

Chapter 573

Control of Application of Agricultural Herbicides

LICENSING; GENERAL PROVISIONS

- 573.005 Definitions
- 573.015 Application of chapter limited
- 573.025 License necessary to engage in custom application of herbicides
- 573.035 Aircraft operator's license necessary to apply herbicides by air
- 573.045 Business associations may engage in business of application of herbicides
- 573.055 Written examination for applicants for agricultural aircraft operator's or custom applicator's license
- 573.065 When and where examinations are to be held
- 573.075 Additional qualifications for applicant for agricultural aircraft operator's license
- 573.085 Issuance of licenses; expiration date
- 573.095 Registration of aircraft before using to apply herbicides; registration certificate; renewal; displaying on aircraft
- 573.105 License and registration fees
- 573.115 Refusal, suspension or revocation of licenses
- 573.125 Filing proof of financial responsibility before making application of herbicides; indemnification for damages to land or crops
- 573.135 Prohibitions regarding application of herbicides
- 573.145 Proof of loss to be filed before bringing action arising out of herbicide application
- 573.155 Publication of manual on herbicide application by department
- 573.165 Course of instruction in the application of herbicides conducted by department
- 573.175 Disposition of moneys received by department as fees

PROTECTED AND RESTRICTED AREAS

- 573.405 Petition for organization of protected area
- 573.415 Petition filing fee; advancing moneys to pay cost of proposed hearing and referendum
- 573.425 Hearing on organization of protected area; notice of hearing
- 573.435 Determination by department regarding need for protected area
- 573.445 Referendum upon organization of protected area after determination of need by department
- 573.455 Supervision of hearing and referendum by department; expenses; informalities do not invalidate
- 573.465 Declaration of creation of protected area; establishing area as a political subdivision of state
- 573.475 Nomination and election of three members of first governing committee of area
- 573.485 Appointment of two members of committee by department; qualifications; terms
- 573.495 Committee organization; terms; vacancies; quorum; compensation; dealing in herbicides prohibited
- 573.505 Annual meeting; notice; selection of candidates to fill committee vacancies
- 573.515 Committee to provide for bonds, records and annual audit
- 573.525 Committee may hire assistant
- 573.535 Procedure for creation of restricted area
- 573.545 Regulations governing application of herbicides
- 573.555 Committee may levy tax
- 573.565 Procedure for inclusion of additional territory or withdrawal of territory
- 573.575 Procedure for consolidating protected areas
- 573.585 Area deemed validly organized upon proof of issuance of certificate of organization

PENALTIES

- 573.990 Penalties

CROSS REFERENCES

Economic poisons, sale and use of, Ch. 634
Validation of East Umatilla Chemicals Control District organized under repealed chapter, 1953 c.496 §38

573.035

Aerial spraying of forest lands, 527.510 to 527.540

573.435

Boundaries not to include territory in another protected area, 573.465

573.515

Allowance for bond expense, 747.110

LICENSING; GENERAL PROVISIONS

573.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Agricultural aircraft operator" means any person engaged for hire as the pilot of any aircraft while used for the application of any herbicides for agricultural purposes and shall not include the pilot or aircraft engaged in aerial spraying of forests or forest products.

(2) "Custom applicator" means any person making application of herbicides for hire, other than by aircraft.

(3) "Department" means the State Department of Agriculture.

(4) "Herbicide" means any substance used to destroy, repel or mitigate any weed or to prevent any undesirable plant growth.

(5) "Landowner" means a person owning three acres or more within a proposed protected area; and in the case of multiple ownership of land, the owner is only a person whose interest is greater than an undivided one-half interest therein or who holds an authorization in writing from one or more of the other owners whose interests, when added to his interest, are greater than an undivided one-half interest in the land.

(6) "Protected area" means an area created as set forth in ORS 573.405 to 573.525 to regulate the application of herbicides.

(7) "Restricted area" means an area created as set forth in ORS 573.535 to regulate the application of herbicides.

(8) "Weed" means any plant which grows where not wanted. [1953 c.496 §1]

573.010 [Repealed by 1953 c.496 §42]

573.015 Application of chapter limited.

(1) This chapter does not apply to:

(a) Manufacturers of materials engaged in research or experimental work on herbicides.

(b) Persons engaged in the application of any pollenicide or spray used to retard fruit drop.

(c) Agencies and instrumentalities of the United States or the State of Oregon and their officers, agents or employees acting within the scope of their authority in the conduct of research of herbicides.

(2) Nothing in this section shall be construed to exempt from the provisions of this chapter the State of Oregon, counties or cities, their agencies or instrumentalities, engaged in the application of herbicides on

highways or any other place. [1953 c.496 §18]

573.020 [Repealed by 1953 c.496 §42]

573.025 License necessary to engage in custom application of herbicides. No person shall engage in the custom application of herbicides in this state without a license so to do from the department. [1953 c.496 §2]

573.030 [Repealed by 1953 c.496 §42]

573.035 Aircraft operator's license necessary to apply herbicides by air. No person shall apply any herbicides by air without having first obtained an aircraft operator's license from the department. Such license shall be in addition to the requirements under ORS 573.075. [1953 c.496 §3]

573.040 [Repealed by 1953 c.496 §42]

573.045 Business associations may engage in business of application of herbicides. A partnership, association or corporation may engage in the business of custom application of herbicides, or in the business of operating aircraft for hire for the application of herbicides, so long as the actual application is made by a licensed individual. [1953 c.496 §4]

573.050 [Repealed by 1953 c.496 §42]

573.055 Written examination for applicants for agricultural aircraft operator's or custom applicator's license. Each applicant for an agricultural aircraft operator's or a custom applicator's license shall be required to demonstrate satisfactorily by written examination given by the department an adequate knowledge of:

(1) The characteristics of all herbicides, and the effect of their application to particular crops.

(2) The practices of application of herbicides.

(3) The conditions and time of application of herbicides and the precautions to be taken in connection therewith. [1953 c.496 §5]

573.060 [Repealed by 1953 c.496 §42]

573.065 When and where examinations are to be held. Examinations for licenses shall be given by the department at least once annually in Salem, and at such other times and places as appears by the volume of applications to be necessary and practicable. [1953 c.496 §8]

573.070 [Repealed by 1953 c.496 §42]

573.075 Additional qualifications for applicant for agricultural aircraft operator's license. (1) In addition to other qualifications required by this chapter or the laws of this state relating to the operation of aircraft, no person shall be licensed as an agricultural aircraft operator until he has been certified as competent to operate aircraft for such purposes by the Oregon State Board of Aeronautics. No person shall be certified as competent by the board unless such person has a valid commercial license issued by the Civil Aeronautics Administration of the United States Department of Commerce, an effective medical certificate, and a valid pilot's license registration card from the Oregon State Board of Aeronautics.

(2) Each applicant for a license as an agricultural aircraft operator shall successfully complete a flight examination which shall be conducted by the board of aeronautics at the times and places the board deems necessary. Pilots shall be examined to determine their competence to operate aircraft for the application of herbicides. The examination shall consist of the following flight maneuvers:

(a) Cross wind and maximum performance take-off and landings.

(b) Normal and maximum climbs and climbing turns.

(c) Slow flight, gross weight performance.

(d) Stall maneuvers.

(e) Aerial inspection of field and plan of action.

(f) Field runs at 5 and 25 feet altitude.

(g) Maximum performance turns at end of field.

(h) Bordering field runs.

(i) Contour flying, constant speed.

(j) Emergencies involving landings, equipment failure, obstacles and contours.

(3) The certificate provided for in this section shall expire on December 31 of each year. The board of aeronautics may renew the certificate upon application by the agricultural aircraft operator. The board of aeronautics may in its discretion require completion of the examination provided for in subsection (2) of this section before renewal of the certificate is granted.

(4) The board may charge a fee of not to exceed \$10 to defray the cost of the flight examination. [1953 c.496 §7]

573.080 [Repealed by 1953 c.496 §42]

573.085 Issuance of licenses; expiration date. The department shall issue licenses to the applicants it finds to be qualified. Each license shall be valid for one year from the date of issuance, unless revoked or suspended by the department. [1953 c.496 §9]

573.090 [Repealed by 1953 c.496 §42]

573.095 Registration of aircraft before using to apply herbicides; registration certificate; renewal; displaying on aircraft. (1) No agricultural aircraft operator shall operate any aircraft for hire for the purpose of application of herbicides within this state unless the aircraft is registered with the department.

(2) Applications for registration or for renewal of registration shall be made on such form as the department may by regulation prescribe, and shall contain such pertinent data and information with relation thereto as is required by the department.

(3) All registrations under this section shall expire on December 31 of each year, but may be renewed, during the month of December, for the next year, by making application and paying the fee provided in subsection (2) of ORS 573.105.

(4) The registration certificate may be in the form of a license plate or tag, which shall be attached to, and prominently displayed on, the left forward side of the fuselage of each aircraft registered.

(5) The registration required by this section is in addition to any other registration required by law to operate an aircraft in this state. [1953 c.496 §11]

573.100 [Repealed by 1953 c.496 §42]

573.105 License and registration fees. (1) The fee for each license mentioned in ORS 573.035 is \$10. Payment of the license fee shall accompany each application for a license or, if the license has been suspended, each application for reinstatement thereof.

(2) The fee for the registration of agricultural aircraft mentioned in ORS 573.095 is \$1. Payment of the registration fee shall accompany each application for registration.

(3) In the event any application for issuance or reinstatement of a license is not granted, no refund of the fee shall be made. [1953 c.496 §12]

573.110 [Repealed by 1953 c.496 §42]

573.115 Refusal, suspension or revocation of licenses. (1) The refusal, suspension or revocation of any license issued by

the department shall be in accordance with the procedure provided in ORS 561.310 to 561.390. The department may suspend or revoke any license if it finds that the licensee has made any custom application of herbicides or any application of any herbicides by aircraft in a faulty or negligent manner, or has violated any provision of this chapter or regulation promulgated thereunder.

(2) The department may reinstate suspended licenses upon such terms and conditions as the department may by regulation provide. [1953 c.496 §10]

573.120 [Repealed by 1953 c.496 §42]

573.125 Filing proof of financial responsibility before making application of herbicides; indemnification for damages to land or crops. (1) No person licensed pursuant to this chapter shall make any application of herbicides, unless he has filed with the department proof of financial responsibility as provided in this section.

(2) Financial responsibility may be proved by one of the following:

(a) A policy of liability insurance.

(b) Surety bond.

(3) Financial responsibility must be proved in the amount of \$10,000.

(4) The insurer or surety must be a person authorized to do business in this state as a surety or insurer.

(5) Any policy of insurance or surety bond submitted as proof of financial responsibility shall, in substance and effect, indemnify any person for damages to his lands or crops caused by the negligent application of 24D, 245T and M.C.P.

(6) Proof of financial responsibility shall not be required for damages to the lands to which the application of the herbicides is to be made. [1953 c.496 §17]

573.130 [Repealed by 1953 c.496 §42]

573.135 Prohibitions regarding application of herbicides. (1) No person shall hire any other person as a custom applicator of herbicides unless the latter is licensed as such by the department.

(2) No person shall make application of herbicides, by aircraft or otherwise, within a protected or restricted area, without first obtaining a permit for such application from the committee of the protected or restricted area in which the application is to be made.

(3) No person shall make application of herbicides, by aircraft or otherwise, within a protected or restricted area, contrary to

the conditions or terms of the permit issued authorizing the application of such herbicides within the protected or restricted areas.

(4) No person shall hire any other person as an agricultural aircraft operator unless the latter is licensed as such by the department. [1953 c.496 §13]

573.140 [Repealed by 1953 c.496 §42]

573.145 Proof of loss to be filed before bringing action arising out of herbicide application. No action shall be commenced arising out of the use or application of any herbicide, unless the claimant has filed a verified report of the loss with the department, together with proof of service of such verified report of loss upon the operator allegedly responsible and the person for whom such work was done within a period of 60 days from the occurrence of such loss or within 60 days from the date the claimant knew such loss had occurred. If the damage is alleged to have been occasioned to growing crops, the report shall be filed prior to the time when 50 percent of the crop was harvested. [1953 c.496 §16]

573.150 [Repealed by 1953 c.496 §42]

573.155 Publication of manual on herbicide application by department. The department may prepare a manual containing such information as may be helpful to persons engaged in custom application of herbicides, or in the application of any materials by aircraft. The department may charge for copies of the manual an amount necessary to defray the costs of publication. [1953 c.496 §14]

573.160 [Repealed by 1953 c.496 §42]

573.165 Course of instruction in the application of herbicides conducted by department. The department shall, as often and at such time and place as it determines necessary, conduct a course of instruction in the application of herbicides by aircraft and by custom applicators. [1953 c.496 §6]

573.170 [Repealed by 1953 c.496 §42]

573.175 Disposition of moneys received by department as fees. All fees provided for under this chapter to be paid to the department shall be paid into the State Treasury and shall be placed by the State Treasurer to the credit of the Department of Agriculture Account and, notwithstanding the provisions of ORS 291.238, hereby is continuously appropriated and shall be used

only in the administration of this chapter; provided that from the moneys paid into the State Treasury there shall be transferred to the General Fund, in the same manner, under the same terms and conditions, and for the same purposes as prescribed in ORS 291.368 to 291.372, the same percentage as is transferred under those sections from the gross receipts of the agencies named in ORS 291.374. [1953 c.496 §15]

573.180 [Repealed by 1953 c.496 §42]

573.190 [Repealed by 1953 c.496 §42]

573.200 [Repealed by 1953 c.496 §42]

573.205 to 573.400 [Reserved for expansion]

PROTECTED AND RESTRICTED AREAS

573.405 Petition for organization of protected area. (1) Any 25 or more landowners, or the owners of more than 70 percent of the acres of land lying within the limits of the territory proposed to be organized into a protected area, may file a petition with the department asking that a protected area be organized to function in the territory described in the petition. Such petition shall set forth:

(a) The proposed name of the area.

(b) That there is need in the interest of the general welfare for the organization of a protected area to function in the territory described in the petition.

(c) A generally accurate description of the territory proposed to be organized as a protected area.

(d) A request that the department define the boundaries for such area and that a referendum be held within the territory so defined on the question of the creation of a protected area.

(2) When more than one petition is filed covering parts of the same territory, the department may consolidate all or any of such petitions. [1953 c.496 §19]

573.410 [Repealed by 1953 c.496 §42]

573.415 Petition filing fee; advancing moneys to pay cost of proposed hearing and referendum. (1) All petitions for the creation of a protected area shall be accompanied by a filing fee of \$125.

(2) The department shall prepare a budget estimate, which shall include the cost of preparation of the estimate, the cost of the proposed hearing and the cost of the pro-

posed referendum. The petitioners, upon receipt of the budget estimate, shall remit to the department the difference between the filing fee of \$125 and the total budget estimate. Should the petitioners fail to remit the difference, or for any other reason proceedings for the creation of the area be terminated, any unexpended balance of the \$125 filing fee shall be retained by the department. If the petition results, after the proper proceedings, in the creation of a protected area, the balance of the fee remaining unexpended after defraying the cost of creation of the protected area shall be transferred into a general fund of such area and may be used with any other funds available for the administration of the area. [1953 c. 496 §20]

573.420 [Repealed by 1953 c.496 §42]

573.425 Hearing on organization of protected area; notice of hearing. (1) Within 60 days after such a petition has been filed with the department and upon payment of the total budget estimate required, the department shall cause at least 10 days' written notice to be given of the proposed hearing upon the question of the desirability and necessity of creating such an area, upon the question of the appropriate boundaries to be assigned to the area, upon the propriety of the petition and other proceedings taken under this chapter, and upon all other relevant questions. All owners of land within the limits of the territory described in the petition, and of land within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearing and to be heard.

(2) If it appears at the hearing that it may be desirable to include within the proposed area territory outside of the area in which due notice of the hearing was given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the area, and such further hearing held.

(3) Notice of any hearing required by this chapter shall be given by publication in a newspaper published in the county in which the land affected is situated. If the land is situated in more than one county, such publication shall be made in a newspaper in the county wherein the greater portion of the land is situated. Such notice shall be published once each week for two consecutive

and successive weeks and shall state the date and place of hearing, a description of the land sought to be affected and generally the purposes of the hearing. [1953 c. 496 §21]

573.430 [Repealed by 1953 c.496 §42]

573.435 Determination by department regarding need for protected area. (1) After the hearing, if the department determines upon the facts presented and upon such other relevant facts and information as is available, that there is need in the interest of the general welfare for a protected area to function in the territory considered at the hearing, it shall make and record such determination and define the boundaries of the area. In making the determination and in defining the boundaries, the department shall give due weight and consideration to such factors as crops, topography, climate and prevailing use of chemicals. The territory to be included within the boundaries shall be contiguous.

(2) If the department determines, after such hearing and after due consideration of the relevant facts, that there is no need for a protected area to function in the territory considered at the hearing, it shall make and record such determination, deny the petition and refund any unexpended balance of the sum paid by the petitioners, but not including the original filing fee.

(3) After one year has expired from the date of the denial of any petition, subsequent petitions covering the same or substantially the same territory may be filed, new hearings may be held and determinations may be made thereon. [1953 c.496 §22]

573.440 [Repealed by 1953 c.496 §42]

573.445 Referendum upon organization of protected area after determination of need by department. (1) After the department has made and recorded the determination that there is need for the organization of an area and has defined the boundaries thereof, it shall consider the question of whether the operation of an area having the proposed boundaries and having the powers conferred by this chapter is administratively feasible. In order to facilitate the determination of this question, it is the duty of the department within a reasonable time after entry of the determination that there is need for an organization of the proposed area, to hold a referendum within the proposed area upon the proposition of the creation of the area,

and to cause notice in substantially the same manner as notice is given relating to school district elections of such referendum to be given.

(2) The question shall be submitted by ballots upon which the words "For creation of a protected area within the limits of the land below described and lying in the county(ies) of _____ and _____" and "Against creation of a protected area within the limits of the lands above described" are printed, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of the propositions as the voter may favor or oppose creation of such an area. The ballot shall set forth the boundaries of the proposed area as determined by the department.

(3) All landowners within the boundaries of the territory as determined by the department are eligible to vote in the referendum. This same referendum may include the ballot to elect three members of the committee as provided for in ORS 573.475. [1953 c.496 §23]

573.450 [Repealed by 1953 c.496 §42]

573.455 Supervision of hearing and referendum by department; expenses; informalities do not invalidate. (1) The department shall pay, from the amounts paid to it under ORS 573.415, all the expenses resulting from giving the notices mentioned in ORS 573.425 to 573.445 and from conducting the hearings and referenda. It shall supervise the conduct of the hearings and referenda. It shall issue appropriate regulations governing the conduct of the hearings and referenda and providing for the registration of landowners prior to the date of any referendum or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum.

(2) No informalities in the conduct of a referendum, or in any matters relating thereto, shall invalidate the referendum or the result thereof, if notice thereof was given substantially as provided in this chapter and if the referendum was fairly conducted. [1953 c.496 §24]

573.460 [Repealed by 1953 c.496 §42]

573.465 Declaration of creation of protected area; establishing area as a political subdivision of state. (1) The department,

shall declare an area created if the creation of the area was favored by a two-thirds majority of the votes cast.

(2) If the department determines that the operation of the proposed area within the defined boundaries is administratively feasible, it shall appoint two members to act, with the three elected members, as provided in ORS 573.485, as the local governing body of the area. Such area shall be a governmental subdivision of this state and a public body corporate and politic upon fulfillment of the following requirements:

(a) The two appointed members shall present to the Secretary of State an application signed and sworn to by them, which shall set forth the procedure followed in the formation of the area. The application shall be accompanied by a map of a scale of at least one inch per mile, showing the location and boundaries of the area. The application also shall be accompanied by a certificate of the department that a petition was filed, notice issued, and hearing held; that the department did determine that there is need for a protected area to be created in the proposed territory and did define the boundaries thereof; and that notice was given and a referendum held on the question of the creation of such area, at which referendum the required two-thirds majority of the landowners voted in favor of the creation of the area.

(b) The Secretary of State shall examine the application and certificate and shall record them in an appropriate book in his office, unless he finds that the name proposed for the area is identical with that of another area of this state or so nearly similar as to lead to confusion and uncertainty, in which case he shall certify such fact to the committee, which shall thereupon submit to the Secretary of State a new name not subject to such defect. Upon receipt of the new name, the Secretary of State shall record the application and certificate with the new name. The Secretary of State shall make and issue to the committee a certificate, under the seal of the state, of the organization of the area, and shall record the certificate with the application and the department's certificate. The boundaries of the area shall include the territory as determined by the department, but in no event shall they include any area included within the boundaries of another protected area organized under the provisions of this chapter. [1953 c.496 §25]

573.470 [Repealed by 1953 c.496 §42]

573.475 Nomination and election of three members of first governing committee of area. (1) Within 30 days after the hearing on creation of an area, or on consolidation of areas as provided in ORS 573.575, nominating petitions may be filed with the department to nominate candidates for committee membership. The department shall have authority to extend the time within which nominating petitions may be filed.

(2) No nominating petition shall be accepted by the department unless it is subscribed by 25 or more landowners, or by two-thirds of the landowners if there are less than 25, within the boundaries of the area. Landowners may sign the nominating petition of more than one candidate for committee membership.

(3) The names of all nominees on behalf of whom nominating petitions have been filed within the required time shall be printed, arranged in the alphabetical order of the surnames, upon the ballots for the referendum on creation of the proposed area or on proposed consolidation of areas, with a square before each name and a direction to insert an "X" mark in the square before any three names to indicate the voter's preference. The three candidates who receive the largest number of the votes cast in the referendum shall be the elected members for the area.

(4) At the first meeting of the committee after the creation of the area or consolidation of the areas, the three members first elected shall draw lots to determine their respective terms of office, one for one year, one for two years and one for three years. [1953 c.496 §26]

573.480 [Repealed by 1953 c.496 §42]

573.485 Appointment of two members of committee by department; qualifications; terms. The department shall appoint two additional members to the committee whose appointments shall be approved by the three elected members. The appointees shall have greater than average knowledge of the herbicides being used and the prevailing local conditions. One shall be a resident of the protected area and the other a resident of the area that may later be proposed as a restricted area. One shall be appointed for a term of one year and the other for a term of two years, from the date of appointment. Thereafter as the terms of the appointive

members expire, the department shall appoint their successors for two years. [1953 c.496 §27]

573.490 [Repealed by 1953 c.496 §42]

573.495 Committee organization; terms; vacancies; quorum; compensation; dealing in herbicides prohibited. (1) The committee shall designate a chairman, secretary and treasurer and may, from time to time, change such designation.

(2) Except as provided in ORS 573.475 and 573.485, the term of office of each committee member shall be three years.

(3) A member shall hold office until his successor has been elected or appointed and has qualified. Any vacancy occurring in the office of elected members shall be filled by appointment by the remaining members until the next regular election, when a successor shall be elected to serve the unexpired term. Any vacancy in the office of appointed members shall be filled by appointment of a successor for the unexpired term by the committee.

(4) A majority of the committee constitutes a quorum and the concurrence of a majority in any matter within its duties is required for its determination. A committee member shall receive no compensation for his services, but he is entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

(5) The committee shall not engage in the business of purchasing or selling herbicides. [1953 c.496 §28]

573.500 [Repealed by 1953 c.496 §42]

573.505 Annual meeting; notice; selection of candidates to fill committee vacancies.

(1) Each year after the creation of the first committee, at a time fixed by resolution of the committee, the committee, by giving notice, shall call an annual meeting of the landowners in the area and present an annual report and audit.

(2) Fifteen days before the annual meeting and election, the committee shall cause notices to be posted in three public places in the area and published for two successive weeks in a paper of general circulation in the area, setting forth the time and place of holding the election. Candidates to fill pending vacancies on the committee shall be nominated and the election shall be conducted as nearly as practicable in accordance with the general election laws of the state;

provided that no particular form of ballot is required, and the nomination of members may be made by petition signed by at least 10 landowners in the area, or, in any area having less than 10 landowners, by a majority of them. The secretary of the committee shall cause the names of the persons nominated to be placed on the ballot as candidates and shall provide a blank line thereon wherein may be written in the name of any person for whom the voter desires to vote. The persons receiving the highest number of votes shall be elected. [1953 c.496 §29]

573.510 [Repealed by 1953 c.496 §42]

573.515 Committee to provide for bonds, records and annual audit. The committee shall provide:

(1) For the execution of surety bonds for all officers who are entrusted with funds or property.

(2) For the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

(3) For an annual audit of the accounts of receipts and disbursements. [1953 c.496 §30]

573.520 [Repealed by 1953 c.496 §42]

573.525 Committee may hire assistant. The committee may hire, if necessary, a person of responsibility and integrity to receive applications for permits, to assist applicators of herbicides and to see that they fulfill the requirements and conditions of permits issued by the protected area control committee in the protected area and in the restricted area. [1953 c.496 §31]

573.530 [Repealed by 1953 c.496 §42]

573.535 Procedure for creation of restricted area. After a protected area has been organized, as evidenced by the certificate of the Secretary of State, and all the members of the committee of such area have taken office, a restricted area may be created as follows:

(1) The committee of the protected area shall cause a notice to be published of proposed hearings on the creation of a restricted area. The notice shall set forth a generally accurate description of the territory proposed to be organized as a restricted area. The restricted area outer boundary shall not be in excess of 10 airline miles beyond the outer boundaries of the protected area. In the event of a dispute, the department may

appoint a resident of the protected area and a resident of the restricted area. The two appointees shall select a third member to complete a temporary arbitration committee of three which shall arbitrate disputes in order to determine the outer boundary of the restricted area. The notice shall also set forth the general purpose and nature of any regulations which are proposed to be applicable within a restricted area. Notice shall be published in a newspaper of general circulation within the proposed area at least 10 days prior to the date set for the hearing. At such hearing all persons having an interest in, or affected by, the creation of the restricted area shall have an opportunity to appear and be heard concerning its creation. The committee of the protected area shall call such witnesses as may be necessary to testify concerning the desirability and necessity for the creation of the restricted area, or any part of the restricted area.

(2) The committee shall make findings of fact as to the desirability and necessity of creating a restricted area and, in accordance with such findings, publish notice of the creation of the restricted area and of such regulations as may apply to the application of herbicides, by aircraft or otherwise, within the protected and restricted area. [1953 c.496 §32]

573.540 [Repealed by 1953 c.496 §42]

573.545 Regulations governing application of herbicides. (1) After the creation of a protected area and a restricted area, the committee of the protected area, in consultation with the department, shall issue regulations governing the application of herbicides, by aircraft or otherwise.

(2) The regulations promulgated by the committee shall relate to the time, place, manner and method of the application of herbicides and shall encompass any matters which are reasonably necessary to prevent damage or injury to susceptible crops within a protected or restricted area. Among the factors which the committee shall consider in the formulation of regulations are:

- (a) Topography.
- (b) Climate.
- (c) Temperature.
- (d) Humidity.
- (e) Prevailing winds.
- (f) Characteristics of herbicide.
- (g) Location of susceptible crops.

(3) A copy of such regulations shall be filed in the office of the county clerk of

each county in which a part of such areas is situated. No regulation shall have any force and effect against any person affected thereby until such regulations have been approved by the department and have been so filed. [1953 c.496 §33]

573.550 [Repealed by 1953 c.496 §42]

573.555 Committee may levy tax. (1) The committee of a protected area may levy and cause to be collected an ad valorem tax for the purpose of paying the obligations of the protected area incurred in the administration of this chapter.

(2) The levy in any one year shall not exceed one mill per dollar of assessed valuation. The levy shall be made on all real property within the boundaries of the protected area that by law is taxable for state or county purposes. In the event that any area lies within two or more counties, the levy shall be prorated between the respective counties on the basis of the latest assessed valuation of the area raised to the true cash value. The taxes shall be levied and collected at the time and in the manner provided for the levy and collection of state and county taxes, and shall be paid by the county officers collecting the same to the treasurer of the protected area. [1953 c.496 §34]

573.560 [Repealed by 1953 c.496 §42]

573.565 Procedure for inclusion of additional territory or withdrawal of territory. Petitions for including additional territory within an existing protected area or for withdrawing territory from a protected area may be filed with the department, and the proceedings provided for by this chapter in the case of petitions to organize a protected area shall be observed in the case of such petitions. The department shall prescribe the form for the petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a protected area. Where the total number of landowners in the area proposed for inclusion or withdrawal is less than 100, the petition may be filed when signed by two-thirds of the landowners and in such case no referendum need be held. In referendum upon petitions for such inclusion or withdrawal, all owners of land lying within the area proposed to be included or withdrawn are eligible to vote. [1953 c.496 §35]

573.570 [Repealed by 1953 c.496 §42].

573.575 Procedure for consolidating protected areas. (1) Petitions for consolidating two or more protected areas may be filed with the department by any 25 or more landowners within the areas affected. In such event, all of the proceedings provided for by this chapter in the case of petitions to organize a protected area shall be followed in so far as they are applicable. The department shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a protected area.

(2) In the referendum for consolidation, all owners of land within the affected areas shall be eligible to vote, and unless the votes cast in favor of the proposal constitute a two-thirds majority of those voting, the areas shall not be consolidated.

(3) In case of consolidation of areas, the corporate existence and terms of office of the officers of the old areas shall expire upon issuance and recording by the Secretary of State of a certificate of the organization of the consolidated area. Upon consolidation, all of the rights and liabilities of the several consolidated areas shall be vested in, and assumed by, the consolidated area. [1953 c.496 §36]

573.580 [Repealed by 1953 c.496 §42]

573.585 Area deemed validly organized upon proof of issuance of certificate of organization. In any suit, action or proceeding involving the validity or enforcement of any proceeding or action of a protected area, the area shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate by the Secretary of State as provided in ORS 573.465. A copy of such certificate of the Secretary of State shall be admissible evidence in any such suit, action or proceeding and shall be proof of the filing and contents thereof. [1953 c.496 §37]

573.590 [Repealed by 1953 c.496 §42]

573.595 to 573.985 [Reserved for expansion]

PENALTIES

573.990 [Repealed by 1953 c.496 §42]

573.991 Penalties. Violation of any provision of this chapter or of any regulation promulgated under this chapter is punishable, upon conviction, by a fine of not less than \$25 nor more than \$500, or by imprisonment in the county jail for a period not exceeding six months, or both. [1953 c.496 §39]

CHAPTERS 574 AND 575

[Reserved for expansion]

