Chapter 449

1957 REPLACEMENT PART

Pollution of Water and Air

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SANITARY AUTHORITY

449.005 Declaration of public policy. It is declared to be the public policy of the State of Oregon:

(1) To preserve the natural purity of the water of all rivers, streams, lakes, watersheds and the coastal areas of the state in the interest of the public welfare, for the protection and conservation of the public health and recreational enjoyment of the people and for the protection and conservation of fish, aquatic life and migratory birds.

(2) To foster and encourage the cooperation of the people, of industries, of incorporated cities and of towns and counties, in preventing and controlling the pollution of those waters.

449.010 Discharge of waste into waters is against public policy. The discharge into the waters set forth in ORS 449.005 of any sewage or other waste which is or may become detrimental or injurious to human or aquatic life, or the recreational enjoyment of the people, by any person, firm, association or corporation, whether public, municipal or private, or by any state-owned institution or industry, is declared to be not a reasonable or natural use of such waters, and against the public policy of the State of Oregon, as set forth in ORS 449.005.

449.015 Sanitary Authority; creation; membership; expenses. (1) There is created within the State Board of Health a division to be known as the Sanitary Authority of the State of Oregon.

(2) The Sanitary Authority shall consist of the following six members:

(a) The State Health Officer.

(b) The State Engineer.

(c) The chairman of the State Fish Commission.

(d) Three members appointed by the Governor, not more than one of whom shall be from any one congressional district of Oregon.

(3) All members shall be reimbursed for traveling and other necessary expenses incurred in the performance of their official duties.

449.020 Appointed members; term; qualifications; vacancies; compensation. (1) The three members appointed by the Governor shall serve for a term of four years. Upon the expiration of the term of a member, the Governor shall appoint a successor.

(2) Appointments shall be made on the basis of the appointee's capacity to serve the general welfare of the people of this state.

(3) Vacancies shall be filled by the Governor.

(4) The appointed members shall each be paid $6 per day for each day of actual service in the performance of their duties.

449.025 State Sanitary Engineer. There shall be appointed and paid by the State Board of Health a State Sanitary Engineer, who shall be secretary of the Sanitary Authority and who shall:

(1) Be a graduate of a recognized institution of engineering.

(2) Possess a minimum of five years' experience as a practicing sanitary engineer.

449.030 Powers and duties of Sanitary Authority. The general powers and duties of the Sanitary Authority shall be to:

(1) Encourage voluntary cooperation by the people, municipalities, counties, industries, agriculture, and other pursuits, in restoring and preserving the greatest possible purity of waters of this state.

(2) Formulate rules and regulations pertaining to the control of pollution of waters of this state.

(3) Establish standards of purity of the various waters of this state.

(4) Conduct and prepare, independently and in cooperation with others, studies, investigations, research and programs pertaining to the purity of waters of this state or to the treatment and disposal of sewage or other wastes which may be causes of pollution. These are intended to result in the reduction of pollution of the waters of this state, according to the conditions and particular circumstances existing in the various communities throughout this state.

(5) Receive complaints, petitions or remonstrances from individual citizens, groups of citizens, organizations, associations or municipalities relative to any condition or situation that is represented to involve or contain elements of pollution of the waters of this state.

(6) Investigate and take action, as provided in ORS 449.050 to 449.060, as soon as possible upon receipt of such complaints, petitions or remonstrances.

(7) Conduct public hearings upon due notice, summon witnesses, take testimony and examine the facts relating to any municipality, person, association, firm or corporation whose sewage or waste disposal is the subject of any report made by the State

Sanitary Engineer, or otherwise brought to the attention of the Sanitary Authority.

(8) Publish its findings and recommendations as they are developed relative to public policies and procedure necessary for the correction of conditions or violations of any of the laws of Oregon relating to pollution.

(9) Take appropriate action for the enforcement of its rules, regulations or orders promulgated as the result of such hearings.

(10) Enforce compliance with the laws of Oregon relating to pollution of the waters of the state.

449.035 Cooperation with other agencies; financial aid; use of funds. The Sanitary Authority may cooperate with and receive moneys from the Federal Government, from the state or its agencies and departments, and from any industrial or other source. These funds may be used and disbursed for the study and control of municipal sewage or industrial waste treatment or water pollution.

449.038 Definitions applicable to ORS 449.040 and 449.043. As used in ORS 449.040 and 449.043, the term:

(1) "Construction" includes a major modification or addition.

(2) "Domestic sewerage system" means a system of domestic sewerage or the disposal of domestic waste products for the use of more than 25 families or 100 individuals.

(3) "Person" means any person as defined in ORS 174.100 but does not include, unless the context specifies otherwise, any public officer acting in his official capacity or any political subdivision, as defined in ORS 237.410. [1957 c.192 §3]

449.040 Plans and specifications of sewage or waste systems to be approved by Sanitary Authority. (1) All plans and specifications for the construction of municipal or industrial waste collection and disposal systems, sewage treatment plants or waste treatment or reduction plants, shall be submitted to the Sanitary Authority for approval.

(2) Any person proposing to construct a domestic sewerage system shall submit to the Sanitary Authority for approval full plans and specifications for the system including the location of the outfall and the pertinent facilities for the disposal, reduction, purification or use of the sewage. The requirements of this subsection are in addition to the requirements of ORS 449.245, if applicable.

(3) No construction of the type described in subsection (1) or (2) of this section shall be commenced until the plans and specifications submitted to the Sanitary Authority under subsection (1) or (2) of this section are approved by the Sanitary Authority. Any construction must be in accordance with the plans and specifications approved by the Sanitary Authority. [Amended by 1957 c.192 §1]

449.043 Bond required for construction of domestic sewerage system; forfeiture and termination; suit upon bond. (1) Every person proposing to construct a domestic sewerage system shall file with the Sanitary Authority a surety bond of a sum required by the Sanitary Authority, not to exceed the sum of $25,000. The bond shall be executed in favor of the State of Oregon and shall be approved as to form by the Attorney General.

(2) The Sanitary Authority may permit the substitution of other security for the bond, in such form and amount as the Sanitary Authority deems satisfactory, the form of which shall be approved by the Attorney General.

(3) The bond or other security shall be forfeited in whole or in part to the State of Oregon by a failure to follow the plans and specifications approved by the Sanitary Authority in the construction of the domestic sewerage system or by a failure to have the system maintained and operated in accordance with the rules, regulations and orders of the Sanitary Authority. The bond or other security shall be forfeited only to the extent necessary to secure compliance with the approved plans and specifications or the rules, regulations and orders of the Sanitary Authority. The Sanitary Authority may expend the amount forfeited to secure compliance with the approved plans and specifications or the rules, regulations and orders of the Sanitary Authority.

(4) When a failure as described in subsection (3) of this section occurs and part of the bond or other security remains unforfeited, any person, including a public person or body, who has suffered any loss or damage by reason of the failure shall have a right of action upon the bond or other security and may bring a suit or action in the name of the State of Oregon for his use and benefit. This remedy shall be in addition to any

other remedies which the person who suffered loss or damage may have against the person who has failed to follow the approved plans and specifications or the rules, regulations and orders of the Sanitary Authority.

(5) When the ownership of the domestic sewerage system is acquired or its operation and maintenance assumed by a city, county, sanitary district, or other public body, the bond or other security shall be deemed terminated and void as security for the purposes of ORS 449.010 to 449.045 and shall be returned to the person who filed the security. [1957 c.192 §4]

449.045 Sanitary Authority represents state in all matters pertaining to pollution control. The Sanitary Authority may represent the State of Oregon in:

(1) Any proceedings and all matters pertaining to plans, procedure or interstate compacts in relation to control of pollution of the waters of Oregon and those adjacent thereto.

(2) Determination of priority of pollution control projects, as may be necessary under terms of statutes enacted by the Congress of the United States.

449.050 Abatement proceedings instituted. Proceedings to abate alleged public nuisances created by pollution of waters of this state may be instituted at law, or in equity, in the name of the State of Oregon, upon relation of the Sanitary Authority, the Attorney General, any district attorney of any county or the city attorney of any municipality affected.

449.055 Granting time extension for compliance with orders in special cases. (1) If it appears that the immediate enforcement of an order of the Sanitary Authority, based upon findings of fact in any public hearing, research or investigation conducted by it, would substantially interfere with the sewage disposal system of any municipality or the normal industrial processes of any person, firm, association or corporation to the extent of stoppage of sewage disposal or industrial operation to the damage thereof, the Sanitary Authority, upon written stipulation with the parties at interest, by order or otherwise, shall grant sufficient time, in its discretion, to permit the municipality, industry or other offender to comply with the order.

(2) If the order of the Sanitary Authority is not fully carried out within the time specified in the stipulation or order, and if the Sanitary Authority finds that the other party at interest is not proceeding in good faith to carry out the terms of the stipulation or order, it shall proceed to enforce the law and its order by proceedings to abate a nuisance.

449.060 Intervention in abatement suits. If any person, firm, association or corporation, public or private, proceeds under the general laws of this state for the abatement of an alleged nuisance relating to the pollution of waters under the jurisdiction of this state and if the enforcement of any restraining order or injunction obtained in such manner appears substantially to interfere with the sewage disposal system of any municipality or the normal industrial processes of any person, firm, association or corporation to the extent of the possible stoppage of such sewage disposal or industrial operation, thereby causing a menace to the public health or damage to such industrial operation, the Sanitary Authority may intervene in such suit or action, in the public interest, for the purpose of presenting the facts first obtained by it and upon such facts urging that the mandate of any injunctive relief that may be granted by the court shall not be made permanent until the defendant has been given sufficient time, in the court's discretion, in which to remedy and correct the conditions set forth in the complaint.

449.065 Appeals from orders of Sanitary Authority. Any person, firm, association or corporation whether public, municipal or private, who deems himself or itself aggrieved by any order of the Sanitary Authority, other than an order in which a stipulation was made, may appeal from such order to the circuit court of the county in which all or any part of the property affected by the order is situated. The appeal shall be taken and perfected in the following manner, and not otherwise:

(1) The party desiring to appeal from the order may cause a notice, to be signed by himself or attorney, to be filed with the secretary of the Sanitary Authority within 30 days from the time the order is promulgated by the Sanitary Authority.

(2) Within 10 days of the giving of such notice, or such further time as the court may allow, the appellant shall file with the clerk of the circuit court for the proper county a transcript of the order appealed from, and so much of the record made be-

fore the Sanitary Authority as may be necessary to intelligently present the questions to be decided by the circuit court, together with the notice of appeal and the record of the filing thereof. Thereafter, the circuit court shall have jurisdiction of the matter.

(3) The appeal shall be heard and determined by the circuit court in a summary manner, and shall be determined as a suit in equity.

(4) At the hearing, the appellant and the Sanitary Authority are entitled to present any evidence which would be competent to be considered by a court of equity in an equity proceeding and the compulsory attendance of witnesses and production of books and papers.

(5) If, upon the hearing the court finds, in giving consideration to the welfare of the state at large:

(a) That the order appealed from is justified, the court shall enter a decree affirming the order, which decree shall continue in full force and effect after its entrance.

(b) That the order appealed from, or any part thereof, is not justified, the court shall enter an appropriate decree dismissing or modifying the order appealed from.

(6) The provisions of law governing cost and disbursements on appeal shall be applicable to appeals under this section.

(7) The taking of any appeal shall suspend the order until a decree is finally entered upon such appeal.

(8) Appeals under this section shall have precedence over any civil cause of a different nature pending before the court excepting only appeals from orders of the Public Utility Commissioner and the State Industrial Accident Commission.

449.070 Construction. In so far as ORS 449.010 to 449.065 are inconsistent with any other law, ORS 449.010 to 449.065 shall be controlling.

449.080 to 449.100 [Reserved for expansion]

CONTROL OF POLLUTION GENERALLY

449.105 Offensive substances; placing in waters or leaving without proper burial near house or highway prohibited. (1) No person shall put any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into or in any other manner befoul, pollute or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern or pond of water which is or may be used for domestic purposes or to which cattle, horses or other kind of domestic stock have access.

(2) No person shall put any of the polluting substances listed in this section within one-fourth mile of any dwelling house or public highway and leave them without proper burial.

(3) No person, being in the possession or control of any land, shall knowingly permit or suffer any polluting substance listed in this section to remain without proper burial upon such premises, within one-fourth mile of any dwelling house or public highway whereby the substances become offensive to the occupants of such dwelling or the traveling public.

(4) No person shall place or cause to be placed any polluting substance listed in this section into any road, street, alley, lane, lot, field, meadow or common and no owner thereof shall knowingly permit the listed substances to remain in any of the mentioned places to the injury of the health or to the annoyance of any citizen of this state. Every 24 hours after conviction for violation of this subsection during which the violator permits the polluting substances to remain is an additional offense against this subsection.

449.110 Deposit of industrial wastes in waters prohibited. No person, or proprietor, operator, agent, superintendent or employe of any railroad company, sawmill or other lumber or manufacturing concern, or any pulpmill, woodsaw, tannery, woolen mill, dye works, chemical works, slaughterhouse, or any manufacturing concern, or any steamboat or any other water craft shall cast or suffer or permit any sawdust, planer shavings, wood pulp, or other lumber waste or any element or chemical extracted therefrom, or other substances, which do or may render the waters of a stream or any other body of water destructive of fish life, or any slashing of trees or brush, or any oil, coal tar, petroleum or extract therefrom, or any dye or chemical to be thrown, cast or discharged, in any manner, or to deposit the same where high water will take or carry same, into the waters of this state.

449.115 Deposit of decaying and polluting substances in waters prohibited. No person shall put or deposit in any of the rivers,

streams, lakes or waters of Oregon, or any artificial canal or ditch in which the waters of such rivers, streams, lakes or waters run, any dead animal carcass, or part thereof, manure, sewage, putrid, decaying or deleterious substance, refuse, waste or polluting matter, or any matter which either by itself or in connection with any other substance injures fish or corrupts or impairs the quality of the waters of such rivers, streams or lakes for domestic or municipal purposes, or place any such substance in such position that it escapes or is carried into those waters by the action of the elements or otherwise.

449.120 Wading or bathing in canals or ditches prohibited; exception. No person shall wade or bathe in any irrigation canal, ditch or flume which supplies water for household purposes, except for wading done in connection with the operation, maintenance, construction, distribution or measurement of water.

449.125 Distance of cemeteries from source of water supply. No burying ground or cemetery shall be established on the watershed of any public water supply nearer than 500 yards of the source of supply.

449.130 Discharge of waste above intake of water supply prohibited without purification; injunction. (1) No person, firm, corporation or municipality shall flow or discharge sewage or waste water above the intake into any drain, brook, creek or river from which a public drinking water supply is taken, unless it has been passed through some well known system of sewage purification approved by the State Board of Health.

(2) Any continued flow and discharge of such sewage may be enjoined upon application of any person.

449.135 Sewer system for settlements on watershed. All schools, hamlets, villages, towns or industrial settlements which are located on the shed of any public water supply, not provided with a sewage system, shall provide and maintain a reasonable system approved by the State Board of Health for collecting and disposing of all accumulations of human excrement within their respective jurisdiction or control.

449.140 to 449.200 [Reserved for expansion]

PROTECTION OF DOMESTIC WATER SUPPLY

449.205 Definition. As used in ORS 449.210 to 449.250, unless the context requires otherwise, "water supply agency" means any person, firm, corporation, municipality, water district, town or agency thereof, furnishing or selling water to the public for domestic use.

449.210 Protection of water for household purposes. In the interest of the public health, every person, company or municipal corporation or agency thereof selling water to the public for drinking and household purposes shall take every reasonable precaution to protect from contamination and assure the healthfulness of such water. Any provisions in any charter granted prior to March 1, 1919, to such persons, companies or municipal corporations in conflict with this section and ORS 449.215 are repealed.

449.215 Supervision of inland waters by State Board of Health; examination, inspection and promotion of purity. (1) The State Board of Health shall have the general oversight and care of all inland waters, and shall:

(a) From time to time, as it may deem advisable, cause examinations of such waters and their sources and surroundings to be made for the purpose of ascertaining whether they are adapted for use as water supplies for drinking and other domestic purposes, or are in a condition likely to impair the interests of the public or of persons lawfully using them or to imperil the public health. For this purpose the board may employ such expert assistants as may be necessary.

(b) Make such reasonable rules and regulations as in its judgment may be necessary to prevent contamination and to secure other purifications as may be required to safeguard the public health.

(c) From time to time consult with and advise the boards of all state institutions, the authorities of cities and towns, corporations or firms already having or intending to introduce systems of water supply, drainage or sewerage, as to the most appropriate source of supply, the best practical methods of assuring the purity thereof, or of disposing of their drainage or sewage, having regard to the present and prospective needs and interests of other cities, towns, corporations or firms which may be affected thereby.

(2) As a check and guarantee of the faithful performance of the requirements laid down in ORS 276.248, 449.125 to 449.135, 449.205 to 449.240 and 772.315, the board shall make or have made by its authorized agents such inspections of watersheds and such chemical and bacteriological examinations of the public water supplies of the state as may be deemed necessary to insure their purity. Should such inspection or examination show conditions dangerous to the public health, the State Health Officer shall notify the mayor, the municipal health officer and the superintendent or manager of the waterworks at fault and demand the immediate correction of the dangerous conditions.

449.220 Plans for water supply system construction or extension to be submitted to State Board of Health. (1) Any water supply agency desiring to provide a new water supply system for drinking or household purposes for more than 50 people or more than 10 families shall, before performing any work on the ground, other than making examination or surveys for the preparation or provision of such water supply, submit to the State Board of Health plans showing:

(a) The source of the supply.

(b) The transmission and distribution systems, with further information as to the amount proposed to be taken and transmitted.

(c) The drainage areas from which the waters are to be derived.

(d) The purity and wholesomeness of the supply.

(e) The kind and character of the works for gathering, storing and transmitting the water.

(f) The number of persons to be supplied.

(g) Any additional data which the board may require as, in its judgment, proper to enable it to pass intelligently upon the effect of such water supply upon the public health.

(2) Any water supply agency desiring to extend any existing water supply system which will serve more than 50 people or more than 10 families shall first submit plans for the extension.

(3) No work shall be undertaken or proceeded with until the board has approved the plans, either as originally offered or as modified pursuant to its requirements.

449.225 Periodical analyses of public water supplies; reports; immediate action when water unsafe for human consumption. (1) Every water supply agency which sells or furnishes water to any number of persons exceeding 25 families or a total of 100 persons for drinking or household purposes, including its use in ice, shall with the assistance of or under the supervision of the local health officer collect samples of such water for bacteriological analysis at least once monthly or oftener if required by the State Board of Health.

(2) These samples shall be submitted to the state hygienic laboratory for examination or, with the approval of the local health officer, to a laboratory approved by the State Board of Health. The state hygienic laboratory shall report the results of its analysis to the local health officer if requested to do so and to the one responsible for the operation of the water supply. If a laboratory other than the state hygienic laboratory performs the examination, the results of the analysis shall, in addition, be submitted to the State Health Officer.

(3) When the water from such water supply has been determined by laboratory examination, inspection and report of the State Board of Health to be unsafe for human consumption, the owners or persons responsible for the operation of such water supply shall take immediate action to correct sanitary defects, improve operation, provide necessary water treatment, or make any other changes or additions necessary to provide assuredly safe water.

(4) This section, ORS 449.230 and 449.232 do not apply to any railroad company which is subject to the jurisdiction of the Interstate Commerce Commission. [Amended by 1953 c.253 §2]

449.230 Procedure when investigation reveals water dangerous to health of consumers; notice; corrective measures; hearing; decision; appeal. (1) Whenever, in the opinion of the State Board of Health, investigations indicate that the water from a water supply mentioned in ORS 449.225 would endanger the health of the water consumers, the board shall give written notice to the owners or persons responsible for the operation of such public water supply, specifying the cause of the danger to the health of the water consumers. This notice shall require that sanitary defects are to be corrected or operation of the water supply

is to be improved in order to make the water assuredly safe within a reasonable time specified or that the persons so notified appear before the State Board of Health at a time and place stated in the notice and answer charges. The notice shall be served on such person as summonses are served or by registered mail not less than 20 days before the time set for the hearing.

(2) The person complained against may appear personally or by counsel at the hearing and produce competent evidence in his behalf in answer to the alleged violation. On the basis of evidence produced at the hearing, the State Board of Health shall enter such order as, in its opinion, will best serve the interest of the water consumers and shall promptly give written notice, either by service as summonses are served or by registered mail, to the persons affected by such order. If the hearing is held before any officer designated by the State Board of Health, such officer shall transmit the record of the hearing together with his findings and conclusions to the State Board of Health, which thereupon shall review the record and enter its order on the basis thereof. The order of the State Board of Health shall become final and binding on all parties, unless appealed by the person aggrieved in the manner provided for appeals of orders of the Sanitary Authority in the applicable provisions of ORS 449.065. [Amended by 1953 c.253 §2]

449.232 Enjoining operation of water supply contrary to order under ORS 449.230; warning to public; owner's responsibility for damages. (1) If the maintenance or operation of a water supply is continued beyond the time specified contrary to orders of the State Board of Health under ORS 449.230, the board may request the district attorney in the county where the unsafe water supply is located to institute a suit in equity for a mandatory injunction, compelling the persons responsible for the operation of the water supply to cease and desist operation or make such improvements and corrections as are necessary to assure a safe water supply.

(2) Whenever conditions are such as to require immediate action to protect the public health, the State Health Officer may issue such warning to the public as he sees fit.

(3) Compliance with the requirements of this section or ORS 449.230 shall in no way release the owners or persons responsible for the operation of a public water supply from any liability for damage to person or property caused by or resulting from the installation, operation or maintenance of a public water supply. [1953 c.253 §3]

449.235 Inspection of watersheds; reports. (1) Every water supply agency selling or furnishing water to the public for drinking or household purposes shall, when such water supply is derived from surface sources, conduct an annual sanitary inspection of the watershed of the source of water supply. In those cases in which the water supply is taken from a stream that has a minimum daily flow of 50 cubic feet of water per second, the sanitary inspection shall apply to the 10 miles of watershed above the waterworks intake.

(2) The inspection of the watershed shall include an examination of sewage and waste disposal facilities at houses, business establishments, industries and buildings on the watershed.

(3) The sewage and waste disposal facilities shall be constructed and operated in accordance with the regulations of the State Board of Health and the Sanitary Authority.

(4) Full reports in duplicate of all inspections shall be made promptly to the State Health Officer.

(5) Additional sanitary inspections of a watershed may be required by the State Board of Health or local health officer whenever there is special reason to believe that there may be any new source of contamination of a public water supply.

(6) Sanitary inspectors may enter upon any premises and into any building upon their respective watersheds for the purpose of making the inspections required.

(7) As used in this section, "watershed" does not include that land within the boundaries of a municipal corporation or uninhabited wooded tracts or fields that are free from suspicion.

449.240 Procedure for correction of defective sewage facilities; sanitation literature; compliance with instructions. (1) Whenever the person conducting a sanitary inspection of a watershed determines that sewage disposal facilities are not constructed and operated in conformance with the regulations of the State Board of Health and the Sanitary Authority, notice thereof in writing shall be given to the person responsible for the premises. The notice shall outline defects

in sewage or waste disposal facilities and shall demand correction within a reasonable length of time.

(2) A copy of all notices shall be furnished to the board.

(3) Every person conducting a sanitary inspection of watersheds shall deliver to each family residing on the watershed such literature on pertinent sanitary subjects as may be supplied to him by the local health officer or by the State Health Officer.

(4) Every person residing on or owning property on the watershed of a lake, pond or stream from which a drinking supply is obtained shall carry out such reasonable instructions as may be furnished him directly by the municipal health officer or by the State Board of Health under this section.

449.245 Plans for sewer systems subject to approval of State Board of Health. (1) Any city or town proposing a sewer system or any individual or corporation proposing to install a system of sewerage or disposal of waste products for the use of more than five families or 50 persons shall, before undertaking any work on the ground, other than making surveys and preliminary plans, submit to the State Board of Health the full plans and specifications for the system, showing particularly the location of the outfall and the streams or other places of final disposal, and the method, if any, for the reduction, purification, or use of the sewage.

(2) No plan shall be proceeded with or work done thereon until the plans and specifications either as originally proposed or modified are approved by the board.

449.250 Connection of water supply for human consumption with unsafe water supply prohibited; corrective measures; investigations. (1) No person, firm, corporation, municipality, water district, city, town or agency thereof shall install or maintain any physical connection between the distribution system of a public water supply which is or may be intended for human consumption and that of any other water supply unless the other water supply is of safe bacteriological quality.

(2) If upon field investigation, the State Board of Health finds that any public water supply which is or may be intended for human consumption has been interconnected with an unsafe water supply in violation of subsection (1) of this section, the board shall so notify the person, firm, corporation, municipality, water district, city, town, or agency thereof responsible for the installation or maintenance of the interconnection.

(3) If it is deemed necessary in the interest of the public to continue the interconnection, the board shall outline the manner in which the interconnection shall be maintained to protect the public health, and such person, firm, corporation, municipality, water district, city, town, or agency thereof shall comply with the recommendations of the board.

(4) The board may make such investigations as are necessary to enforce this section. No person shall interfere with or hinder the State Health Officer or his authorized deputies in the investigations under this section.

449.255 to 449.300 [Reserved for expansion]

PROTECTION OF MUNICIPAL WATER SUPPLY

449.305 Jurisdiction of cities over water supply and its sources. For the purpose of protecting the water furnished to their inhabitants from pollution, towns and cities are given jurisdiction over all property:

(1) Acquired, owned and occupied by the works, reservoirs, systems, springs, branches and pipes, by means of which, and all the lakes, rivers, springs, streams, creeks or tributaries acquired by such towns and cities constituting the sources of supply from which, they or the companies or individuals furnishing water to their inhabitants obtain their supply of water, or store or conduct the same.

(2) Acquired for any purposes under subsection (1) of this section or for the preservation and protection of the purity of the water supply.

(3) Acquired and owned by towns and cities within the areas draining into the lakes, rivers, springs, streams, creeks or tributaries constituting such sources of water supply whether they are within or without the corporate limits.

449.310 Water supply ordinances. Towns and cities may prescribe by ordinance what acts constitute offenses against the purity of the water supply and the punishment or penalties therefor and may enforce those ordinances.

449.315 Special policemen. (1) The mayor or authorities having control of a town or city water system may appoint special policemen, with such compensation as the proper authorities may fix.

(2) The special policemen:

(a) Shall, after taking oath, have the powers of constables.

(b) May arrest with or without warrant any person committing, within the territory described in ORS 449.305, any offense against the purity of the water supply under state law or an ordinance of such town or city, or any violation of any rule or regulation of the State Board of Health, or the authorities having control of the city or town water system, for the protection of the purity of the water supply.

(c) May forthwith take any person arrested for any violation under this section before any court having jurisdiction thereof to be proceeded with according to law.

(d) Shall, when on duty, wear in plain view a badge or shield bearing the words "Special Police" and the name of the town or city for which he is appointed.

449.320 Pollution prohibited. No person shall establish or maintain any slaughter pen, stock-feeding yards or hogpens, or deposit or maintain any uncleanly or unwholesome substance, or conduct any business or occupation, or allow any condition upon or sufficiently near the sources from which the supply of water for the inhabitants of any city or town is obtained, or where water is stored, or the property or means through which it may be conveyed or conducted so that the water would be polluted or its purity destroyed or endangered.

449.325 Placing substances on watershed of municipal supply prohibited. No person shall place or cause to be placed within any watershed, from which any city or municipal corporation of this state or any adjoining state obtains its water supply, any substances which either by itself or in connection with other matter will corrupt, pollute or impair the quality of the water supply. No owner of any dead animal shall knowingly leave or cause to be left the carcass or any portion thereof within such watershed in such condition as to in any way corrupt or pollute such water supply.

449.327 City ordinances may restrict or prohibit access to watershed areas; exceptions. (1) A city may by ordinance prohibit or restrict access for purposes of fishing, hunting, camping, hiking, picnicking, trapping of wild animals or birds, harvesting of timber and mining or removal of minerals or otherwise in its watershed area, or may by ordinance permit such activities in its watershed area upon conditions specified in the ordinance. No ordinance shall be passed under authority of this section and ORS 449.328 prohibiting the hunting or trapping of fur-bearing or predatory animals doing damage to public or private property, nor the hunting or trapping of any bird or animal for scientific purposes as that term is defined in subsection (5) of ORS 497.780.

(2) The provisions of subsection (1) of this section apply only to cities with respect to watershed areas which are the subject of an agreement between the city and the United States or any department or agency thereof, which agreement authorizes such action by the city.

(3) An ordinance passed by any city prohibiting or restricting access to its watershed area shall include a penalty clause providing for a penalty upon conviction of a fine of not to exceed $100 or imprisonment for not to exceed 30 days, or both such fine and imprisonment.

(4) Any city which shall have passed an ordinance prohibiting or restricting access to its watershed area shall post the area with suitable signs which shall recite the prohibition of access or the conditions of limited access as contained in such ordinance. Failure to post the area as provided in this section shall be a defense in any prosecution under an ordinance adopted by any city under authority of this section and ORS 449.328. [1957 c.690 §1]

449.328 Violation of ordinances enacted pursuant to ORS 449.327; jurisdiction to prosecute. The municipal or recorder's court of any city passing an ordinance under authority of ORS 449.327 and the justice of the peace court or district court of the county wherein such city is located or in which the watershed area is located shall have concurrent jurisdiction to try and determine any prosecution brought under such ordinance. If prosecution is had in a justice of the peace court or a district court, the court shall remit to the city, after deducting court costs, the amount of any fine collected. If a jail term is imposed, the convicted person shall be confined in the city jail or in the county jail and if confined in the county jail

the county shall be entitled to recover from the city the actual costs of such incarceration. [1957 c.690 §2]

449.330 Abatement of nuisance and prosecution of violations. (1) Violation of ORS 449.320 is a nuisance and may be abated as other nuisances under the laws of this state.

(2) Any person tried for violation of ORS 449.305 to 449.320 and found guilty of creating or maintaining a nuisance thereunder, shall forthwith abate the nuisance. In the event of failure to comply within one day after conviction, unless further time is granted by the court, a warrant shall be issued by the convicting court, directed to the sheriff of the county in which the nuisance exists. The sheriff shall forthwith proceed to abate the nuisance and the cost thereof shall be taxed against the party convicted as a part of the costs of the case.

449.335 Enforcement by health officers. The officer in charge of the sanitary condition or water system or supply of any city or town shall see that ORS 449.305 to 449.320 and 449.330 to 449.340 are enforced and immediately investigate complaints made to him and if the complaint appears to be well founded, proceed and file a complaint against the person violating ORS 449.305 to 449.320 or 449.330 to 449.340 and cause his arrest and prosecution.

449.340 Injunction proceedings. Any city supplied with water from any source of supply as described in ORS 449.305, or any corporation owning waterworks for the purpose of supplying any city or its inhabitants with water may, in cases of violation of ORS 449.305 to 449.320, have the nuisance under ORS 449.330 enjoined by civil action in the circuit court of the proper county. The injunction may be perpetual.

449.345 to 449.400 [Reserved for expansion]

CONSTRUCTION AND FINANCING OF MUNICIPAL SEWERAGE FACILITIES

449.405 Definitions. As used in ORS 449.405 to 449.440, unless the context requires otherwise:

(1) "Municipality" means a city or sanitary district.

(2) "Sewerage facilities" may include sewers, drains, treatment and disposal works and other facilities useful or necessary in the collection, treatment or disposal of sewage, industrial wastes, garbage or other wastes.

449.410 Improvement of municipal sewerage facilities; contracts and financing; powers additional. (1) In order to facilitate the abatement, elimination or control of the pollution of waters and streams, any municipality may:

(a) Construct, reconstruct, improve, extend, better, repair, equip or acquire sewerage facilities, within or without the municipality.

(b) Accept grants or loans or other aid from the United States or any other source.

(c) Enter into all necessary agreements.

(d) Issue revenue bonds of the municipality without limitation as to amount.

(2) The powers conferred by ORS 449.405 to 449.440 are in addition to and supplemental to the powers conferred by any other law and not in substitution for any right, powers or privileges vested in a municipality.

449.415 Bond election. Before any bonds may be issued under ORS 449.410, their issuance must first be approved by a majority of the electors voting on the proposition at either a general election or at a special election, to be called, held and conducted in the same manner as special elections on the proposition of issuing general obligation bonds.

449.420 Bonds; method of payment; priorities; maturities; interest; signatures; sale. (1) The bonds issued under ORS 449.410 shall be payable from that portion of the earnings of the sewerage facilities of the municipality which is pledged to their payment, and they shall have a lien of such priority on the earnings as is specified in the proceedings providing for their issuance.

(2) The governing body may provide that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to their payment of principal, interest and security, to such other bonds of the municipality as are designated.

(3) The bonds shall bear such date, may be issued in such amounts, may be in such denominations, may mature in such amounts and at such time, shall be payable at such place, may be redeemable, either with or without premium, or nonredeemable, may carry such registration privileges, and may be executed by such officers and in such

manner as is prescribed by the governing body.

(4) In case any of the officers whose signatures appear on the bonds or coupons cease to be officers before delivery of the bonds, the signatures, whether manual or facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if such officers had remained in office until delivery.

(5) The bonds so issued shall bear interest at a rate to be fixed by the governing body, not to exceed six percent per annum, payable at times to be fixed by the governing body.

(6) The bonds shall be sold at public sale for not less than the principal amount thereof plus accrued interest. However, they may be sold at private sale to the United States or to the State of Oregon or any of their agencies or instrumentalities, for not less than the principal amount thereof plus accrued interest.

449.425 Bond covenants. Bonds issued under ORS 449.410 or the proceedings of the governing body authorizing their issuance may contain such covenants as the governing body deems advisable concerning:

(1) Rates or fees to be charged for services rendered by the sewerage facilities, the revenue of which is pledged to the payment of such bonds.

(2) Deposit and use of the revenue of such sewerage facilities.

(3) Issuance of additional bonds payable from the revenue of such sewerage facilities.

(4) Rights of the bondholders in case of default in the payment of the principal of or interest on the bonds, including the appointment of a receiver to operate such sewerage facilities.

449.430 Refunding bonds. (1) The governing body of every municipality by ordinance or resolution without prior approval of the electors may issue and exchange or sell refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due.

(2) All other relevant provisions in ORS 449.405 to 449.440 pertaining to revenue bonds shall be applicable to the refunding revenue bonds, including their terms and security, the rates and other aspects of the bonds.

449.435 Cooperation of municipalities in constructing and financing sewerage facilities. (1) Any two or more municipalities may, through their respective governing bodies, enter into and perform such contracts and agreements as they may deem proper for or concerning the planning, construction, lease or other acquisition and the financing of sewerage facilities and the maintenance and operation thereof.

(2) Municipalities so contracting with each other may also provide in any contract or agreement for a board, commission or such other body as their governing bodies may deem proper for the supervision and general management of the sewerage facilities and for the operation thereof, and may prescribe its powers and duties and fix the compensation of the members thereof.

449.440 Contracts to supply sewerage facilities for industrial plants. When determined by its governing body to be in the public interest and necessary for the protection of the public health, any municipality may enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such governing body, to compensate the municipality for the cost of providing, including payment of principal and interest charges, and of operating and maintaining the sewerage facilities serving such industrial establishment.

449.445 to 449.500 [Reserved for expansion]

CONTROL OF CONTAMINATION AND POLLUTION IN SPECIAL AREAS AND WATERS

449.505 Trespassing and grazing stock in Bull Run National Forest prohibited; notice. (1) Within the limits of Bull Run National Forest, which is part of Mount Hood National Forest and which has been set aside as a reserve for a municipal water supply by Act of Congress, no person shall:

(a) Without lawful business thereon, go or trespass on any lands or premises not his own.

(b) Fail to depart from any land or premises immediately and to remain away until permitted to return upon the verbal, printed or written notice of the owner or person in lawful control of the land or premises.

(c) Wilfully permit or allow stock in his possession to graze on the land or premises after notice.

(2) Printed or written notices having attached thereto by authority, the name of the owner or person in lawful occupation of the lands or premises, and requiring all persons to forbear trespassing thereon and to depart therefrom, posted in three conspicuous places on the lands and premises, are deemed to be sufficient prima facie evidence of notice under paragraph (b) of subsection (1) of this section.

449.510 Sanitary water areas in Benton and Yamhill Counties. The area lying within one mile on each side of the thread of any stream or watercourse in Benton and Yamhill Counties, which is the source of supply of domestic water for any municipal corporation in this state for a distance of four miles above the headgate, diversion dam or other means of diverting such water from the stream to the instrumentality where such water is conducted from such stream to the consumers thereof, is established as a restricted and protected district to be known as a sanitary water area.

449.515 Prohibited conduct in sanitary water areas in Benton and Yamhill Counties. Within the boundaries of a sanitary water area in Benton and Yamhill Counties, no person shall:

(1) Permit domestic livestock of any kind to run at large, except livestock in direct charge and under the control of a herder and provided, that the owner of land within the area may permit his own livestock to run on his land without a herder.

(2) Dump, deposit or place any sewage or refuse or matter of any kind which is subject to decay.

(3) Build any campfire, bonfire or burn any slashings or brush or start any fire of any kind, provided, that the owner of land within the area may build fires in stoves, fireplaces and other similar devices for domestic heating and cooking and may, with a permit from the State Board of Health, build brush fires and burn slashings on his own land.

(4) Camp or maintain any camp or campground or any dance hall or other place of public entertainment, provided, that with a permit from the State Board of Health, the owner of land within the area may keep or maintain a camp or campground or dance hall or other place of public entertainment on his own land, but he shall at all times destroy by burning or by some other efficient means all sewage, refuse matter and things of every character which are subject to decay, and permit no act to be done on his land which will pollute the water of a stream within a distance of two miles above the intake or point of diversion to the municipal water supply.

449.520 Liability for civil damages for violating ORS 449.515. Any person who violates ORS 449.515 shall, in addition to the criminal penalty provided for in ORS 449.990, be liable for any damages resulting from doing any act prohibited in ORS 449.515.

449.525 Permits for owners of land in sanitary water area; revocation procedure. (1) Any permit granted by the State Board of Health under ORS 449.515 shall be conditioned upon the permittee's fully complying with ORS 449.515.

(2) Any such permit may be revoked by the board for a violation of ORS 449.515. Before any permit is revoked, formal written charges shall be filed with the board and notice of a hearing thereon shall be given the permittee in writing 10 days before the hearing. Notice shall be served as a summons is served in a cause pending in the circuit court. The hearing shall be public and all interested parties are entitled to the benefit of witnesses and to representation by counsel.

449.530 Contamination of streams in Yamhill County prohibited; civil liability. (1) No person, firm, corporation or municipal corporation shall dump, deliver or permit to be dumped or delivered untreated or raw sewage, offal, refuse or debris in any nonnavigable stream of Yamhill County having a flow of less than three and three-tenths cubic feet of water per second at any time of the year, within the corporate limits of any city or within one mile of the boundaries thereof without treating or disposing of such sewage, offal, refuse or debris in a manner prescribed by the rules and regulations of the State Board of Health.

(2) Any person, firm, corporation or municipal corporation violating this section is liable for all damages sustained or suffered by an individual, to be recovered in a civil action therefor, in addition to the criminal penalty provided for in ORS 449.990.

449.535 Contamination of, and fishing and camping near, Clear Lake prohibited. No person shall:

(1) Put any sewage, drainage, refuse or polluting matter, or any dead animal carcass, or part thereof, excrement, putrid, nauseous, decaying, deleterious or offensive substance which, either by itself or in connection with other matter, will corrupt or impair the quality of the water for domestic or municipal purposes, into the water of Clear Lake or the watershed supplying that lake.

(2) Allow any such substance to escape into, or place it in such position that it or the drainage therefrom escapes or is carried into such waters.

(3) In any other manner not named in this section befoul, pollute or impair the qualities of such waters for domestic or municipal purposes.

(4) Catch or attempt to catch any fish in the waters of Clear Lake.

(5) Camp on any lands adjacent to Clear Lake which belong to the City of Reedsport.

(6) Establish within the watershed described in ORS 449.540 any public campground or camping place and conduct same in any manner which will pollute, befoul or impair the quality of the water of Clear Lake for domestic or municipal purposes.

449.540 Location of Clear Lake and description of its watershed. For the purposes of ORS 449.535:

(1) Clear Lake is located in township 22 south, ranges 12 and 13 west of the Willamette Meridian in Douglas County.

(2) The watershed supplying Clear Lake is located within the following described boundaries: Beginning at the corner of sections 30 and 31, township 22 south, range 12 west, and sections 25 and 36, township 22 south, range 13 west of the Willamette Meridian in Douglas County, and running thence as follows: West one-half mile, north two miles, east one-fourth mile, north one-fourth mile, east one-fourth mile to the coast meridian, thence east one and one-fourth miles, south one mile, west one-half mile, south one-half mile, west one-fourth mile, south three-fourths mile to the quarter section corner between sections 30 and 31; thence west one-half mile to the place of beginning and containing 1,920 acres, more or less.

449.545 Contamination of Deschutes River prohibited. No person shall put or deposit in the Deschutes River, its tributaries, or artificial canal or ditch in which the waters of the Deschutes River run, any sewage, refuse, waste or polluting water, or any dead animal carcass or part thereof, or any matter which either by itself, or in connection with any other substance, will corrupt or impair the quality of the water of the river for domestic or municipal purposes, or place any such substance in such position that it escapes or is carried into such waters by the action of the elements or otherwise.

449.550 Deschutes River; pollution prohibited; abatable nuisance. The establishment or maintenance of any slaughter pens, stock-feeding yards, hogpens, corrals or turkey yards, or the deposit or maintenance of any uncleanly or unwholesome substance, or the conducting of any business, or the allowance or maintenance of any condition, below the point of diversion upon or sufficiently near any irrigation canal or ditch diverting water from or which has as its source of supply the waters of the Deschutes River and its tributaries south of Crooked River, so that the water of such canal or ditch is polluted, or is likely to become polluted, or the purity thereof endangered thereby, is prohibited and declared to be a nuisance. The nuisance may be abated as other nuisances are abated under the laws of this state.

449.555 Deschutes River; reporting violations. Every employe of any irrigation district or water company diverting water from the Deschutes River and its tributaries south of Crooked River shall report any condition which comes to his attention and from which there appears to be a violation of ORS 449.550 to the secretary of the district or water company. The secretary shall forthwith report the condition in writing to the health officer of the county wherein it exists.

449.560 Deschutes River; abatement of nuisance. (1) Every county health officer to whom a report is made pursuant to ORS 449.555 shall investigate immediately such condition and report his findings, together with his opinion as to whether ORS 449.550

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is being violated, to the board of directors of the irrigation district reporting the condition.

(2) If it appears from the findings and opinion of the officer that ORS 449.550 is being violated, the board of directors of the irrigation district or water company shall institute a suit in the circuit court of the county wherein the condition exists to abate the nuisance created thereby.

449.565 Deschutes River; prosecution of violators. If, in the opinion of the county health officer, after making an investigation pursuant to ORS 449.560, it appears that ORS 449.550 is being violated, he shall report immediately his findings and opinion to the district attorney of the county wherein the condition exists, and proceed and file a complaint against the violator and cause his arrest and prosecution.

449.570 Contamination of McKenzie River prohibited. No person shall:

(1) Put any sewage, drainage, refuse or polluting matter, any dead animal carcass or part thereof, excrement, putrid, nauseous, decaying, deleterious or offensive substance, which either by itself or in connection with other matter, will corrupt or impair the quality of the water for domestic or municipal purposes, into the water of the McKenzie River, or tributaries thereof, in Lane County.

(2) Allow any such substance to escape into, or place any such substance in such position that it escapes or is carried into those waters.

(3) In any other manner not named in this section, befoul, pollute or impair the qualities of those waters for domestic or municipal purposes.

449.575 Contamination of North Umpqua River prohibited. No person shall:

(1) Put any sewage, drainage, refuse, or polluting matter or any dead animal carcass, or part thereof, excrement, putrid, nauseous, decaying, deleterious or offensive substance, which either by itself or in connection with other matter, will corrupt or impair the quality of the water for domestic or municipal purposes, into the water of the North Umpqua River, or tributaries thereof, above the Winchester power dam, in Douglas County. The dam is located between the point where the North Umpqua River is crossed by the Oregon and California railroad and the county bridge spanning the river 1,500 feet more or less east of the railroad crossing.

(2) Allow any such substance to escape into, or place any such substance in such position that it escapes or is carried into those waters.

(3) In any other manner not named in this section befoul, pollute, or impair the qualities of those waters for domestic or municipal purposes.

449.580 Oswego Lake and affluents; pollution prohibited; injunction and enforcement. (1) No person shall put or deposit in Oswego Lake, Clackamas County, or in any drain or brook flowing into that lake, any sewage, refuse, waste or any other substance which by itself, or in connection with any other matter, will corrupt or impair the quality of water in the lake for domestic or recreational purposes or place such substances in a position that they will escape or be carried into those waters by the action of the elements or otherwise.

(2) No person, residing on or owning property on the watershed of Oswego Lake shall flow or discharge sewage or waste water thereon unless it is passed through a system of sewage purification approved by the State Board of Health.

(3) The continued flow and discharge of sewage may be enjoined by any judge of the circuit court, upon application of any person.

(4) All peace officers and health officers of Clackamas County are charged with the enforcement of this section.

449.585 to 449.700 [Reserved for expansion]

CONTROL OF AIR POLLUTION

449.705 Definitions. As used in ORS 449.705 to 449.755, unless the context requires otherwise:

(1) "Air Pollution Authority" means the Air Pollution Authority of the State of Oregon.

(2) "Person" means any individual, partnership, corporation (private or public) or association of individuals of whatever nature.

449.710 Purpose and construction. (1) ORS 449.705 to 449.755 shall be deemed an exercise of the police power of the State of Oregon for the purpose of protecting the safety, welfare, peace and morals of the

people of this state and to prevent the pollution of the air with impurities menacing the health and general welfare of the people of the State of Oregon.

(2) To the end that the least possible injury shall be done to human, plant and animal life and property, general legislation operating uniformly throughout the state is necessary and ORS 449.705 to 449.755 shall be liberally construed for accomplishment of these purposes.

449.715 The Air Pollution Authority; appointments; terms; vacancy and removal. (1) There is created an additional division within the State Board of Health to be known as the Air Pollution Authority of the State of Oregon.

(2) The Air Pollution Authority shall consist of five members, as follows:

(a) The State Health Officer.

(b) Four members to be appointed by the Governor, one of whom shall be a member of the Sanitary Authority.

(3) Annually, upon the expiration of the term of one member, a new member shall be appointed for a term of four years.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed for the remainder of the term.

(5) The Governor may remove any member for inefficiency, neglect of duty or misconduct of office.

449.720 Meetings; quorum; compensation; officers. (1) The Air Pollution Authority shall meet and organize by the election of a chairman who shall serve for the calendar year for which he is elected.

(2) The Air Pollution Authority shall meet at such times and places as may be specified by the call of the chairman or the Governor.

(3) Three members shall constitute a quorum for the transaction of business, performance of duties and exercise of any powers of the Air Pollution Authority.

(4) The State Sanitary Engineer shall be the secretary of the Air Pollution Authority.

(5) The members and the secretary shall receive no compensation for their services as members and secretary of the Air Pollution Authority, but they shall be reimbursed for the actual expenses in performing their duties under ORS 449.705 to 449.755.

449.725 Duties of the authority. The Air Pollution Authority may:

(1) Develop a comprehensive program for the prevention and control of all sources of pollution of the air of the state.

(2) Advise, consult and cooperate with other agencies of the state, political subdivisions, industries, other states, the Federal Government and with affected groups, in furtherance of the purposes set out in ORS 449.710.

(3) Encourage and conduct studies, investigations and research relating to air pollution and its causes, prevention, control and abatement, as it may deem advisable and necessary.

(4) Collect and disseminate information relating to air pollution, its prevention and control.

(5) Promulgate rules and regulations.

(6) Consider complaints, make investigations and hold hearings.

(7) Require any person to submit plans for the removal of air contaminants.

(8) Encourage voluntary cooperation by the people, municipalities, counties, industries and others in restoring and preserving the purity of air within the state.

(9) Employ personnel, including specialists and consultants, purchase materials and supplies, and enter into contracts necessary to carry out the purposes set out in ORS 449.710.

(10) For the purpose of investigating conditions relating to air pollution, through its members or its duly authorized representatives, enter at reasonable times upon any private or public property, except private dwellings.

(11) Enforce compliance with the laws of this state relating to pollution of the air.

(12) Represent the State of Oregon in any and all matters pertaining to plans, procedures or negotiations for interstate compacts in relation to control of air pollution.

449.730 Air pollution is public nuisance; abatement. (1) The discharge into the air of solids, liquids or gases so as to cause such injury to human, plant or animal life, or to property, as constitutes a public nuisance, is contrary to the public policy of the State of Oregon.

(2) No person shall cause, erect or continue any nuisance contrary to the provisions of ORS 449.705 to 449.755.

(3) Proceedings to abate public nuisances created by pollution of air may be instituted at law, or in equity, in the name of the State of Oregon, on behalf of the Air Pollution Authority, by the Attorney General.

449.735 Proceedings against offenders and nuisances. (1) Whenever the Air Pollution Authority determines that a person has violated any of its orders or any of the provisions of ORS 449.705 to 449.755, it shall give written notice to such person specifying the causes of complaint. The notice shall require that the matters of complaint be corrected within a reasonable period of time specified therein or that the person complained against appear before the Air Pollution Authority at a time and place specified in the notice and answer the charges. The notice shall be served on such person as a summons is served or by registered mail not less than 20 days before the time set for the hearing.

(2) The person complained against may appear personally or by counsel at the hearing and produce any competent evidence in his behalf in answer to the alleged violation.

(3) On the basis of the evidence produced at the hearing the Air Pollution Authority shall enter such order as in its opinion will best further the purposes set forth in ORS 449.710 and shall promptly give written notice, either by service as a summons is served or by registered mail, to the persons affected by the order.

(4) If the hearing is held before any officer designated by the Air Pollution Authority, such officer shall transmit the record of the hearing, together with his findings and conclusions, to the Authority, which thereupon shall review the record and enter its order on the basis thereof. The order of the Authority shall become final and conclusive on all parties unless an appeal is taken therefrom as provided in ORS 449.745.

(5) Whenever conditions are such as to require immediate action to protect the public health or welfare, the Air Pollution Authority may take such action as it may deem advisable for summary abatement of the nuisance.

449.740 Records; judicial powers of authority; appearance and fees of witnesses. (1) A record of the proceedings of all hearings shall be taken and filed with the Air Pollution Authority, together with findings and conclusions.

(2) In any hearing, any member or a representative designated by the Air Pollution Authority may administer oaths, examine witnesses and issue, in the name of the Air Pollution Authority, notices of hearings or subpenas requiring the testimony of witnesses and the production of books, records or other documents relevant to any matter involved in such hearing.

(3) Witnesses who are subpenaed shall receive the same fees and mileage as in civil actions in the circuit court.

(4) In case of contumacy or refusal to obey a notice of hearing or subpena issued under this section, the circuit court shall have jurisdiction, upon application of the Air Pollution Authority or its representative, to issue an order requiring such person to appear and testify or produce evidence, as the case may require.

449.745 Appeals. (1) Any person whose interest is substantially affected by the action of the Air Pollution Authority may appeal from any order or decision by filing with its secretary a notice of appeal. The notice shall be filed within 20 days from the date of mailing of the notice of the order or decision of the Air Pollution Authority and shall be signed by the appellant or his attorney.

(2) Within 20 days from the receipt of the notice of appeal the secretary of the Air Pollution Authority shall prepare and forward to the appellant or his attorney a transcript of the proceedings, together with a copy of the order or decision of the Authority and a copy of the notice of appeal. All documents shall be certified by the secretary.

(3) Within 30 days from the filing of the notice of appeal with the secretary of the Air Pollution Authority, the appellant shall file the documents listed in subsection (2) of this section with the clerk of the proper circuit court. The court shall thereafter have complete jurisdiction of the matter but not otherwise.

(4) When the appellant is a resident of this state the appeal shall be taken to the circuit court of the county wherein he resides; otherwise the appeal shall be taken to the circuit court for Marion County.

(5) The circuit court in which the appeal is perfected shall hear and determine the matter as a suit in equity.

(6) An appeal may be taken to the Supreme Court from a final order or decree of the circuit court in the same time and manner as appeals are taken in suits in equity, by either party.

449.750 Financial aid for study and control of air pollution. The Air Pollution Authority may cooperate with and receive moneys from the Federal Government or any industry or other source. Moneys so received are appropriated and made available for the study and control of air pollution.

449.755 Payment of claims. The Secretary of State shall audit all claims approved by the chairman and secretary of the Air Pollution Authority, lawfully incurred in carrying out ORS 449.705 to 449.755 and draw his warrants on the State Treasurer in payment thereof.

449.760 to 449.985 [Reserved for expansion]

PENALTIES

449.990 Penalties. (1) Violation of ORS 449.040, 449.043, 449.105, 449.125 to 449.135, 449.210 to 449.220, 449.235 to 449.245, 449.325, 449.545 or 449.575 is a misdemeanor and is punishable, upon conviction, as provided in ORS 431.990. Violation of ORS 449.235 or 449.240 by a person managing a public water supply is a misdemeanor; provided such person does not prove to the satisfaction of the court that, in spite of reasonable effort and diligence on his part, he was prevented, directly or indirectly, by his superiors from doing his duty in this respect, in which case the superior officer concerned is guilty of a misdemeanor.

(2) Violation of ORS 449.110 or 449.115 is punishable, upon conviction, as provided in subsection (4) of ORS 496.990.

(3) Violation of ORS 449.120 is punishable, upon conviction, by a fine not exceeding $50 or, in lieu of payment of such fine, by imprisonment in the county jail one day for each $2 of fine.

(4) Violation of ORS 449.225, 449.230 or 449.232 or failure to comply with any order issued by the State Board of Health under such sections by any owner or private or public official or person responsible for the operation of a public water supply, is a misdemeanor.

(5) Violation of ORS 449.250 is punishable, upon conviction, by a fine of not more than $100 or by imprisonment in the county jail for not more than 30 days, or both. Justice courts hereby are given concurrent jurisdiction with circuit courts of all violations of ORS 449.250.

(6) Any person who violates ORS 449.320 is guilty of creating and maintaining a nuisance and is punishable, upon conviction, by a fine of not more than $500.

(7) Violation of paragraph (a) or (b) of subsection (1) of ORS 449.505 is punishable, upon conviction, by a fine of not more than $250 or by imprisonment in the county jail for not more than six months, or both. Justice courts have jurisdiction over violations under this subsection.

(8) Violation of paragraph (c) of subsection (1) of ORS 449.505 is punishable, upon conviction, by a fine of not more than $150 or by imprisonment for not more than three months, or both. Justice courts have jurisdiction over violations under this subsection.

(9) Violation of ORS 449.515 is punishable, upon conviction, by a fine of not less than $10 nor more than $1,000, or by imprisonment in the county jail not less than five days nor more than one year, or by both.

(10) Violation of ORS 449.530 by any person, firm or corporation or the responsible officers of any municipal corporation is punishable, upon conviction, by a fine of not less than $50 nor more than $1,000, or by imprisonment in the county jail not less than five days nor more than one year, or by both.

(11) Violation of ORS 449.535 is punishable, upon conviction, by a fine of not less than $10 nor more than $100, or by imprisonment in the county jail not less than five days nor more than 50 days, or by both.

(12) Any person who violates ORS 449.550 is guilty of creating and maintaining a nuisance and is punishable, upon conviction, by a fine of not less than $50 nor more than $500.

(13) Violation of ORS 449.570 or 449.580 is punishable, upon conviction, by a fine of not more than $100.

(14) Violation of subsection (2) of ORS 449.730 is a misdemeanor.

(15) Violation of the rules and regulations of the Sanitary Authority adopted and

promulgated under the authority given the Sanitary Authority under ORS 449.030 is a misdemeanor.

(16) Violation of the orders promulgated after due notice and hearing by the Sanitary Authority under ORS 449.030 is a misdemeanor. [Subsection (4) enacted as 1953 c.253 §4; 1957 c.192 §5]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel