

Chapter 449

Water and Air Pollution Control

Chapter 449

NOTES OF DECISIONS

Present statute is an amended form of the anti-pollution statute of 1938. *State Sanitary Authority v. Pac. Meat Co.*, (1961) 226 Or 494, 360 P2d 634.

FURTHER CITATIONS: *Martin v. Reynolds Metals Co.*, (1963) 224 F Supp 978, aff'd, 337 F2d 780; *Hayden Island, Inc. v. Dept. of Environmental Quality*, (1970) 4 OTR 69, aff'd, 258 Or 597, 484 P2d 1106.

ATTY. GEN. OPINIONS: License of electrical contractor, 1956-58, p 11; power of state to regulate nuclear power installations, (1970) Vol 34, p 996; respective powers of Rogue River Coordination Board and the department, (1970) Vol 35, p 29; department certifying compliance with federal standards, (1970) Vol 35, p 52.

LAW REVIEW CITATIONS: 3 WLJ 293.

449.016 to 449.070

LAW REVIEW CITATIONS: 3 WLJ 284-293, 298, 299.

449.032

ATTY. GEN. OPINIONS: Department certification of compliance with federal standards, (1970) Vol 35, p 52.

449.035

ATTY. GEN. OPINIONS: Receiving and dispensing funds for research in water pollution, 1948-50, p 344.

449.055

ATTY. GEN. OPINIONS: Notice and hearing necessary before order involving abatement of pollution is promulgated, 1948-50, p 350.

449.060

CASE CITATIONS: *Renkin v. Harvey Aluminum, Inc.*, (1963) 226 F Supp 169.

449.064

LAW REVIEW CITATIONS: 2 EL 203.

449.070

ATTY. GEN. OPINIONS: Respective powers of Rogue River Coordination Board and the department, (1970) Vol 35, p 29.

449.075 to 449.150

LAW REVIEW CITATIONS: 1 EL 73-77.

449.075

ATTY. GEN. OPINIONS: Authority to establish water quality standards, 1966-68, p 383; respective powers of Rogue River Coordination Board and the department, (1970) Vol 35, p 29; department certifying compliance with federal standards, (1970) Vol 35, p 52; city sewers discharging into river, (1970) Vol 35, p 241.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.077

CASE CITATIONS: *Hayden Island, Inc. v. Dept. of Environmental Quality*, (1970) 4 OTR 69, aff'd 258 Or 597, 484 P2d 1106.

ATTY. GEN. OPINIONS: Authority to establish water quality standards, 1966-68, p 383; respective powers of Rogue River Coordination Board and the Department of Environmental Quality, (1970) Vol 35, p 29; department certifying compliance with federal standards, (1970) Vol 35, p 55.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.079

CASE CITATIONS: *Columbia R. Fishermen's Protective Union v. City of St. Helens*, (1939) 160 Or 654, 87 P2d 195.

ATTY. GEN. OPINIONS: Silt as "matter", 1940-42, p 193; manner of preventing deposit in streams by mining companies of materials injurious to fish, 1940-42, p 55; recourse of game commission against persons for prohibited acts injuring fish, 1942-44, p 375, 1946-48, p 541; respective powers of Rogue River Coordination Board and the department, (1970) Vol 35, p 29; city sewers or industries, discharging into river, (1970) Vol 35, p 241.

449.081

ATTY. GEN. OPINIONS: Department certification of compliance with federal standards, (1970) Vol 35, p 52.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.082

ATTY. GEN. OPINIONS: Authority of Sanitary Authority to increase sewer service rate charges upon hearing or investigation, 1940-42, p 72; Sanitary Authority's discretion in spending money to conduct educational programs concerning abatement of Willamette River pollution, 1942-44, p 113; laws relating to pollution of waters as applying to municipalities and individuals, 1942-44, p 371; authority of Sanitary Authority to recommend to a municipality a program for sewage disposal, and legally order enactment of a particular ordinance, 1942-44, p 371; directory nature of

section, 1948-50, p 344; notice and hearing necessary before order involving abatement of pollution is promulgated, 1948-50, p 350; authority to establish water quality standards, 1966-68, p 383; department certification of compliance with federal standards, (1970) Vol 35, p 52.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.083

ATTY. GEN. OPINIONS: Authority to enforce water quality standards, 1966-68, p 383; city sewers discharging into river, (1970) Vol 35, p 241.

449.086

ATTY. GEN. OPINIONS: Authority to establish water quality standards, 1966-68, p 383; respective powers of Rogue River Coordination Board and the department, (1970) Vol 35, p 29; city sewers discharging into river, (1970) Vol 35, p 241.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.088

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.090

NOTES OF DECISIONS

Objections to orders are waived by failure to seek remedy provided by this section. State Sanitary Authority v. Pac. Meat Co., (1961) 226 Or 494, 360 P2d 634.

Statutory procedure for judicial review is exclusive. Id.

FURTHER CITATIONS: Hayden Island, Inc. v. Dept. of Environmental Quality, (1970) 4 OTR 69, aff'd 258 Or 597, 484 P2d 1106.

ATTY. GEN. OPINIONS: Notice and hearing necessary before order involving abatement of pollution is promulgated, 1948-50, p 350.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.092

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.095

ATTY. GEN. OPINIONS: Duty of Sanitary Authority to enforce laws relating to pollution of waters of the state, 1942-44, p 371.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.097

ATTY. GEN. OPINIONS: Authority to enforce water quality standards, 1966-68, p 383.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.100

NOTES OF DECISIONS

The complainant is entitled to no greater relief than was demanded in the complaint. State Sanitary Authority v. Pac. Meat Co., (1961) 226 Or 494, 360 P2d 634.

ATTY. GEN. OPINIONS: Availability of in rem proceeding against water pollution nuisances, 1964-66, p 132; authority to enforce water quality standards, 1966-68, p 383.

LAW REVIEW CITATIONS: 3 WLJ 284-293.

449.103

ATTY. GEN. OPINIONS: Recourse of game commission against persons for prohibited acts injuring fish, 1942-44, p 375, 1946-48, p 541.

449.105

ATTY. GEN. OPINIONS: Pollution of stream in manner mentioned in statute as violation of law whether water used for domestic or municipal purposes, 1924-26, p 595; application of section where stream is polluted by hogs or by the drainage from manure, 1928-30, p 535; procedure in connection with complaint concerning disposal of Baker City sewage into Powder River, 1930-32, p 630; application to manure stored for fertilizer, 1966-68, p 542.

449.107

ATTY. GEN. OPINIONS: Agency responsible for costs, supervision of litter patrol, (1970) Vol 34, p 889.

449.125

ATTY. GEN. OPINIONS: Statute as prohibiting enlargement of cemetery established prior to enactment thereof, 1934-36, p 713.

449.215

ATTY. GEN. OPINIONS: Authority of board of health over inland waters, 1934-36, p 143; authority of board of health to promulgate regulations pertaining to interior water piping in buildings and the disinfection of water mains before being placed in service, 1936-38, p 585; duty of board of health in regard to application to supply water from creek, 1934-36, p 625; authority of board of health by rules and regulations to control the use of sewage and sewage plant effluents for irrigation or any other use that constitutes a hazard to public health, 1938-40, p 493, 1944-46, p 465.

449.220

ATTY. GEN. OPINIONS: Duty and authority of board of health as to application of water company to supply water from creek to a community, over objection of a timber company, 1934-36, p 625.

449.225

ATTY. GEN. OPINIONS: Discontinuance of city water service to districts outside of the city limits due to sewage conditions, 1948-50, p 276.

449.230

ATTY. GEN. OPINIONS: Discontinuance of city water service to districts outside of the city limits due to sewage conditions, 1948-50, p 276.

449.245

ATTY. GEN. OPINIONS: Discharge of sewage into a tributary of the Deschutes River, 1934-36, p 143.

449.305

ATTY. GEN. OPINIONS: Location of mineral claim upon city owned watershed, 1938-40, p 20; city's jurisdiction to prohibit logging of privately owned timber within watershed, 1940-42, p 607.

449.310

LAW REVIEW CITATIONS: 1 EL 73-77.

449.315

ATTY. GEN. OPINIONS: Authority of city peace officers to protect water systems, transmission lines, etc., from damage by saboteurs, 1940-42, p 562.

449.320

ATTY. GEN. OPINIONS: Cemetery within 300 yards of source of city water supply, 1934-36, p 713; application of statute to pollution of stream by mining, 1938-40, p 20.

449.327

ATTY. GEN. OPINIONS: Authority of State Police to arrest for violation of city ordinance, 1964-66, p 105.

449.395

LAW REVIEW CITATIONS: 3 WLJ 287.

449.410

ATTY. GEN. OPINIONS: Most suitable method of furnishing sewage disposal service for incorporated and unincorporated area with one plant, 1948-50, p 454.

449.435

ATTY. GEN. OPINIONS: Contracting between municipalities for joint sewage facilities, 1948-50, p 454; use of county general funds to finance sewer service facilities, 1966-68, p 445.

449.455

ATTY. GEN. OPINIONS: Advancement of funds from bond proceeds to a municipality for preliminary planning of waste treatment facility, (1971) Vol 35, p 727.

449.505 to 449.580

LAW REVIEW CITATIONS: 3 WLJ 298, 299; 1 EL 73-77.

449.505

ATTY. GEN. OPINIONS: Constitutionality, 1946-48, p 168.

449.605 to 449.665

CASE CITATIONS: Hayden Island, Inc. v. Dept. of Environmental Quality, (1970) 4 OTR 69, aff'd, 258 Or 597, 484 P2d 1106.

449.635

NOTES OF DECISIONS

Until taxpayer has a certificate from the department, he is not entitled to any tax relief. Hayden Island, Inc. v. Dept. of Environmental Quality, (1970) 4 OTR 69, aff'd, 258 Or 597, 484 P2d 1106.

449.670 to 449.701

LAW REVIEW CITATIONS: 1 EL 93.

449.685

ATTY. GEN. OPINIONS: Advancement of funds to a municipality for preliminary planning of waste treatment facility, (1971) Vol 35, p 727.

449.702

LAW REVIEW CITATIONS: 50 OLR 90.

449.760 to 449.845

CASE CITATIONS: Diercks v. Hodgdon, (1964) 237 Or 186, 390 P2d 935; McElwain v. Georgia-Pac. Corp., (1966) 245 Or 247, 421 P2d 957.

ATTY. GEN. OPINIONS: Applicability of Portland ordinance to Military Department 1966-68, p 78; regional authorities as members of Public Employes' Retirement System, 1966-68, p 319; relative jurisdiction of rural fire protection districts and regional air quality authority, 1966-68, p 558.

LAW REVIEW CITATIONS: 46 OLR 478-485; 50 OLR 90-96; 3 WLJ 287; 1 EL 125-128.

449.760

ATTY. GEN. OPINIONS: Extent of authority's power to regulate polluting emissions, 1966-68, p 229; division of authority between various agencies, 1966-68, p 614.

LAW REVIEW CITATIONS: 1 EL 73-77; 2 EL 188.

449.765

CASE CITATIONS: Renkin v. Harvey Aluminum, Inc., (1963) 226 F Supp 169.

LAW REVIEW CITATIONS: 1 EL 73-77; 2 EL 188-200, 204.

449.770

LAW REVIEW CITATIONS: 2 EL 204.

449.775

ATTY. GEN. OPINIONS: Limits on authority to issue burning permits, (1970) Vol 35, p 160.

449.781

ATTY. GEN. OPINIONS: Rule-making authority of regional air pollution authority, 1966-68, p 614.

LAW REVIEW CITATIONS: 46 OLR 483.

449.785

ATTY. GEN. OPINIONS: Extent of authority's power to regulate polluting emissions, 1966-68, p 229; rule-making authority of regional air pollution authority, 1966-68, p 614.

LAW REVIEW CITATIONS: 1 EL 73-78.

449.790

LAW REVIEW CITATIONS: 1 EL 73-77.

449.800	449.850 to 449.925
ATTY. GEN. OPINIONS: Rule-making authority of regional air pollution authority, 1966-68, p 614.	LAW REVIEW CITATIONS: 50 OLR 90-96; 1 EL 125-128.
449.805	449.855
LAW REVIEW CITATIONS: 1 EL 73-77.	ATTY. GEN. OPINIONS: Relative jurisdiction of rural fire protection district and regional authority, 1966-68, p 558; rule-making authority of regional air pollution authority, 1966-68, p 614.
449.820	LAW REVIEW CITATIONS: 50 OLR 90; 1 EL 73-77; 2 EL 203.
NOTES OF DECISIONS	
This section recognizes that the Air Pollution Law does not pre-empt the field. <i>Renkin v. Harvey Aluminum</i> , (1963) 226 F Supp 169.	
For purposes of this section, actions or suits relating to private or public nuisances include those sounding in trespass. <i>Reynolds-Metal Co. v. Martin</i> , (1964) 224 F Supp 978, aff'd, 337 F2d 780.	
FURTHER CITATIONS: <i>Diercks v. Hodgdon</i> , (1964) 237 Or 186, 390 P2d 935.	
ATTY. GEN. OPINIONS: Open burning near city, (1970) Vol 35, p 241.	449.875
LAW REVIEW CITATIONS: 46 OLR 476; 1 EL 80.	ATTY. GEN. OPINIONS: Rule-making powers of regional air pollution authority, 1966-68, p 614.
449.825	LAW REVIEW CITATIONS: 1 EL 73-77.
LAW REVIEW CITATIONS: 2 EL 202-213.	449.890
449.830	LAW REVIEW CITATIONS: 1 EL 73-77.
LAW REVIEW CITATIONS: 46 OLR 251, 263.	449.990
449.840	CASE CITATIONS: <i>McElwain v. Georgia-Pac. Corp.</i> , (1966) 245 Or 247, 421 P2d 957.
ATTY. GEN. OPINIONS: Limits on authority to issue burning permits, (1970) Vol 35, p 160.	ATTY. GEN. OPINIONS: Authority to enforce water quality standards, 1966-68, p 383.
	LAW REVIEW CITATIONS: 46 OLR 476, 478-485; 50 OLR 91; 3 WLJ 293, 298, 299; 1 EL 125-128; 2 EL 202-213.