

Chapter 570

2009 EDITION

Plant Pest and Disease Control; Invasive Species

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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 county court of such 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 such plants are in operation.

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

(d) To enforce all laws of the state relating to such insect pests and such diseases as affect trees, vines, plants of any kind, or fruit or vegetables of any kind and all other horticultural laws, rules and regulations of the state.

(2) The county horticultural inspector shall hold office during the pleasure of the county court. [Amended by 1971 c.397 §1]

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 are authorized and empowered to enter upon or into any premises, land, buildings, enclosures or other places for the purpose of inspecting any article which is subject to or may be subject to infestation with any insect injurious to any article which grows upon or in or from the soil by processes of plant growth, or the eggs, larvae or pupae of such insects or with any disease injurious to any such article or articles and for the further purpose of 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 such inspectors and other persons authorized to enforce the inspection and horticultural laws of Oregon.

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 570.055, 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 Disposition of fines. All fines imposed under ORS 570.990 for violation of any of the provisions of ORS 570.010 to 570.050 shall, when collected, be paid to the treasurer of the county where imposed, to be placed in the current expense fund of such county and to be used to assist in defraying the expenses of horticultural inspection.

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 locality 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 depute 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 depute 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 pests and disease. When any shipment of nursery stock, fruits, vegetables, seed, nuts or field crops are brought into this state or shipped within the state they must have attached to the container the required permits, tags or markings of the state of origin, and must be free of injurious insect pests and diseases or their eggs, larvae or pupae or other pests.

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 such nursery stock or fruit or vegetables or seed or field crops or other such articles are received, or in which any of such articles are imported into the state, for the purpose of making the investigation or examination to ascertain whether such articles are infested with any injurious insects or their eggs, larvae or pupae or other plant pests or diseases.

570.140 Infested or infected shipment; notice to shipper. When any shipment of nursery stock, fruits, vegetables, seed, nuts or field crops are found upon inspection to be infested with injurious insect pests or diseases or their eggs, larvae or pupae or other plant pests, the inspector shall give notice to the shipper of the pests or diseases found and the manner of disposition, as provided for in ORS 570.145 to 570.165.

570.145 Procedure when infested or infected shipment can be separated. When, in the judgment of the inspector, materials not infested or infected can be separated from the infested or infected article without danger of escape from such article of the insects, their eggs, larvae or pupae, diseases or other plant pests and the owner, person, firm or corporation having control or possession of such articles desires to separate as instructed, the officer making the in-

spection shall give permission in writing to make such separation within a specified time and at the expense of the owner or responsible party who authorized the separation and under the supervision of such official or some person authorized by the inspector to exercise such supervision. Whenever the official who makes such inspection has other official work awaiting and it appears that the time required for separating and destroying such articles may exceed one hour, the official may authorize and deputize some proper 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 such articles.

570.150 Procedure when infested or infected shipment 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 neither separated nor treated. (1) When no provision is made by the inspecting official for disposition by separation or treatment, the notice provided for in ORS 570.140 will require that all condemned materials be promptly shipped out of the state within a specified time, the limit of which shall be not less than 48 hours nor more than 10 days, according to the nature of the insects or diseases. The owner or person in charge thereof shall so ship such articles, but such shipment shall be made under the direction of the officer making the inspection and shall be 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. In case the articles cannot be reshipped out of the state without danger of escape of the pest or disease to the orchards, vineyards, farms, gardens, ornamentals, and their products of Oregon, the articles shall immediately be destroyed by the inspecting official or the person who has inspected the same or under the direction of the official or person.

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 it deems it 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 such places, orchards, nurseries, trees, plants, shrubs, vegetables, vines, fruit or field crops or articles found infested or infected with any insects, pests, diseases or fungous growth or noxious weeds, or the seeds thereof, injurious to fruits, plants, trees, vegetables or vines or grain, or other field crops, or with eggs or larvae liable to spread to other places or localities, or of such nature as to be a public danger, hereby are declared to be a public nuisance. The department shall notify in writing the record owner, or owners, of such articles, things or places that the same are so infested or infested.

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 order 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 such infected or infested premises or chattel, or upon the owner of each, if such premises and chattel are under different ownership. Service shall be made in the following manner:

(a) If such owners are individuals and can with reasonable diligence be found within the county where such infested or infected premises or chattel are, it shall be served upon such owners, or at least one of them, personally, by delivering a copy thereof certified to by the officer making the inspection.

(b) If such owner is a corporation, by delivery of such certified copy to the president or other head of the corporation, secretary, cashier or managing agent, or in case none of the officers of such corporation can with reasonable diligence be found within such county, then to any clerk or agent of such corporation who may with reasonable diligence be found within such county; or if no such officer is found, then by mailing such copy to the principal office of such corporation or to any person authorized to accept legal service for said corporation.

(c) If such owner is a minor under the age of 14 years, to such minor's father, mother or guardian; or, if none is found within such county, then to any person having the care or control of such minor, or with whom the minor resides, or in whose service the minor is employed.

(d) If such 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 such guardian.

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

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

(2) Such 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 insect pests, their eggs, larvae, and contagious diseases and fungous growths. The treatment may include the destruction of infested or infected articles, if such destruction is necessary in the judgment of the person inspecting the same 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.

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]

PLANT PESTS

570.205 Definitions for ORS 570.210 to 570.225. As used in ORS 570.210 to 570.225, “plant pest” means:

(1) 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 the 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

(2) Any biotic agent identified in an order or rule of the State Department of Agriculture as capable of having a significant adverse effect on the environmental quality of the 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. [2009 c.98 §4]

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 DISEASE AND PESTS

570.305 Department officials to prevent introduction of pests and diseases. 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 the state of dangerous insect pests and plant diseases, and to apply methods necessary to prevent the spread, and to establish control and accomplish the eradication of such pests and diseases, which may seriously endanger agricultural and horticultural interests of the state, which may be established or may be introduced, whenever in their opinion such control or eradication is possible and practicable.

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; "infested" and "infected" defined. (1) Any person, firm or corporation owning or operating a nursery, a fruit orchard, a hopyard, a 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 pest or disease 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 such nursery, fruit orchard, hopyard, flower garden or ornamental trees are so infested or infected, shall immediately spray or destroy the nursery, fruit orchard, hopyard, flower garden or ornamental trees in such manner as the department directs.

(2)(a) "Infested" means when the adult, egg or larvae form of the insect is found in such numbers as, in the opinion of the department, to be a menace to horticultural or farm crops.

(b) "Infected" means any appearance of a disease on such trees or plants that may be a menace to horticultural or farm crops. [Amended by 2005 c.22 §388]

570.350 Traffic in infested fruit prohibited; seizure; failure of owner to show fruit; sale to canneries and factories permitted. (1) No person, firm or corporation shall import into this state or transport within this state or sell or offer for sale by displaying in stores, in or at fruit stands, or along public highways or in any other manner within this state fruit of any kind which is infested with any insect pest or is infested with any disease. The fact that any fruit bears the marks of scale, insects or is worm eaten, or bears the marks of a disease in excess of tolerances permitted by the State Department of Agriculture is prima facie evidence that the fruit is infested or infected within the meaning of this section.

(2) When an inspector, or other authorized person of the department, making an inspection of fruit finds that such fruit does not meet the requirements of this section or of other sections of the law relating to such fruit, the inspector or other authorized person shall place a seizure on such fruit and immediately serve notice in writing of such

seizure upon the owner or person having possession. The owner or person having possession shall 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 so to do. The failure of the person in possession of the seized fruit to show such fruit in possession, or a written release signed by a proper person authorized by the department so to do, is prima facie evidence that the owner or person having possession of such fruit at 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 be disposed of by court order or by consent of the owner or person in possession; or when the infestation is such as to cause immediate danger of spread of pests or diseases to orchard and farm crops growing from or on the soil of Oregon, such fruit or fruits immediately shall 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 pest or disease, and without compensation to the owner, agent or person in possession of such fruit, where it appears beyond a reasonable doubt that the infestation is such as will cause immediate spread of pests or diseases. Such infested or infected fruit may be sold to evaporators, fruit canneries, fruit product factories, or other by-product factories under the following conditions:

(a) Fruit so sold shall be used solely for the production of manufactured fruit products, beverages or other manufactured products or by-products.

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

(c) The sale of such fruit shall be subject to such grades and regulations as the department adopts.

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 the 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 without the state, any fresh, cured or dried fruit infected with insect pests or diseases injurious to trees, shrubs, plants, fruits or vegetables is guilty of a misdemeanor. This section does not prevent the grower of such infected fruit

grown within this state from manufacturing the same into a by-product or selling and shipping the same to a by-product factory.

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 570.055, 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 Proceeds from fines; use. All fines imposed under ORS 570.990 for violation of any of the provisions of ORS 570.335 to 570.360, when collected, shall be paid to the treasurer of the county where imposed, to be placed in the current expense fund of such county and used to assist in defraying the expenses of horticultural inspectors.

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 it determines that such areas are necessary for the general protection of the horticultural, agricultural or forest industries of the state from diseases, insects, animals or noxious weeds or for the eradication or exclusion from such areas of certain plants or their produce, trees, diseases, animals, insects or noxious weeds that may be a menace to such areas and generally to horticultural, agricultural or forestry industries. Whenever eastern filbert blight is found to exist, the department may declare it a hazard and may establish a control area without having to prove how the disease is transmitted.

(2) The power and authority to establish such control areas and for the eradication or exclusion of certain plants or their produce, trees, diseases, insects, animals or noxious weeds existing therein or to be excluded therefrom 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. Such powers shall in no case be exercised unreasonably, unjustly or arbitrarily.

(3) The department in such determination shall define the boundaries of the areas and specify the character and kinds of plants or their produce, trees, diseases, insects, animals or noxious weeds to be eradicated or excluded and the manner and method of such eradication or exclusion. The provisions of ORS 561.510 to 561.590 apply to this section. [Amended by 1987 c.228 §1]

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 such action necessary, revoke any order concerning control areas made by the director by giving notice in a newspaper published within or near the control area or lands affected and filing proof thereof with the county clerk of the county.

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]

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]

INTERSTATE COMPACT ON PEST CONTROL

570.650 Interstate Compact on Pest Control. The Pest Control Compact is hereby enacted into law in Oregon and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON PEST CONTROL ARTICLE I Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately \$10 billion from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities

when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

ARTICLE II Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

(e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing Board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive Committee" means the committee established pursuant to Article V (e) of this compact.

ARTICLE III The Insurance Fund

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The Insurance Fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the

rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the Insurance Fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

ARTICLE IV
The Insurance Fund, Internal
Operations and Management

(a) The Insurance Fund shall be administered by a Governing Board and Executive Committee as hereinafter provided. The actions of the Governing Board and Executive Committee pursuant to this compact shall be deemed the actions of the Insurance Fund.

(b) The members of the Governing Board shall be entitled to one vote each on such board. No action of the Governing Board shall be binding unless taken at a meeting at which a majority of the total number of votes on the Governing Board are cast in favor thereof. Action of the Governing Board shall be only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the Governing Board may provide.

(d) The Governing Board shall elect annually, from among its members, a chairman, a vice-chairman, a secretary and a treasurer. The chairman may not succeed self. The Governing Board may appoint an executive director and fix the duties and the compensation of the executive director, if any. Such executive director shall serve at the pleasure of the Governing Board. The Governing Board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The Governing Board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States or any

other governmental agency, or from any person, firm, association or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the Governing Board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Insurance Fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The Governing Board shall adopt bylaws for the conduct of the business of the Insurance Fund and shall have the power to amend and rescind these bylaws. The Insurance Fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The Insurance Fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

ARTICLE V
Compact and Insurance Fund
Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of the state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in the state; and
2. Represent the state on the Governing Board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Governing Board of the Insurance Fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote

on the Governing Board or on the Executive Committee thereof.

(c) The Governing Board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the Insurance Fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the Insurance Fund. Additional meetings of the Governing Board shall be held on call of the chairman, the Executive Committee, or a majority of the membership of the Governing Board.

(d) At such times as it may be meeting, the Governing Board shall pass upon applications for assistance from the Insurance Fund and authorize disbursements therefrom. When the Governing Board is not in session, the Executive Committee thereof shall act as agent of the Governing Board, with full authority to act for it in passing upon such applications.

(e) The Executive Committee shall be composed of the chairman of the Governing Board and four additional members of the Governing Board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The Governing Board shall make such geographic groupings. If there is representation of the United States on the Governing Board, one such representative may meet with the Executive Committee. The chairman of the Governing Board shall be chairman of the Executive Committee. No action of the Executive Committee shall be binding unless taken at a meeting at which at least four members of such committee are present and vote in favor thereof. Necessary expenses of each of the five members of the Executive Committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the Governing Board, shall be charges against the Insurance Fund.

ARTICLE VI

Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the Insurance Fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.

2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.

3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control or prevention of introduction of the pest concerned.

4. Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.

5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the Insurance Fund in one year or less, or whether the request is for an instalment in a program which is likely to continue for a longer period of time.

6. Such other information as the Governing Board may require consistent with the provisions of this compact.

(d) The Governing Board or Executive Committee shall give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the Governing Board or Executive Committee shall authorize support of the program. The Governing Board or the Executive Committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the Governing Board or Executive Committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the Executive Committee shall upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the Governing Board. Determinations of the Executive Committee shall be reviewable only by the Governing Board at one of its regular meetings, or at a special meeting held in such manner as the Governing Board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the Insurance Fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Governing Board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the Insurance Fund pursuant to an application of a requesting state, the Insurance Fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the Federal Government and shall request the appropriate agency or agencies of the Fed-

eral Government for such assistance and participation.

(i) The Insurance Fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states and any other entities concerned.

ARTICLE VII Advisory and Technical Committees

The Governing Board may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the Governing Board or Executive Committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by such board or committee and the board or committee may receive and consider the same: Provided that any participant in a meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof, or, if made thereafter, no later than the time at which the Governing Board or Executive Committee makes its disposition of the application.

ARTICLE VIII Relations with Nonparty Jurisdictions

(a) A party state may make application for assistance from the Insurance Fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee may provide. A nonparty state shall not be entitled to review of any determination made by the Executive Committee.

(c) The Governing Board or Executive Committee shall authorize expenditures from the Insurance Fund to be made in a nonparty

state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the Insurance Fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

ARTICLE IX Finance

(a) The Insurance Fund shall submit to the executive head or designated officer or officers of each party state a budget for the Insurance Fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: One-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the "Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing two-year period. The Claims Account shall contain all moneys not included in the Operating Account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the Insurance Fund for a period of three years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the Governing Board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any moneys in the Claims Account by virtue of conditional donations,

grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with moneys available to it under Article IV (g) of this compact, provided that the Governing Board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of moneys available to it under Article IV (g) hereof, the Insurance Fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

ARTICLE X Entry into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE XI Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof

to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[1981 c.699 §1]

570.655 Meaning of “executive head.”

As used in the compact (ORS 570.650), with reference to this state, the term “executive head” shall mean the Director of Agriculture or a designated and appointed representative. [1981 c.699 §7]

570.660 Cooperation of state agencies with Insurance Fund. Consistent with law and within available appropriations, the State Department of Agriculture and other departments, agencies and officers of Oregon may cooperate with the Insurance Fund established by the Pest Control Compact. [1981 c.699 §2]

570.665 Insurance Fund bylaws to be filed with State Department of Agriculture. Pursuant to Article IV (h) of the compact (ORS 570.650), copies of bylaws and amendments thereto shall be filed with the State Department of Agriculture. [1981 c.699 §3]

570.670 Compact administrator. The compact administrator for Oregon shall be the Director of Agriculture, or a designated and appointed representative. The duties of the compact administrator shall be deemed a regular part of the office. [1981 c.699 §4]

570.675 Application for assistance. Within the meaning of Article VI (b) or Article VIII (a) (ORS 570.650), a request or application for assistance from the Insurance Fund may be made by the Director of Agriculture or a designated and appointed representative of the director, whenever in the judgment of the director the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request. All such requests are subject to ORS 291.375. [1981 c.699 §5]

570.680 Credit of expenditure to department account. The department, agency or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to the account of the department, agency or officer in the State Treasury the amount or amounts of any payments made to this state to defray the cost of such program,

or any part thereof, or as reimbursement thereof. [1981 c.699 §6]

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]

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. Except as pro-

vided in ORS 570.780 (1), the council shall consist of 15 members. 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.

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

(3) The term of office of each appointed member is two years, but an appointed 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 member may not serve more than two successive terms on the council. If there is a vacancy in an appointed 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) An 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]

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) Subject to available funding, the Invasive Species Council may appoint a State Invasive Species Coordinator to serve at the pleasure of the voting members of the council. If the council appoints a coordinator, the coordinator shall serve as a nonvoting ex officio member 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, 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]

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]

AQUATIC INVASIVE SPECIES

570.850 Definitions for ORS 570.855 to 570.865. As used in ORS 570.855 to 570.865:

(1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture by rule.

(2) "Recreational or commercial watercraft" means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors. [2009 c.764 §1]

570.855 Watercraft check stations. (1) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture are authorized to:

(a) Operate check stations for the purpose of inspecting recreational or commercial watercraft for the presence of aquatic invasive species.

(b) Decontaminate, or recommend decontamination of, any recreational or commercial watercraft that is inspected at a check station operated under authority of this section.

(2) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft. [2009 c.764 §2]

570.860 Report of prevention efforts.

(1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245. [2009 c.764 §3]

570.865 Penalty for transporting aquatic invasive species; exceptions; use of penalty moneys; rules. (1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 570.855 (1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife

Director shall use in determining the amount of civil penalties under this section. [2009 c.764 §4]

PENALTIES

570.990 Penalties. Violation of a provision of ORS 570.010 to 570.050, 570.105 to 570.190, 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]

570.995 Civil penalties. (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 Other civil penalties; use of penalty moneys. (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]
