

## Chapter 573

### 1967 REPLACEMENT PART

## Control of Application of Agricultural Chemicals

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**PESTICIDE APPLICATION LAW**

**573.001 Purpose; short title.** (1) The purpose of ORS 573.001 to 573.260, which may be cited as the Oregon Pesticide Application Law and shall be enforced by the department, is to regulate in the public interest the application of pesticides. Many materials have been discovered or synthesized which are necessary and valuable for the control of insects, plant fungi and weeds. Many more pesticides will be discovered and needed. Such materials, however, may injure health, property or wildlife by drifting or being applied in an improper or careless manner. The pesticide application industry of this state has achieved and maintained high standards in their handling and application of pesticides while at the same time experiencing a minimum of injury to persons or property. Currently updating the law to maintain this record and to cover future new pesticides and problems is necessary for the protection of persons, property, the pesticide application industry and the people of this state.

(2) After one or more public hearings and under the provisions of ORS chapter 183, the department after receiving the evidence and testimony and taking into consideration available advice and counsel of experts both from the industrial and educational pesticide fields, is authorized to promulgate regulations:

(a) To carry out the purpose and intent of ORS 573.001 to 573.260; and

(b) To take measures and procedures reasonably necessary to protect persons and property from injury or damages caused by the application of pesticides.

[1967 c.607 §2]

**573.005** [1953 c.496 §1; 1955 c.559 §1; 1957 c.557 §1; 1959 c.464 §1, 1961 c.642 §1; repealed by 1967 c.607 §28]

**573.006 Definitions for ORS 573.001 to 573.260.** As used in ORS 573.001 to 573.260:

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

(2) "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.

(3) "Pesticide applicator" or "applicator" means a person who is employed by a

pesticide operator, who actually operates or supervises the operation of machinery, equipment or other devices used to apply pesticides or as further defined by ORS 573.001 to 573.260.

(4) "Pesticide operator" or "operator" means a person or persons who own or operate a business engaged in applying pesticides upon the land or property of another, or as further defined by ORS 573.001 to 573.260.

(5) "Pesticide trainee" or "trainee" means a person employed by a pesticide operator, who is working and going through a training program under special certificate to qualify as a pesticide applicator and as further defined by ORS 573.001 to 573.260.

(6) "Pesticide" includes insecticides, fungicides, herbicides, rodenticides, and any substance, or mixture of substances intended to be used for defoliating plants or for preventing, destroying, repelling or mitigating all insects, plant fungi, weeds, rodents, predatory animals or any other form of plant or animal life which is, or which the department may declare to be a pest, which may infest or be detrimental to vegetation, man, animals, or be present in any environment thereof, and:

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

(b) "Insecticide" means or includes any substance used to destroy, repel or mitigate any insect.

(7) "Pesticide equipment" means any equipment, machinery or device used in the actual application of pesticides, including aircraft and ground spraying equipment.

(8) "Protected area" means an area created as set forth in ORS 573.402 to 573.535, 573.537, 573.543 and 573.545 to 573.585 to regulate the application of pesticides.

(9) "Restricted area" means an area created as set forth in ORS 573.402 to 573.535, 573.537, 573.543 and 573.545 to 573.585 to regulate the application of pesticides.

(10) "Weed" means any plant which grows where not wanted.

[1967 c.607 §1]

**573.007 Pesticide applicator defined; authorized work; license applications.** (1) "Pesticide applicator" or "applicator" for the purposes of ORS 573.001 to 573.260 is any

individual who is spraying or applying pesticides for others and:

(a) Is in direct charge of or supervises the spraying or application; or

(b) Operates, uses, drives or physically directs propulsion of equipment, apparatus or machinery, either on the ground or by aircraft.

(2) A pesticide applicator is authorized only to work for and be employed by a pesticide operator. It is unlawful for an individual to spray or apply pesticides as an applicator without an applicator's license.

(3) A pesticide applicator shall only work or engage in the spraying or application of the classes of pesticides for which he is specifically authorized by license, or additions or supplements thereto, by the department and in accordance with the types prescribed in ORS 573.146.

(4) (a) At the time a person first makes application for a license as an applicator for a specific license period, the license fee or renewal thereof is \$7.50 for the first type of pest or pesticide control operation or business as prescribed in ORS 573.146 and \$3.50 for each additional type.

(b) After a person makes his first application for a specific license period, if later during the same license period he desires to engage in additional classes of pest or pesticide control or business as prescribed in ORS 573.146, the fee for each additional type is \$5. [1967 c.607 §7]

**573.010** [Repealed by 1953 c.496 §42]

**573.015** [1953 c.496 §18; 1955 c.559 §2; 1957 c.101 §6; 1961 c.642 §2; repealed by 1967 c.607 §28]

**573.016 Exemptions.** The provisions of ORS 573.001 to 573.260 do not apply to:

(1) Manufacturers of materials engaged in research or experimental work on pesticides.

(2) Persons engaged in the business of a pesticide operator or applicator in the application of any pollenicide.

(3) Agencies, instrumentalities and political subdivisions of the United States or the State of Oregon and their officers, agents or employes acting within the scope of their authority in the conduct of research of pesticides or in the application of pesticides upon property owned or under the control, supervision or jurisdiction of such agencies, instrumentalities or political subdivisions; however, this exemption shall not apply to operators applying pesticides under contract for such agencies, instrumentalities or political subdivisions.

(4) A person applying pesticides by use of equipment under his direct control, on land which he owns, leases or rents or on crops he owns or is growing on a sharecrop basis. The provisions of this subsection do not include the persons or agencies designated in ORS 573.036.

(5) A farmer applying pesticides by use of his own equipment for others on an occasional basis not amounting to a principal or regular occupation, if the farmer does not publicly hold himself out as a pesticide applicator and if the pesticides that are applied are furnished by the owner of the land on which such pesticides are applied.

(6) (a) Persons who do not advertise or publicly hold themselves out as being in the business of applying pesticides but whose main or principal work or business is that of taking care of small or home lawns, shrubs or gardens. Such persons shall not use power-driven equipment or devices but shall limit the application by means of small hand or backpack type devices or methods.

(b) The department under the provisions of ORS chapter 183 and ORS 573.001 to 573.260, after public hearing, shall prescribe a list or designation of the pesticides that such persons are only authorized to use, or not authorized to use or to apply in order to qualify and be exempt from the provisions of ORS 573.001 to 573.260.

(7) (a) Persons who do not advertise or publicly hold themselves out as being in the business of applying pesticides and who will only apply pesticides as set forth in paragraph (b) of this subsection, whose main or principal work or business as related to pesticides is one or more of the following: Selling pesticides, selling pesticide equipment or leasing pesticide equipment.

(b) If any person set forth in paragraph (a) of this subsection, or his employe, undertakes any actual application of pesticides in the demonstration of pesticides or pesticide equipment, the application shall be done by or under the continuous direct supervision of a pesticide applicator.

(8) Railroads, to the extent that the application of pesticides is by their regular employes, on land or property under their ownership, supervision, control or jurisdiction, except that if power-operated spray equipment is used for applying volatile herbicides, such application shall be under the immediate supervision of a person holding a special applicator license.

[1967 c.607 §3]

573.020 [Repealed by 1953 c.496 §42]

573.025 [1953 c.496 §2; 1955 c.559 §3; 1961 c.642 §3; repealed by 1967 c.607 §28]

**573.026 License required to apply pesticides; license period; fee.** (1) No person shall engage in the business, or represent or advertise as being in the business of applying pesticides upon the land or property of another, without obtaining and maintaining an operator's license. The license, or additions or supplements thereto, shall authorize the operator to engage in one or more of the types of pest or pesticide control or application businesses prescribed by the department under ORS 573.146. A person shall engage only in the type of pesticide application business or pesticide application which has been approved by the department and authorized by license or certificate.

(2) During a license period and after a person has been issued a license to engage in certain types of pest or pesticide control or application business or businesses during a license period, the department upon receiving an additional application and applicable fees, may authorize the licensee to engage in additional types of pest or pesticide control business for the remainder of the license period as prescribed in ORS 573.146.

(3) (a) At the time a person first makes application for a license or renewal thereof as a pesticide operator for a specific license period, the license fee is \$15 for the first type of pest or pesticide control business as prescribed in ORS 573.146 and \$5 for each additional type.

(b) After a person makes his first application for a specific license period, if later during the same license period he desires to engage in additional types of pest or pesticide control businesses, the fee for each additional type is \$10.

(4) At least one person who is owner or part owner of the business must also obtain and maintain an applicator's license if the operator is sole owner of the business or the business is a partnership. At least one officer or one employe must obtain and maintain an applicator's license if the operator is a corporation. At any time there is a violation of this subsection, the operator's license, notwithstanding ORS chapter 183, is automatically suspended until such time as the operator is in compliance. If the business is owned by one individual, the department shall make no charge for the applicator li-

cense issued to him under subsection (4) of ORS 573.007.  
[1967 c.607 §6]

573.030 [Repealed by 1953 c.496 §42]

**573.031 Permits required for application of pesticides; licenses required of pesticide operator employes.** (1) Except as provided in ORS 573.016, no pesticide operator shall employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator, or a pesticide trainee, as the case may be.

(2) No person shall make application of pesticides 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 pesticides 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 pesticides within the protected or restricted areas.  
[1967 c.607 §19]

573.035 [1953 c.496 §3; repealed by 1955 c.559 §17]

**573.036 Governmental units applying pesticides; employe license requirements.** (1) The State of Oregon or its agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions thereof, irrigation districts, drainage districts and public utilities are not required to obtain a license as a pesticide operator or to furnish evidence of financial responsibility to the department, while applying pesticides to land or property under their ownership, supervision, control or jurisdiction.

(2) The employes of the persons, agencies or others named in subsection (1) of this section who perform or carry out the work, duties or responsibilities of a pesticide applicator or trainee are, however, subject to the provisions of ORS 573.001 to 573.260, except they shall be issued "special applicator" licenses or, if they carry out the work, duties or responsibilities of a pesticide trainee, shall be issued "special trainee" certificates, if they otherwise comply or qualify with the provisions relating thereto.

(3) The special applicator license or trainee certificate, as the case may be, shall be:

(a) Issued by the department without cost to the applicant.

(b) Valid and used by the licensee or certificate holder only while he is working for and employed by one of the persons, agencies or others named in subsection (8) of ORS 573.016 or in subsection (1) or (4) of this section on land or property under the ownership, supervision or jurisdiction thereof.

(c) Renewed, suspended or revoked each year in the same manner, under the same provisions and at the same time as other pesticide applicator licenses and trainee certificates are renewed, suspended or revoked.

(4) As to public agencies and subdivisions of government and their agents and employes, the provisions of subsection (2) of this section shall apply only to:

(a) Application of pesticides by aerial spraying; or

(b) The propelling through air by machine-powered devices of spray or dust containing pesticides; and

(c) Where such application is done by a public agency or subdivision of government and its agents or employes, such application shall be done under the immediate supervision of a person holding a license as a pesticide applicator or special applicator.

[1967 c.607 §4]

573.040 [Repealed by 1953 c.496 §42]

573.045 [1953 c.496 §4; repealed by 1955 c.559 §17]

**573.046 Municipalities applying pesticides; jurisdictional limitation.** Counties, cities or municipal corporations shall only authorize or permit their employes or their pesticide equipment to apply pesticides on property owned or under the control, supervision or jurisdiction of each such governmental body, or in enforcing or carrying out a law, ordinance, rule or order, such as those relating to spraying pesticides along roads, highways or in other places to control or eradicate noxious weeds.

[1967 c.607 §25]

573.050 [Repealed by 1953 c.496 §42]

**573.051 Applicator's license requirements.** Any applicant for a pesticide applicator's license is entitled to be examined for or to be issued a license or supplements thereto by the department, if the applicant:

(1) Is at least 18 years of age.

(2) Proves to the satisfaction of the department.

(a) He has had experience as a trainee for the minimum period and in the manner prescribed by the department; or

(b) He has educational qualifications, experience or training which is equal to the minimum standards and requirements established by the department; or

(c) He has been licensed in Oregon as a pesticide applicator and actively engaged in such work during the prior license period, as shall be prescribed by the department.

[1967 c.607 §8]

573.055 [1953 c.496 §5; 1955 c.559 §4; 1961 c.642 §4; repealed by 1967 c.607 §28]

**573.056 Applicator's license examination; other requirements.** (1) Each applicant for a pesticide applicator's license shall be required to demonstrate satisfactorily by written examination or reexamination given by the department, an adequate knowledge of:

(a) The characteristics of pesticides and the effect on their application to particular crops.

(b) The practices of application of pesticides.

(c) The conditions and time of application of pesticides and the precautions to be taken in connection therewith.

(d) The applicable laws, rules and regulations relating to pesticides and their application in this state.

(e) Other requirements or procedures which will be of benefit to and protect the pesticide applicator, the persons who use such services and the property of others.

(2) Based upon the application or reexamination and the desires of the applicant, the department may examine him only in any one or more of the types of pest or pesticide control operations or businesses established by the department under ORS 573.146.

[1967 c.607 §9]

573.060 [Repealed by 1953 c.496 §42]

**573.061 License examination places and times; reexamination fees.** (1) Examinations or reexaminations for pesticide applicators licenses shall be given by the department in any of its many branch offices or in other places it deems necessary and under the supervision of or by its officers or employes. The department is authorized to:

(a) Appoint without pay or reimbursement, officers or employes of other state agencies who are authorized to give examinations.

(b) Prepare and maintain various sets or types of examinations and reexaminations and to take other measures to insure that

persons who as a result of receiving passing grades thereto have been fairly and reasonably tested as to their ability and there have been no fraudulent or dishonest means used by the applicants in applying for or in the taking of the examinations.

(2) The department shall issue a pesticide applicator's license if it verifies the applicant has received a passing grade on the examination or reexamination and otherwise has complied with the provisions of ORS 573.001 to 573.260.

(3) Each person who has failed to receive a passing grade or for other reasons was not issued a license as a result of an examination given by the department, shall pay \$5 to partially reimburse the department for its costs prior to the department giving each future reexamination to the applicant. [1967 c.607 §10]

**573.065** [1953 c.496 §8; repealed by 1967 c.607 §28]

**573.066 Educational courses and material for licensees and applicants.** (1) The department may prepare and make a reasonable charge for a manual, or other publications or material containing such information as may be helpful to persons engaged in application of pesticides, by ground or aircraft, or for the help and benefit to persons who intend to apply for pesticide applicator licenses or pesticide trainee certificates, or for the benefit of operators in their business.

(2) The department may, as often and at such time and place as it deems necessary, in cooperation with Oregon State University and other qualified persons or experts in applicable fields, conduct courses of instruction in the application of pesticides and other matters relating thereto.

(3) The department in carrying out the provisions of this section shall, as far as is practicable and reasonable, segregate or separate the material or instructions to correspond with and apply directly to the several types of operations or businesses to be prescribed under ORS 573.146.

[1967 c.607 §17]

**573.070** [Repealed by 1953 c.496 §42]

**573.075** [1953 c.496 §7; repealed by 1955 c.559 §17]

**573.080** [Repealed by 1953 c.496 §42]

**573.085** [1953 c.496 §9; 1959 c.13 §1; repealed by 1967 c.607 §28]

**573.086 License expiration, notification and renewal; exception to license requirement.** (1) Any license or certificate issued

or required by ORS 573.001 to 573.260 shall expire on December 31 following issuance unless it has been revoked or suspended prior thereto by the department. At least 30 days prior to the expiration date, the department shall by mail notify each person holding a license or certificate of the expiration date. If a person does not renew a license or certificate on or before the expiration date, the department shall notify such person that his license or certificate, as the case may be, has expired.

(2) Applications for all licenses or certificates, or renewal thereof, shall be made to the department on forms approved by the department.

(3) All licenses or certificates are personal to the applicant and may not be transferred to any other person.

(4) Nothing in ORS 573.001 to 573.260, and as the department shall further determine, shall be construed as requiring a person helping or assisting in the application of pesticide or the pesticide application business through the performance of only manual labor, to obtain a license or certificate, if the actual application of pesticides is made by:

(a) A licensed pesticide applicator.

(b) A person applying pesticides under the provisions of ORS 573.016.

[1967 c.607 §12]

**573.090** [Repealed by 1953 c.496 §42]

**573.095** [1953 c.496 §11; 1955 c.559 §5; 1961 c.642 §5; repealed by 1967 c.607 §28]

**573.096 Failure to make timely license renewals; consequences.** (1) Failure to pay the renewal license fees when due by a pesticide operator, or failure to pay the renewal certificate fees by a trainee, forfeits the right to engage in the business or operation as an operator, or trainee, as the case may be. Any person whose pesticide operator license, or trainee certificate has been forfeited, shall not be issued a license, certificate or renewal license or certificate except upon written application to the department accompanied by a sum of money equal to the license or certificate fee which should have been paid, plus a penalty equal to 20 percent of the license or certificate fee, whichever is applicable.

(2) Failure to pay the renewal license fees when due by a pesticide applicator forfeits the right to engage in the work of or to apply pesticides as an applicator. Any person whose pesticide applicator's license has been forfeited shall not be issued a license or a renewal license except upon written appli-

cation to the department accompanied by a sum of money equal to 20 percent of such license fee. If such person does not pay both the license fee plus the penalty fee during the first month in which the license fee is delinquent, thereafter the applicator shall not only pay both amounts but he shall also receive a passing grade in a reexamination given by the department for pesticide applicators as prescribed in ORS 573.056.

(3) No penalty fee or penalty reexamination shall be required of any person whose application for renewal of a license or certificate is accompanied by his signed statement that prior to his application he has not operated or worked as a pesticide operator, or as a pesticide applicator, or as a trainee, as the case may be, and whichever is applicable, during the previous six months or since the expiration date of his last license or certificate, whichever time is less. If the department later verifies this signed statement is false, then notwithstanding the provisions of ORS chapter 183, the department may immediately suspend the license or certificate which was issued as a result of such statement. The suspension shall be lifted only after the person has complied with the applicable penalty provisions of subsections (1) and (2) of this section.

[1967 c.607 §13]

573.100 [Repealed by 1953 c.496 §42]

573.105 [1953 c.496 §12; 1955 c.559 §6; 1961 c.642 §6; repealed by 1967 c.607 §28]

**573.106 License suspension, revocation, reissuance and refusal.** Under the provisions of ORS chapter 183, the department may suspend, revoke or refuse to renew or issue any license or certificate if it determines that an applicant, licensee or holder of a trainee license or certificate has committed any of the following acts, each of which is declared to be a violation of ORS 573.001 to 573.260:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized.

(2) Intentionally applies worthless or improper materials.

(3) Operated a faulty or unsafe spraying apparatus, equipment, device or aircraft.

(4) Operated in a faulty, careless or negligent manner.

(5) Refused or neglected to keep and maintain the records required by ORS 573.001 to 573.260.

(6) Made false or fraudulent records or reports.

(7) Operated apparatus or equipment in applying pesticides without a pesticide applicator doing the actual spraying or application or supervising such application if the spraying is done by a trainee.

(8) Used fraud, misrepresentation or dishonesty in making an application for a license or certificate, or renewal thereof, or the taking of an examination therefor.

(9) Refused or failed to comply with the provisions of ORS 573.001 to 573.260 or rules promulgated thereunder.

[1967 c.607 §14]

573.110 [Repealed by 1953 c.496 §42]

573.115 [1953 c.496 §10; 1955 c.559 §7; 1961 c.425 §4; 1961 c.642 §7; repealed by 1967 c.607 §28]

**573.116 Proof of financial responsibility required of pesticide applicator.** (1) The department shall not issue or renew a pesticide operator's license until the applicant or licensee has furnished evidence to the department in the form of a public liability policy issued by an insurance company qualified to do business in Oregon covering the liability of the licensee for injury or death to persons and loss of or damage to property resulting from the application of pesticides or, in lieu of insurance, furnished a deposit of cash or negotiable securities acceptable to the department which may be applied by the department to the payment of damages caused by the licensee's negligence. However:

(a) Except as required under paragraph (b) of this subsection, the financial responsibility need not apply to damages or injury to crops, real or personal property being worked upon by the applicant.

(b) If the pesticide operator or applicator is engaged in the business of controlling or eradicating structural pests, or pests within a public or private place, or pests within private or public places where food is served, prepared or processed or where persons are regularly housed, the financial responsibility required by the operator shall cover and apply to damages or injury to real or personal property being worked upon, as well as all the other real and personal property set forth in this section.

(2) The insurance shall be in the amount of not less than \$25,000 for bodily injury to one or more persons and not less than \$25,000 for property damage.

(3) Notwithstanding the provisions of ORS chapter 183, at any time the pesticide operator fails to maintain financial responsibility as required by this section, his license

is automatically suspended until the department again verifies he is in compliance with the provisions of subsections (1) and (2) of this section. The department shall be notified in writing by the liability insurance company at least 30 days prior to any cancellation thereof.

(4) Notwithstanding the provisions of ORS 105.810 and 105.815 or other laws to the contrary, the amount of damages for which an operator is legally liable as a result of his actual use of pesticides, or his financial responsibility, is limited only to the actual damages.

(5) The security deposit shall be returned to the depositor if he at any time establishes exemption from security under ORS 573.001 to 573.260. After the expiration of two years from the date of the accident, any security deposit remaining shall be returned to the depositor or to his personal representative, except that the department shall not make such return if it has received notice that an action for damages arising out of the provisions of ORS 573.001 to 573.260 has been filed against the operator in whose behalf the security deposit was made and the department is satisfied that such action is then pending; or that there is a judgment rendered in any such action against the operator in whose behalf the security deposit was made and the department is satisfied that such judgment remains unpaid.

[1967 c.607 §15]

**573.120** [Repealed by 1953 c.496 §42]

**573.125** [1953 c.496 §17; repealed by 1955 c.559 §8 (573.147 to 573.157 enacted in lieu of 573.125)]

**573.126 Proof of financial responsibility; coverage reduced or modified.** (1) If the pesticide operator is to spray by aircraft, then the department, in addition to other provisions relating to surety bonding or liability insurance as required under ORS 573.116, may consider rules allowing aircraft pesticide operators to reduce, suspend or drop their coverage during certain periods of the year. In considering such rules, the department may study various factors such as changes in climate or seasons, periods when certain crops have been harvested, restricted or limited use of various types of pesticides, all of which may lessen the possibility of injury or damages to real or personal property.

(2) The department may consider allowing surety bonds or liability insurance policies to include deductible clauses of amounts to be determined by the department.

[1967 c.607 §16]

**573.130** [Repealed by 1953 c.496 §42]

**573.135** [1953 c.496 §13; 1955 c.559 §14; 1961 c.642 §8; repealed by 1967 c.607 §28]

**573.136 Hearing on rules governing pesticide application; factors considered in establishing rules.** (1) The department after public hearing and under the provisions of ORS chapter 183, shall establish and maintain a program and rules relating thereto, for persons who desire or are required to work or engage in the spraying or application of pesticides as an applicator trainee. In establishing the program the department, among other things, may take into consideration:

(a) Requirements for filing of applications by trainees.

(b) Minimum and maximum periods of work or experience required or authorized for trainees.

(c) Work or performance records or reports to be maintained by trainees or their employers.

(d) Provisions for accepting educational qualifications, applicable work or experience in similar or other fields in lieu of or as a part of periods of employment or work by trainees.

(e) Issuance by the department of trainee certificates authorizing trainees to apply pesticides in all or a part of the types of operations or businesses set forth in ORS 573.146.

(f) Laws and programs relating to other professional, trade or industry trainee or apprenticeship programs in this or other states.

(g) Special provisions if deemed advisable if the applicant is to apply pesticides by the use of aircraft. Various federal flight or training requirements may be substituted in lieu of all or a part of a trainee program in the case of applying pesticides by aircraft.

(2) No individual shall work or engage in the activities of an applicator trainee, and the department shall not issue or renew a certificate therefor, unless:

(a) The individual is at least 18 years of age; and

(b) The individual or certificate holder is employed by a licensed operator and works under the direct supervision and control of a licensed applicator.

(3) It is unlawful for any individual to work or engage in the work or activities of a trainee unless:

(a) He holds a certificate as an applicator trainee.

(b) He is in compliance with the provisions of ORS 573.001 to 573.260.

(4) The fees for a certificate or renewal thereof for a pesticide applicator trainee shall be the same as the fees for a pesticide applicator.

[1967 c.607 §11]

**573.140** [Repealed by 1953 c.496 §42]

**573.145** [1953 c.496 §16; 1955 c.559 §15; renumbered 573.210]

**573.146 Classification of pesticides and pesticide control businesses by department.**

(1) After public hearing and under the provisions of ORS chapter 183, the department shall:

(a) Establish and maintain a list classifying the various pest or pesticide control businesses to facilitate the licensing and regulation of such businesses. In establishing the classes of such businesses, the department may consider, in addition to other relevant factors, the classes of pesticides used and the method of application of the pesticides by such businesses.

(b) Establish and maintain a list classifying various pesticides to facilitate the licensing and regulation of pesticide operators and applicators. In establishing the classes of pesticides, the department shall consider, in addition to other relevant factors, the characteristics of the pesticides, the purposes for which the pesticides are to be used and the precautions required for safe application of the pesticides.

(2) In promulgating rules relating to issuance of licensing and certificates for operators, applicators or trainees, or requirements for bonding or liability insurance for pesticide operators, or courses of instruction which may or must be taken by operators, applicators or trainees or other provisions of ORS 573.001 to 573.260, the department shall set forth which of such provisions or requirements shall apply or be available to the various types of pest or pesticide control operations or businesses. Courses of instruction, for example, shall be established so that operators, applicators or trainees are required or may take only the particular instructions or courses which directly or indirectly relate to their particular type of work. [1967 c.607 §5]

**573.147** [1955 c.559 §9 (enacted in lieu of 573.125); 1961 c.642 §9; repealed by 1967 c.607 §28]

**573.149** [1955 c.559 §10 (enacted in lieu of 573.125); repealed by 1967 c.607 §28]

**573.150** [Repealed by 1953 c.496 §42]

**573.152** [1955 c.559 §11 (enacted in lieu of 573.125); repealed by 1967 c.607 §28]

**573.154** [1955 c.559 §12 (enacted in lieu of ORS 573.125); repealed by 1967 c.607 §28]

**573.155** [1953 c.496 §14; renumbered 573.163]

**573.156 Promulgation of rules by department.** Prior to January 1, 1968, the department is authorized after public hearing under the provisions of ORS chapter 183 to hold public hearings and promulgate rules necessary or required to implement the provisions of ORS 573.001 to 573.260 and to provide an orderly transition period prior to and subsequent to January 1, 1968. It is necessary that those who will be subject to the new provisions must at the same time be aware of and know the rules which also will be law.

[1967 c.607 §21]

**573.157** [1955 c.559 §13 (enacted in lieu of ORS 573.125); 1961 c.642 §10; repealed by 1967 c.607 §28]

**573.160** [Repealed by 1953 c.496 §42]

**573.163** [Formerly 573.155; 1961 c.642 §11; repealed by 1967 c.607 §28]

**573.165** [1953 c.496 §6; 1955 c.559 §16; 1961 c.642 §12; repealed by 1967 c.607 §28]

**573.166 Pesticide operators required to keep records; inspection by department.** (1) Pesticide operators shall keep records on forms approved by the department. The records shall include the:

(a) Name of the person for whom the pesticide was applied.

(b) The approximate location of the land or property on which the pesticide was applied.

(c) The date and approximate time of application.

(d) The person who supplied the pesticides.

(e) Trade name and the strength of such pesticides.

(f) The amount or concentration (pounds or gallons per acre of active ingredient or concentration per approximate 100 gallons) of the pesticide.

(g) Specific property, crop or crops to which the pesticide was applied.

(h) Summary information of equipment, device or apparatus used. If applied by aircraft, the F.A.A. number.

(i) Names of the operators or trainees who did the actual application or spraying.

(2) The records, which shall be kept for a period of at least three years from the date of application of pesticides, shall be

available during business hours for review and inspection by the department.

(3) Upon receiving a request from any owner of field crops on which pesticides were applied, the operator within 40 days after making such application shall give or forward to the owner a written statement setting forth the information described in paragraphs (a), (b), (c), (e), (f) and (g) of subsection (1) of this section.

[1967 c.607 §18]

**573.170** [Repealed by 1953 c.496 §42]

**573.175** [1953 c.496 §15; 1967 c.637 §13; repealed by 1967 c.607 §28]

**573.176 Disposition of moneys received by department.** The department shall deposit all fees and moneys paid to it under ORS 573.001 to 573.260 in the General Fund in the State Treasury to the credit of the Department of Agriculture Account. Such account and all moneys collected or due the department prior to the effective date of this section are continuously appropriated to the department for the purpose of administering and enforcing the provisions of ORS 573.001 to 573.260.

[1967 c.607 §20]

**573.180** [Repealed by 1953 c.496 §42]

**573.190** [Repealed by 1953 c. 496 §42]

**573.200** [Repealed by 1953 c.496 §42]

**573.210 Report of loss to be filed before bringing action arising out of pesticide application.** No action against a pesticide operator, arising out of the use or application of any pesticide, shall be commenced unless the claimant has filed a report of the loss with the department, and mailed or personally delivered a true copy of such report of loss to the pesticide operator allegedly responsible and a true copy of such report to the person for whom such work was done, within 60 days from the occurrence of such loss or within 60 days from the date when the claimant discovered that such loss had occurred. If the damage is alleged to have been caused to growing crops, the report shall be filed prior to the time when 50 percent of the crop is harvested. [Formerly 573.145; 1961 c.642 §13; 1967 c.607 §22]

**573.220 Report where state agency, county or municipality causes loss.** Any person who claims to have sustained any loss arising out of the use or application of any pesticide by any state agency, county or municipality may file a report of loss with the

department, and mail or personally deliver a true copy of such report of loss to the state agency, county or municipality allegedly responsible, within 60 days from the occurrence of such loss or within 60 days from the date when the claimant discovered that such loss had occurred. If the damage is alleged to have been caused to growing crops, the report shall be filed prior to the time when 50 percent of the crop is harvested.

[1957 c.101 §2; 1961 c.642 §14]

**573.230 Department to investigate report of loss and determine extent and nature of damage; department as mediator.** Upon receiving a report of loss as provided by ORS 573.210 or 573.220:

(1) The department may investigate, examine and determine the extent and nature of the damage alleged to have been caused to property or crops. The department shall not determine the source of the damage, the person who may have caused the damage or the financial extent of the loss or damage. The department shall prepare and file in its office a report of the investigation, examination and determination. Copies of the report made by the department may be given upon request to persons who are financially interested in the matter.

(2) The department at the request of, and without cost to, any persons financially interested in the matter may undertake to mediate an equitable settlement of the controversy.

[1957 c.101 §3; 1961 c.642 §15]

**573.240 Investigation and determination of extent and nature of damage by department upon request.** Upon receiving a request therefor from any person, other than a person who may file a report of loss as provided by ORS 573.210 or 573.220, the department may investigate, examine and determine the extent and nature of damage alleged to have been caused to property or crops arising out of the use or application of any pesticide by any other person or any state agency, county or municipality, provided that the person making such request reimburses the department for its work. The department shall not determine the source of the damage, the person who may have caused the damage or the financial extent of the loss or damage. The department shall prepare and file in its office a report of the investigation, examination and determination. Copies of the report made by the department may be given upon request to

persons who are financially interested in the matter.

[1957 c.101 §4; 1961 c.642 §16]

**573.250 Cooperation in carrying out ORS 573.230 and 573.240.** In carrying out the provisions of ORS 573.230 and 573.240, the department may cooperate with and request the assistance of employes of Oregon State University, governmental agencies or other persons experienced in and familiar with the problems.

[1957 c.101 §5]

**573.260 No waiver of immunity against suit.** Nothing in ORS 573.220 to 573.250 shall be construed as a waiver by the State of Oregon or any state agency, county or municipality of any immunity against suit which otherwise may exist.

[1957 c.101 §2]

### HERBICIDE RESEARCH PROGRAM

**573.310 Definitions for ORS 573.310 to 573.380.** As used in ORS 573.310 to 573.380, unless the context requires otherwise:

(1) "Board" means the State Board of Higher Education.

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

(3) "Herbicide" means those herbicide chemicals which are systemic in action and whose activity is primarily against or through that part of the plant which is above ground.

(4) "Person" includes every natural person, association, firm, partnership, corporation, county, state and the Federal Government, or any public corporation or political subdivision of the state. With respect to the fee provided for in ORS 573.340, "person" includes the Federal Government to the extent permitted by federal law.

[1961 c.528 §1; 1963 c.54 §1]

Note: ORS 573.310 to 573.380 is repealed on June 30, 1969. See 1965 c.452 §4.

**573.320 Herbicide research program authorized.** The board, through Oregon State University, shall cause to be conducted a research program to determine what, if any, damage is caused to agricultural crops, products and property from the use of herbicides in this state.

[1961 c.528 §2]

Note: See note under 573.310.

**573.330 Functions of State Board of Higher Education.** For the purpose of ad-

ministering and enforcing the provisions of ORS 573.310 to 573.380, the board:

(1) Is authorized to purchase necessary equipment, materials and supplies.

(2) May receive moneys from any source and expend the same in accordance with the provisions and purposes of ORS 573.310 to 573.380.

(3) May enter into agreements with counties or cities to use their personnel in carrying out the provisions of ORS 573.310 to 573.380 and to make reimbursement therefor.

[1961 c.528 §3; 1963 c.54 §2]

Note: See note under 573.310.

**573.340 Fees; responsibility of user and dealer; definition; administrative expenses of department.** (1) Each person shall pay to the department a fee of not more than one cent for each pound of herbicide parent acid equivalent, whose principal active constituent is derived from 2,4-D (2,4-Dichlorophenoxyacetic acid) or 2,4,5-T (2,4,5-Trichlorophenoxyacetic acid), sold, used or consumed by such person in Oregon during the period starting on July 1, 1961, and ending on June 30, 1968. However, no person is responsible for the payment of a fee on poundage used or consumed prior to March 29, 1963.

(2) Only one person shall be responsible for payment of the fee on poundage sold as described in subsection (1) of this section. When more than one sale is involved in the distribution of a herbicide from the manufacturer to the consumer, then the person who sells to the retailer or ultimate dealer is responsible for reporting the poundage and paying the fees. However, a manufacturer, jobber, broker or wholesaler who sells herbicides directly to the consumer or user of such chemicals shall report and pay the fees on poundage sold.

(3) The responsibility of a user or consumer for the payment of the fee on poundage used or consumed, as described in subsection (1) of this section, is not extinguished until the fee has been paid; except that a statement from a manufacturer, jobber, broker, wholesaler or retailer certifying that the fee has been paid to the department is sufficient to relieve the user or consumer from further responsibility for payment of the fee on the poundage to which the statement refers.

(4) Subject to the provisions of ORS chapter 183, the department, after public hearing and after consultation with the

board, shall, in accordance with the needs of the research program described in ORS 573.320, establish or change the fees to be paid as required by this section, but in no case shall the fee exceed the maximum provided in subsection (1) of this section.

(5) The term "retailer or ultimate dealer," as used in this section, means a person who sells herbicides directly to the consumer or user.

(6) The department shall deposit all fees paid to it under ORS 573.310 to 573.380 in the General Fund in the State Treasury to the credit of the Department of Agriculture Account and shall, at least once each two months, transfer or pay to the board the fees so collected, less a reasonable amount necessary to cover the cost of administration and collection of such fees. Such fees are continuously appropriated to the department and to the board for the purposes provided by this section.

[1961 c.528 §4; 1963 c.54 §3; 1965 c.452 §1; 1967 c.637 §14]

Note: See note under 573.310. The 1967 amendment of ORS 573.340 does not become operative until July 1, 1969. Until then, ORS 573.340 (1965 Replacement Part) remains in effect.

**573.350 Reports on sale of herbicides; status reports.** (1) Each person responsible for the payment of the fees required by ORS 573.340 shall file a report with the department on October 1, January 1, April 1 and July 1 of each year in which payment of the fees is required of the number of pounds of such herbicides sold, used or consumed during the three calendar months immediately preceding the date the report is due. The proper poundage fee shall be remitted with the report. The person required to file the report and pay the fee shall have a 15-day period of grace, immediately following the day the report and payment are due, to file the report and pay the fee.

(2) No user or consumer of such herbicides is required to file a report if the herbicides have been purchased from a manufacturer, jobber, broker or wholesaler who is responsible for the payment of the fee on poundage sold or from a retailer doing business in this state.

(3) The report required by this section shall not be a public record; however, the board or the department may prepare and publish from its records such statistics and

information as it deems advisable and which will not reveal any confidential information. [1961 c.528 §5; 1963 c.54 §4]

Note: See note under 573.310.

**573.360 Audits; action to recover fees.**

(1) The department shall have the authority to audit or to cause an audit to be made during business hours of the books and records of any person required to report and make payment of fees as required by ORS 573.340 and 573.350, to determine whether proper records relating to the sale of herbicides are being kept and if proper reports and fees have been made.

(2) The department is authorized to file an action at law for the recovery of fees against any person who fails to pay such fees as required by the provisions of ORS 573.310 to 573.380.

[1961 c.528 §6]

Note: See note under 573.310.

**573.370 Use of fees to pay program expenses.**

(1) The board shall deposit all fees paid to it under ORS 573.340 in the General Fund in the State Treasury to the credit of the State Board of Higher Education Current Expense Account. Notwithstanding any limitations which may by law be placed upon the disbursement of moneys from the State Board of Higher Education Current Expense Account, such fees are continuously appropriated to the board to be expended under its direction, acting through Oregon State University, for carrying out and enforcing the provisions of ORS 573.310 to 573.380, until the date this section is repealed.

(2) Any moneys received under the provisions of ORS 573.310 to 573.380 which are unexpended and unobligated on the date this section is repealed shall revert to the General Fund.

[1961 c.528 §7; 1963 c.54 §5; 1965 c.452 §2]

Note: See note under 573.310.

**573.380 Permits for use of certain esters.**

(1) For a period beginning on March 29, 1963, and ending on the date this section is repealed, no person shall use isopropyl ester of 2,4-D or any other ester of equal or higher volatility with regard to plant damage as determined by the Director of Agriculture unless he has been issued a permit for such use as provided in subsection (2) of this section.

(2) The State Forester, the Director of Agriculture and a research specialist appointed by the President of Oregon State

University, acting jointly and with the concurrence of all three, shall issue all permits for use of any such ester. Each permit shall specify the particular ester allowed, the boundaries of the area in which it may be used and the prescribed time limit and conditions under which it may be applied.

(3) Permits for the use of such esters shall only be issued when the issuing authority determines that the use of the ester will not damage agriculture and forest products or susceptible crops. In making its determination, the issuing authority shall consider research data, topography, climate, temperature, humidity, prevailing winds, characteristics of the ester and location of agriculture and forest products and susceptible crops. The permits may be issued subject to such conditions as the issuing authority prescribes.

(4) The issuance of a permit as provided in subsection (2) of this section shall not be construed as a waiver of any of the provisions of this chapter.

[1963 c.54 §7; 1965 c.452 §3]

Note: See note under 573.310.

## PROTECTED AND RESTRICTED AREAS

**573.402 New areas succeed to and re- place abolished areas.** (1) There hereby is created a protected area territorially identical respectively with each protected area existing on January 1, 1958, if such existing protected area was established pursuant to ORS 573.405 to 573.525 and would have been a validly established district but for the fact that its electorate was restricted to property owners within the area. The boundaries of each such existing protected area shall be deemed those in being on April 19, 1961, resulting from all its annexations, withdrawals and consolidations made in conformance with ORS 573.405 to 573.535 and 573.545 to 573.991 and other laws authorizing or purporting to authorize territorial changes.

(2) Each protected area hereby created shall bear the name of the formerly designated area with which it is territorially identical. It shall succeed to the duties, obligations, property, rights and privileges of such formerly designated area and shall function as authorized by ORS 573.405 to 573.535 and 573.545 to 573.991. Each protected area existing on January 1, 1958, is abolished. Members of the governing committee of an abolished protected area on April 19, 1961, shall comprise the governing committee of the

territorially identical protected area hereby created, until the end of their respective terms as provided by ORS 573.485.

[1961 c.273 §§1, 2]

**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 to regulate the application of herbicides or to regulate the application of insecticides, or both, 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; 1957 c.557 §2; 1959 c.464 §2]

**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 proposed 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 un-

expended 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 ORS 573.001 to 573.260 and 573.402 to 573.585, and upon all other relevant questions. All legal voters within the limits of the territory described in the petition, and 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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 shall be given by publication in a newspaper published in the county in which the property affected is situated. If the property is situated in more than one county, such publication shall be made in a newspaper in the county wherein the greater portion of the property 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 area sought to be affected and generally the purposes of the hearing.

[1953 c.496 §21; 1957 c.557 §3]

**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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 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 legal voters 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; 1957 c.557 §4]

**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 legal voters 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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 and if the referendum was fairly conducted.

[1953 c.496 §24; 1957 c.557 §5]

**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 legal voters 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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585.

[1953 c.496 §25; 1957 c.557 §6]

**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 legal voters, or by two-thirds of such voters if there are less than 25, within the boundaries of the area. Legal voters 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; 1957 c.557 §7]

**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 or insecticides being used and of the prevailing local conditions. One shall be a resident of the protected area and, if a restricted area is contemplated, the other a resident of the area that may later be proposed as a restricted area. If no restricted area is contemplated, both appointees shall be residents of the protected 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 depart-

ment shall appoint their successors for two years.

[1953 c.496 §27; 1959 c.464 §3]

**573.490** [Repealed by 1953 c.496 §42]

**573.495 Committee organization; terms; vacancies; quorum; compensation; dealing in herbicides or insecticides 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 or insecticides.

[1953 c.496 §28; 1959 c.464 §4]

**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 legal voters 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 legal voters in the area, or, in any area having less than 10 legal voters, 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; 1957 c.557 §8]

**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 or insecticides 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; 1959 c.464 §5]

**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 for herbicides and shall not be in excess of one airline mile beyond the outer boundaries of the protected area for insecticides. 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 or insecticides, by aircraft or otherwise, within the protected and restricted area.

[1953 c.496 §32; 1959 c.464 §6]

**573.537 Extension of boundaries of restricted areas.** Notwithstanding the provisions of subsection (1) of ORS 573.535, between July 1, 1961, and June 30, 1969, the outer boundary of a restricted area may be extended up to and including, but not in excess of, 30 airline miles beyond the outer boundaries of the protected area. Any boundary extended under the provisions of this section may be contracted in the manner provided in this section. The provisions of ORS 573.535 which set forth procedures for the creation of such restricted areas, including the requirement for holding a public hearing, shall be followed in extending or changing the boundaries of restricted areas as authorized by this section. Any outer boundary of a restricted area in existence on

June 30, 1963, shall remain until changed as authorized or prescribed by law.

[1961 c.708 §2; 1963 c.53 §1; 1965 c.452 §5]

Note: ORS 573.537 and 573.543 are repealed on June 30, 1969. See 1965 c.452 §7.

573.540 [Repealed by 1953 c.496 §42]

**573.543 Enlarged committees for extended restricted areas.** If a herbicide district extends the outer boundaries of its restricted area in excess of 10 airline miles beyond the boundaries of the protected area, as authorized by ORS 573.537, the department shall appoint one additional member to the committee of the protected area. Such appointee shall have the qualifications set out in ORS 573.485 and shall be a resident of that part of the restricted area which is in excess of 10 airline miles beyond the boundaries of the protected area. Any vacancy occurring in the position shall be filled by the department in accordance with the provisions of this section for appointments. The term of such person shall expire on June 30, 1969, or, if the herbicide district contracts the outer boundaries of the restricted area to 10 airline miles or less, then on the date of such contraction, whichever first occurs.

[1961 c.708 §3; 1963 c.53 §2; 1965 c.452 §6]

Note: See note under 573.537.

**573.545 Regulations governing application of herbicides and insecticides.** (1) After the creation of a protected area and a restricted area, or if no restricted area is created, after the creation of a protected area, the committee of the protected area, in consultation with the department, shall issue regulations governing the application of herbicides or insecticides, 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 or insecticides and shall encompass any matters which are reasonably necessary to prevent damage or injury to susceptible crops or insects 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 or insecticide.

(g) Location of susceptible crops.

(h) Location and characteristics of susceptible insects.

(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; 1959 c.464 §7]

573.550 [Repealed by 1953 c.496 §42]

**573.551 Petition procedure to grant or take away power to regulate application of insecticides or herbicides.** Petitions to include within or exclude from the powers of an existing protected area the power to regulate the application of insecticides or the application of herbicides may be filed with the department. The procedure provided by ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 for organizing a protected area shall be followed in the case of such petitions.

[1959 c.464 §9]

**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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585.

(2) The levy in any one year shall not exceed one-fortieth of one percent (.00025) of the true cash value of all taxable property within the protected area, computed in accordance with ORS 308.207. 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; 1957 c.557 §9; 1963 c.9 §36]

573.560 [Repealed by 1953 c.496 §42]

**573.561 Committee may receive and expend moneys from any source.** The committee of the protected area may receive moneys from any source and may use such moneys for enforcing and carrying out the provisions of ORS 573.405 to 573.585.

[1961 c.708 §4]

**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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 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 legal voters lying within the area proposed to be included or withdrawn are eligible to vote.  
[1953 c.496 §35; 1957 c.557 §10]

**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 ORS 573.001 to 573.260 and 573.402 to 573.585 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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 for petitions to organize a protected area.

(2) In the referendum for consolidation, all legal voters 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; 1957 c.557 §11]

**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 ORS 573.001 to 573.260, 573.402 to 573.535 and 573.545 to 573.585 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]

## PENALTIES

**573.990** [Repealed by 1953 c.496 §42]

**573.991** [1953 c.496 §39; subsection (2) of 1965 Replacement Part enacted as 1961 c.528 §8 and amended by 1963 c.54 §8 and 1963 c.379 §1; repealed by 1967 c.607 §28]

**573.992 Penalties.** Violation of any of the provisions of this chapter is punishable, upon the first conviction, by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than one year, or both, and upon a second or additional convictions, by a fine of not more than \$2,000, or by imprisonment in the county jail for not more than one year, or both.  
[1967 c.607 §27]

# **CONTROL OF APPLICATION OF AGRICULTURAL CHEMICALS**

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## **CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 1, 1967.

Robert W. Lundy  
Legislative Counsel

**CHAPTERS 574 AND 575**

**[Reserved for expansion]**

