement training purposes shall be allowed only:

(1) For up to four nights a month; and

(2) After the owner, lessee or operator provides notice of the activity at least one week before the activity occurs by publication in a newspaper of general circulation in a county in which the shooting range is located. [1996 c.8 §12 (enacted in lieu of 467.137)]

Note: See note under 467.131.

467.990 Penalties. Violation of any provision of this chapter or rules or orders made under the provisions of this chapter is a Class B misdemeanor. Each day of violation shall be considered a separate offense. [1971 c.452 §6; 1973 c.835 §161]