Chapter 570

1989 EDITION

Plants; Inspection, Quarantine, Pest and Weed Control

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DEFINITIONS

570.005 Definitions. As used in ORS 570.005 to 570.600 and 570.990, unless the context requires otherwise:

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

(2) "Director" means the Director of Agriculture.

COUNTY HORTICULTURAL INSPECTORS

570.010 County horticultural inspectors; appointment; term; powers and duties. (1) Upon petition of not less than 25 resident fruit growers of any county of this state, the county court of such county may, subject to the approval of the director, appoint a county horticultural inspector, whose duties are:

(a) To inspect orchards, nurseries, trees, shrubs, vines, fruits, vegetables, plants, packing houses, warehouses, storerooms, farms and other places within the county.

(b) To visit and inspect the fruit drying and packing plants while such plants are in operation.

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

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

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

570.015 Deputy inspectors. Upon a petition of not less than 25 resident fruit growers of any county of this state, the county court of such county may, subject to the approval of the director, appoint one or more deputy county horticultural inspectors. Each deputy inspector shall hold office during the pleasure of the county court and shall have and perform all the powers and duties of a county horticultural inspector.

570.020 Inspectors may enter premises. The county horticultural inspectors, deputy county horticultural inspectors and all other persons authorized to enforce the horticultural and inspection laws of Oregon are authorized and empowered to enter upon or into any premises, land, buildings, inclosures or other places for the purpose of inspecting any article which is subject to or may be subject to infestation with any insect injurious to any article which grows upon or in or from the soil by processes of plant growth, or the eggs, larvae or pupae of such insects or with any disease injurious to any such article or articles and for the further purpose of enforcing any of the laws of this state relating to horticultural quarantine or horticultural inspection or the abatement of horticultural nuisances or any other duties imposed by law upon such inspectors and other persons authorized to enforce the inspection and horticultural laws of Oregon.

570.025 Instruction, education and supervision of inspectors; reports. The department shall instruct and educate the county and deputy county horticultural inspectors as to the laws and quarantine regulations of the state, and the rules and regulations of the department. The inspectors shall perform their duties under the general supervision of the department, to which they shall make reports in the manner prescribed by the department.

570.030 Compensation of inspectors; office supplies; clerical help. (1) Each county horticultural inspector and deputy inspector shall be paid for services by the county and actual necessary expenses incurred in the performance of duties. The county horticultural inspector and each deputy inspector shall report monthly to the department the time for which the inspector or deputy inspector is entitled to pay during the month for which such report is made, and a statement of actual necessary expenses incurred in the performance of duties as such inspector, and the department shall certify the report to the county court before such compensation and expenses shall be paid.

(2) The county court shall supply the county and deputy county horticultural inspectors with such blanks, stationery, postage, equipment and clerical hire as are needed in the performance of their official duties.

570.035 Appeals from inspectors' decisions. The department shall hear and promptly decide all appeals from the county or deputy county horticultural inspectors. Its decisions shall have full force and effect until set aside by the courts of the state. All appeals from inspectors to the department shall be under the form and regulations prescribed by the department.

570.040 Inspection where inspector unavailable. If any county for any reason fails to appoint a county horticultural inspector or if for any reason the inspector is not available, the nearest inspector available may perform such services, and the compensation of the inspector and the necessary expenses incurred in the performance of duty

shall be charged against the county where the service is performed, as if the inspector had been appointed by the county court of such county.

570.045 Assistance of employees of common carriers in locating horticultural articles; refusal or neglect is misdemeanor. All clerks, bookkeepers, express agents, railroad officials, employees, or employees of common carriers shall render to the department and its inspectors all assistance in their power in tracing, finding or discovering the presence of any article named in the horticultural laws. Any refusal or neglect on the part of said persons to render such friendly aid to assist in the carrying out of ORS 564.020, 570.005 to 570.055, 570.125, 570.320, 570.335 to 570.360 is a misdemeanor.

570.050 Cooperation of peace officers in enforcing quarantines. All peace officers in this state shall enforce all quarantine measures promulgated by the United States Department of Agriculture and the State Department of Agriculture.

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

INSPECTION AND QUARANTINE GENERALLY; ABATEMENT OF NUISANCES

570.105 Definitions for ORS 570.110 to 570.190. As used in ORS 570.110 to 570.190, unless the context requires otherwise, "nursery stock" includes all trees, shrubs, vines, plants, cuttings, grafts, scions, buds, fruit pits, nuts and other seeds of fruit, forest and ornamental trees and shrubs, both deciduous and evergreen, grown for sale or propagation or planting or collected in the wild, and all flowering bulbs, corms, roots, rooted herbaceous plants, or cuttings used or to be used for ornamental purposes, or cut greenery either cultivated or collected in the wild, used for ornamental purposes, but does not include cut flowers, or such cut greenery as ferns, and foliage grown under glass or other artificial covering.

570.110 Inspections and visitations by director and deputies. The director, and such officers, employees and deputies as the director assigns to such duty, shall visit the different parts of the state and shall see that all regulations of the department and all provisions of law to prevent the introduction or spread of fruit pests and diseases of trees or plants injurious to the horticultural interests of the state are enforced. The director forthwith shall, upon the complaint of interested parties, inspect or cause to be inspected by some officer, employee or deputy of the department, orchards, nurseries and other places suspected to be infested with fruit pests or infected with diseases injurious to trees, plants or fruits.

570.115 Quarantine establishment; revocation. (1) If upon report of any officer, employee or deputy of the department, the director is of the opinion that any locality, district, orchard or place is infested with fruit pests or infected with disease injurious to trees, plants or fruits, and liable to spread to other orchards or localities to their damage or injury so as to be a public danger, the director shall, by an order entered in the records of the department, declare such place to be under quarantine. The director shall give notice thereof by posting a notice in writing in a conspicuous place upon the premises, specifying with convenient certainty what place or premises are under quarantine regulations and by delivering a copy of such notice to the owner or person in charge of the premises, if the owner or person in charge may be found thereon. Such place thereafter shall be subject to quarantine regulations of the department.

(2) As soon as, in the opinion of the director the danger from such quarantine locality has ceased, the director may revoke the quarantine.

570.120 Quarantine powers exercised only in emergencies. The powers conferred in ORS 570.110 and 570.115 shall be exercised only in great and imminent danger to the fruit interests of the state and with utmost caution and regard for the rights of individuals affected, consistent with the safety and welfare of the fruit interest of the whole state.

570.125 Inspector of outgoing shipments. (1) Upon request of any nurseryman or tree dealer doing business within this state, the director may deputize a suitable person to inspect outgoing shipments from such nurseryman or tree dealer. The nurseryman or tree dealer shall pay the person so deputized for services while they are required by such nurseryman or tree dealer.

(2) In case the shipping business of any two or more nurserymen and tree dealers is not in the aggregate more than one person can inspect properly and such group makes satisfactory arrangements for payment of the person making such inspection, the director may deputize a person to inspect the shipment of all members of such group.

(3) No person deputized by the director to inspect outgoing shipments of nursery stock shall make any certificate concerning such shipments which is not true. No person so deputized shall allow a certificate of inspection given by the person to be attached to any tree, shrub, vine, plant, scion, bud, or box, crate, bale, bundle or container of the same or of any of them unless the person personally has inspected the articles and all of them immediately before signing such certificate, which must be dated in writing at the time it is signed.

(4) The director may revoke deputization of any such person at any time if the director believes such person is not properly doing the duty of the person.

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

570.135 Premises may be entered for inspection. The officers, employees, deputies and inspectors of the department and the county horticultural inspectors and their deputies may enter at any time into any car, warehouse, depot, or upon any ship within the boundaries of this state, whether in the stream or at the dock, wharf, mole or any other place where such nursery stock or fruit or vegetables or seed or field crops or other such articles are received, or in which any of such articles are imported into the state, for the purpose of making the investigation or examination to ascertain whether such articles are infested with any injurious insects or their eggs, larvae or pupae or other plant pests or diseases.

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

570.145 Procedure when infested or infected shipment can be separated. When, in the judgment of the inspector, materials not infested or infected can be separated from the infested or infected article without danger of escape from such article of the insects, their eggs, larvae or pupae, diseases or other plant pests and the owner, person, firm or corporation having control or possession of such articles desires to separate as instructed, the officer making the inspection shall give permission in writing to make such separation within a specified time and at the expense of the owner or responsible party who authorized the separation and under the supervision of such official or some person authorized by the inspector to exercise such supervision. Whenever the official who makes such inspection has other official work awaiting and it appears that the time required for separating and destroying such articles may exceed one hour, the official may authorize and deputize some proper person to supervise the separation of the infested or infected articles from the uninfested or uninfected articles and the destruction of the infested and infected articles. The person so authorized shall be paid by the owner or the party who authorized the separation, or by both, for services while supervising the separation and destruction of such articles.

570.150 Procedure when infested or infected shipment can be treated. When, in the judgment of the inspector, all or part of a shipment can be treated to exterminate the plant pests or diseases, the owner or responsible agents of the owner shall be so notified. The notice shall include the exact method and materials to be used, and provide that all treatments shall be given under direct supervision of an authorized inspector and shall be done at the expense of the owner or the party who authorized such treatment or both.

570.155 Disposition of shipment when neither separated nor treated. (1) When no provision is made by the inspecting official for disposition by separation or treatment, the notice provided for in ORS 570.140 will require that all condemned materials be promptly shipped out of the state within a specified time, the limit of which shall be not less than 48 hours nor more than 10 days, according to the nature of the insects or diseases. The owner or person in charge thereof shall so ship such articles, but such shipment shall be made under the direction of the officer making the inspection and shall be at the expense of the owner or agent of the owner.

(2) If the owner or the agent of the owner fails to comply with the notice, the articles shall be destroyed by the officer at the expense of the owner or agent. In case the articles cannot be reshipped out of the state without danger of escape of the pest or disease to the orchards, vineyards, farms, gardens, ornamentals, and their products of Oregon, the articles shall immediately be destroyed by the inspecting official or the per-

son who has inspected the same or under the direction of the official or person.

570.160 Procedure when shipment is sound, but from an infected or infested area. In case the shipment, although apparently sound and not infested or infected by any pests, is from an infested or infected district beyond the limits of this state, the inspector shall notify the owner or person in charge thereof, and shall require such owner or person to fumigate or sterilize such shipment, or to destroy or to treat such shipment in the manner directed by the inspector and under the supervision of the inspector or under the supervision of some person appointed by the inspector for that purpose, or to return it to the point of origin or ship out of the state.

570.165 Service and sufficiency of notices provided for in ORS 570.140 to 570.165. Any notice required by ORS 570.140 to 570.165 shall be delivered in person or sent by mail to the owner or person in charge of such infested or infected articles at the last-known place of address of the owner or person in charge. Such notice mailed to the shipper or shippers of such chattels at the return address on any such shipment of infested or infected chattels shall be considered sufficient notice to the owner or owners thereof within the requirements of ORS 570.140 to 570.165.

570.170 Department to make inspections; infected or infested matter declared a public nuisance. The department, whenever it deems it necessary, shall cause an inspection to be made of any orchards, nurseries, trees, plants, vegetables, vines or field crops or any fruit packing house, storeroom, salesroom, or any other place or thing within this state. Any such places, orchards, nurseries, trees, plants, shrubs, vegetables, vines, fruit or field crops or articles found infested or infected with any insects, pests, diseases or fungous growth or noxious weeds, or the seeds thereof, injurious to fruits, plants, trees, vegetables or vines or grain, or other field crops, or with eggs or larvae liable to spread to other places or localities, or of such nature as to be a public danger, hereby are declared to be a public nuisance. The department shall notify in writing the record owner, or owners, of such articles, things or places that the same are so infested or infected.

570.175 Procedure for abatement of the public nuisance. (1) Whenever any public nuisance as described in ORS 570.170 exists at any place in the state on property of any owner upon whom notice has been served and who has failed or refused to abate such nuisance within the time and in the manner specified in such notice, or when any such nuisance exists on the property of a nonresident or on any property the owner of which cannot be served with notice in the manner provided in ORS 570.190, after diligent search within the county in which such nuisance exists, the department shall make a report to the district attorney of the county in which the nuisance exists, or if the nuisance exists on property which lies in two or more counties, to the district attorney of any of such counties, setting forth the description of the property upon which the nuisance exists and naming the pest or other condition which renders such property a nuisance. The district attorney shall prepare from such report and any other available information a petition to the circuit court of the county, signed in manner and form required for a complaint in a civil action, in which the property or premises sought to be declared a nuisance shall be described with reasonable certainty. The petition shall set forth the names of each owner, encumbrancer or other person interested in such property or premises so far as the same can be ascertained from the public records, and pray that the court enter an order declaring such premises or property a public nuisance and directing the abatement of such nuisance by destruction or otherwise.

(2) Such action shall be brought in the name of the State of Oregon by the Director of Agriculture in the official capacity of director and shall proceed as an action not triable by right to a jury.

(3) Service of summons shall be made in the manner provided for service of summons in a civil action; provided, that where service is had by publication, the period of publication required shall be shortened to once a week for two consecutive weeks, and such service by publication is deemed complete upon the expiration of 21 days from and after the date of the first publication of such notice. The person or persons so served by publication shall appear and answer within 31 days from the date of the first publication of such notice.

(4) The court may, upon the application of any party, or upon its own motion, and for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

(5) At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the property or premises have been duly served with notice as prescribed in this section, and further satisfied by competent proof that the conditions of such premises or

property warrant its being declared a public nuisance, it shall enter an order condemning such property as a public nuisance and directing that the owner or other person ordered by the court shall destroy such property or abate such nuisance in such other manner as the court shall direct. If the nuisance is abated by any person other than the owner, then in the order of the court directing the abatement of the nuisance the court shall further order that an accurate account of the cost and expense necessary to the abatement be kept and a report made to the court within five days after the completion of the abatement of the nuisance. The report shall be in writing, verified by the one making it and shall be served and filed as a cost bill in a civil action. Objections to the statement, if any, shall be made, served, filed and determined as objections to a cost bill in a civil action. The judgment which orders the abatement of a nuisance shall also provide that the owner or owners of the property upon which the nuisance exists pay the expense of abating the nuisance, that it shall be a judgment lien on the property prior to all other liens and, if not paid within 60 days after the statement of expense is filed, execution may issue. [Amended by 1979 c.284 §174]

570.180 Summary abatement of nuisance. Any authorized officer, employee or inspector of the department may, in any case where an urgent emergency exists, abate any public nuisance, as described in ORS 570.170, in a summary manner, doing as little damage as possible to the things or premises on which or in which such nuisance exists, with notice to the owner or owners sent by mail at or subsequent to the time of such abatement.

570.185 Application of ORS 570.170 to 570.180 limited. The provisions of ORS 570.170 to 570.180 shall not be construed to apply to shipments of infested or infected articles mentioned in ORS 570.135.

570.190 Notices; manner of service; persons authorized to make service; reputed owner considered owner. (1) All notices provided for in ORS 570.140 to 570.190 shall be served upon each owner of such infected or infested premises or chattel, or upon the owner of each, if such premises and chattel are under different ownership. Service shall be made in the following manner:

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

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

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

(d) If such owner is a person judicially declared to be of unsound mind, or incapable of conducting the affairs of the person, and for whom a guardian has been appointed, on such guardian.

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

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

(2) Such notice may be served by any representative of the department, or by a sheriff or deputies of the sheriff. The notice shall state the spray to be used or the treatment to be applied for the eradication of insect pests, their eggs, larvae, and contagious diseases and fungous growths. The treatment may include the destruction of infested or infected articles, if such destruction is necessary in the judgment of the person inspecting the same under the authority conferred by law.

(3) For the purposes of ORS 570.130 to 570.190 any reputed owner shall be considered as the owner of any infected or infested premises or chattel.

570.195 [Repealed by 1961 c 394 §1 (570.196 enacted in lieu of 570 195)]

570.196 Certain barberry varieties declared nuisances; cultivation prohibited; permitted varieties. (1) Barberry (berberis spp.), and plants of the genera mahonia, except mahonia aquifolium (Oregon grape), and

mahoberberis including all species and varieties, except immune or resistant varieties thereof as provided by subsection (3) of this section, are hosts of puccinia graminis, the black stem rust fungus of wheat and other small grains and grasses, and hereby are declared to be public nuisances. Authorized representatives of the department or of the county in which such plants are located, shall abate these nuisances without indemnity to the owner as provided by ORS 570.200.

(2) No person shall grow, propagate, maintain, sell or transport within the State of Oregon, or bring into this state, any barberry (berberis spp.), and plants of the genera mahonia and mahoberberis including all species and varieties thereof, that have not been determined by the department to be immune to or resistant to the black stem rust fungus, puccinia graminis.

(3) The department shall establish and maintain a list by regulation of the varieties of barberry (berberis spp.), and plants of the genera mahonia and mahoberberis including all species and varieties, that have been determined to be immune to, or resistant to the black stem rust fungus, puccinia graminis. In promulgating regulations as authorized by this subsection, the department may take into consideration but is not to be limited to:

(a) The laws and regulations of the United States and other states.

(b) The opinions and advice of persons, agencies, or organizations recognized as experienced in the identification or control of barberry, mahonia and mahoberberis.

(c) Procedures necessary to control or eradicate such plants which are hosts of puccinia graminis, the black stem rust fungus, in order to prevent or eliminate substantial economic losses to the Oregon farmers and producers of small grains and grasses. [1961 c.394 §2 (enacted in lieu of 570.195)]

570.200 Procedure for abatement of nuisance caused by certain barberry varieties. (1) Authorized representatives of the department, county agents and weed control districts supervisors of each county shall detect, control and destroy or cause to be destroyed barberry (berberis spp.), and plants of the genera mahonia and mahoberberis including all species and varieties, that have not been determined as provided by ORS 570.196 (3) to be immune to, or resistant to the black stem rust fungus, puccinia graminis.

(2) Persons authorized by subsection (1) of this section shall forward a written notice to the owner, occupant or person in possession of the land on which such plant is located. Such notice shall contain:

(a) The name of the plant growing on such land and its approximate location.

(b) Concise description of the plant to be destroyed and the reasons such plants are declared to be a public nuisance.

(c) A statement that such plant must be destroyed within 20 days from the date of notice and only in a manner and as directed by the department by regulation.

(3) Each person owning or in possession of a plant ordered to be destroyed as provided by subsection (2) of this section, shall destroy such plant within the time and manner set out in such order.

(4) If the owner, person in possession or the occupant of land on which such plant is located fails or refuses to destroy the plant as provided by order under subsection (2) of this section, the department or the county may go upon such land and destroy the plant without indemnity to the owner thereof. [1961 c.394 §4]

PROTECTIVE MEASURES AGAINST SPREAD OF DISEASE AND PESTS

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

570.310 Cooperation with interested groups and agencies. (1) The director, and the chief of the division of plant industry, may cooperate with any group of citizens, municipalities and counties in the state, Oregon State University, the extension service, the Secretary of Agriculture of the United States, and such agencies as the director designates to carry out the provisions of this section and ORS 570.305.

(2) The director, acting by and through the chief of the division of plant industry, may in the discretion of the director, provide funds, labor, materials and supplies for the purposes of this section and ORS 570.305.

570.320 Horticultural inspectors to prevent introduction of diseased matter into state. It is the special duty of all officers, employees and deputies to whom the duty to act as horticultural inspectors is as-

signed, to inspect nursery stock, trees, shrubs, plants, fruits, bulbs and vegetables and other articles mentioned in ORS 570.320 to 570.330, coming from points within the state, and to enforce the provisions of ORS 570.320 to 570.330 and all other horticultural laws of the state relating thereto. Any such officer, employee or deputy of the department also shall have all the duties, powers and rights of a county horticultural inspector and are granted jurisdiction to act throughout the state.

570.325 Collaboration with federal department. The officers, employees and inspectors of the department and county inspectors are authorized to collaborate with the United States Department of Agriculture in all matters relating to the inspection of nursery stock, plants, fruits, vegetables, bulbs, seeds or other plant products shipped into this state from foreign countries or from other states or territories.

570.330 Containers and wrappers to be labeled. Each carload, case, box, package, crate, bundle, or bale of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, fruit or vegetables imported or brought into this state shall have plainly and legibly marked thereon in a conspicuous manner and place, the name and address of the person, firm or corporation shipping the same and the name and address of the consignee; also the name of the country, state or territory where the contents were grown and must show that it contains nursery stock, seedlings or seeds.

570.335 Prunings and cuttings to be burned. No person, firm or corporation owning or operating any nursery, fruit orchard of any kind, hopyards, flower gardens or ornamental trees shall throw any cuttings or prunings or parts of any fruit trees, nursery stock, ornamental trees, or hop vines into any public road, highway, lane, field or other inclosure, or into any watercourse of any kind; but shall destroy such cuttings or prunings or parts with fire within a reasonable time, except when infested or infected with a contagious pest or disease. Such infested or infected prunings, cuttings or parts shall immediately be destroyed by fire.

570.345 Spraying or destroying infested or infected matter; notice; "infested" and "infected" defined. (1) Any person, firm or corporation owning or operating any nursery, fruit orchard, hopyard, flower garden or ornamental trees, and knowing it to be infested or infected with any kind of insect pest or disease that is or may become a menace to horticultural or farm crops, or on being served with a written notice by the department that such nursery, fruit orchard, hopyard, flower garden or ornamental trees are so infested or infected, shall immediately spray or destroy the same in such manner as the department directs.

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

(b) "Infected" means any appearance of a disease on such trees or plants that may be a menace to horticultural or farm crops.

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

(2) When an inspector, or other authorized person of the department, making an inspection of fruit finds that such fruit does not meet the requirements of this section or of other sections of the law relating to such fruit, the inspector or other authorized person shall place a seizure on such fruit and immediately serve notice in writing of such seizure upon the owner or person having possession. The owner or person having possession shall not sell or dispose of the seized fruit or move the seized fruit from the place of location provided for in the notice of seizure without written permission from the inspector so to do. The failure of the person in possession of the seized fruit to show such fruit in possession, or a written release signed by a proper person authorized by the department so to do, is prima facie evidence that the owner or person having possession of such fruit at time of seizure has violated the provisions of this section.

(3) In addition to the penalties provided for in ORS 570.990, fruit seized for violation of this section shall be disposed of by court order or by consent of the owner or person in possession; or when the infestation is such as to cause immediate danger of spread of pests or diseases to orchard and farm crops growing from or on the soil of Oregon, such fruit or fruits immediately shall be destroyed by the inspector making the seizure or by other persons authorized by the department,

by burning or by other means that will completely eradicate the pest or disease, and without compensation to the owner, agent or person in possession of such fruit, where it appears beyond a reasonable doubt that the infestation is such as will cause immediate spread of pests or diseases. Such infested or infected fruit may be sold to evaporators, fruit canneries, fruit product factories, or other by-product factories under the following conditions:

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

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

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

570.355 Packing or delivery for shipment of infected fruit is misdemeanor; manufacture into by-product permitted. Each person who packs or prepares for shipment to any point within the state, or who delivers or causes to be delivered to any express agent or railroad agent or other person or to any transportation company or corporation for shipment to any point without the state, any fresh, cured or dried fruit infected with insect pests or diseases injurious to trees, shrubs, plants, fruits or vegetables is guilty of a misdemeanor. This section does not prevent the grower of such infected fruit grown within this state from manufacturing the same into a by-product or selling and shipping the same to a by-product factory.

570.360 Department to present evidence of violations; prosecution in justice court. The department shall present evidence of violation of any provision of ORS 564.020, 570.005 to 570.055, 570.125, 570.320, 570.335 to 570.355, and 632.490 to the district attorney for the county in which any such violation may occur. Prosecution for such violation may be brought in any of the justice courts of this state.

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

570.370 Fumigatorium established; purpose. In order to carry on investigations of insect pests of nursery, greenhouse, bulb, fruit, vegetable, cereal, seed and other agricultural industries and to experiment with and determine effective measures for the control of such insect pests by means of fumigation and to collaborate with the department in its regulatory program, there is provided a fumigatorium at Oregon State University at Corvallis.

570.375 Management and control of fumigatorium. The fumigatorium shall be under the management and control of the State Board of Higher Education through its director of the agricultural experiment station.

CONTROL AREAS

570.405 Department may establish control areas; limitations. (1) The department may establish, in accordance with the provisions governing the procedure for the declaring of quarantines contained in ORS 561.510 to 561.590, control areas within this state, if after careful investigation it determines that such areas are necessary for the general protection of the horticultural, agricultural or forest industries of the state from diseases, insects, animals or noxious weeds or for the eradication or exclusion from such areas of certain plants or their produce, trees, diseases, animals, insects or noxious weeds that may be a menace to such areas and generally to horticultural, agricultural or forestry industries. Whenever eastern filbert blight is found to exist, the department may declare it a hazard and may establish a control area without having to prove how the disease is transmitted.

(2) The power and authority to establish such control areas and for the eradication or exclusion of certain plants or their produce, trees, diseases, insects, animals or noxious weeds existing therein or to be excluded therefrom shall be exercised reasonably and justly considering the exigencies of the particular situation, the danger to the interests sought to be protected and the immediate and continuing effect upon the property and the owners of the property in the areas established. Such powers shall in no case be exercised unreasonably, unjustly or arbitrarily.

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

570.407 Eastern filbert blight control; removal of trees; attorney fees in enforcement action. (1) In a control area

that has been established for eastern filbert blight control as provided in ORS 570.405, the department may require the removal of any trees infected with the disease. Removal may not be required if the infected trees are subject to maintenance under a management program prescribed by the department.

(2) In any legal action taken to enforce the provisions of an eastern filbert blight control area order, the court shall award the prevailing party reasonable attorney fees. [1987 c.228 §3]

570.410 Violation of order prohibited. From and after the date an order creating a control area becomes finally effective, no person shall violate, in whole or in part, any provision of such order.

570.412 Making contracts and receiving funds to carry out control order. The department is authorized to contract with and to receive funds from any person, including but not limited to, any governmental agency, county or municipal corporation, for the purpose of carrying on such work as is necessary in enforcing or carrying out the provisions of a control order. Any unexpended funds paid into the department as provided by this section may be returned to such person, governmental agency, county or municipal corporation. Funds received under this section shall be deposited with the State Treasurer and credited to the Department of Agriculture Account. Such funds are continuously appropriated for the purpose of carrying out the purpose of the contract and the control area order under which the money is paid. [1959 c 300 §2; 1967 c.637 §11]

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

570.420 Cherry fruit fly control area inspector; appointment; duty; pay. The county court or board of county commissioners of each county in which a control area, or any part thereof, has been established for cherry fruit fly control according to ORS 570.405, shall appoint a control area inspector for that county upon the petition of 50 interested persons or 50 percent of the interested persons, whichever is smaller, who are farm owners within the county. The inspector shall work under the direction of and be responsible to the department. The inspector shall carry out the provisions of the control area order. The inspector shall be paid out of the general funds of the county such wages as are fixed by the county court or board of county commissioners.

570.425 Inspector has access to land in area; refusal to comply with control area order. (1) The control area inspector has access to the land within the control area that is within the county for which the inspector was appointed.

(2) In the event an owner or occupant of any land fails or refuses to treat the trees, plants or their produce as provided by the control area order, the inspector shall at once notify the appointing authority of such fact and they shall authorize the inspector and such assistants as the inspector may employ to go upon the land or premises and treat the trees, plants or their produce thereon. The most effective and practical method as approved by the director shall be used.

570.430 Procedure for collection of expenses incurred by inspector. (1) On the completion of the work, the inspector shall file with the county clerk an itemized statement of expenses necessarily incurred in the operation, including the wages of the inspector for time spent therein, both on the preparation and completion of the operation, verified by the oath of the inspector. When such statement is filed, the county clerk shall cause the same to be entered upon a lien docket prepared for that purpose. The amount of the expenses when so docketed shall constitute a first lien upon such land and premises, except as to taxes. The county court or board of county commissioners shall hear and promptly decide any objection to the amount of expenses assessed.

(2) If the expenses are not paid and the lien discharged by the owner or occupant of the lands within 90 days from the date the lien is docketed, the county clerk shall certify the same to the tax collector of the county, who shall extend the amount thereof upon the current tax roll and when so extended the same shall constitute a valid lien against the land and premises and shall be collected by the tax collector in the same manner that taxes are collected; provided that all liens so certified by the county clerk to the tax collector after July 20 of each year, and before October 31 of the same year, shall be extended on the tax roll of the following year.

570.435 Expenses to be paid by county. If no objection has been filed, as authorized in ORS 570.430, within 10 days from the date of filing and docketing the lien, the county court or board of county commissioners shall pay out of the general funds of the county to the persons to whom the expenses are owing the amount thereof.

570.450 Rapeseed control areas. The department may establish control areas for the production of rapeseed as provided in ORS 570.405. The department may appoint advisory boards to advise and counsel the department on the boundaries of the control areas, the type of rapeseed species and varieties which may be produced in the various control areas and the enforcement of control area orders. [1989 c.287 §2]

WEED CONTROL

(Generally)

570.505 Necessity of eradication of weeds; cooperation in control and eradication. Noxious weeds have become so thoroughly established and are spreading so rapidly on state, county and federally owned lands, as well as on property in individual ownership and in transition to county ownership through tax delinquency, that they hereby are declared a menace to the public welfare. While it is recognized that complete eradication may not be practicable, it hereby is established that steps leading to eradication and control are necessary and that responsibility rests not only on the individual landowner and operator but also on the county, state and Federal Government, and that the county, state and Federal Government should cooperate with individual owners in the control and eradication of noxious weed pests. [Amended by 1985 c 621 §1]

570.510 State and counties to control noxious weeds. The state and the respective counties shall control any weeds designated as noxious by the state or the respective counties in any such county on land under their respective ownerships. [Amended by 1985 c 621 §2]

570.515 County governing body may create weed control district; petition for special weed control district. (1) The county governing body of each county may declare the county, or any portion of the lands in a county, a weed control district for the purpose of destroying such weeds and of preventing the seeding and spread of such other weeds and plants as the governing body may for the purposes of ORS 570.515 to 570.600 declare noxious.

(2) If the county is not made a weed control district or if the county weed control district does not include all such weeds or plants desired as included as noxious, interested parties may present a petition for a special weed control district. The petition shall describe the area to be included in the special weed control district and name the noxious weeds to be destroyed or prevented from blooming and producing seed within the district, and must be signed by more than half of the landowners in the area described in the petition who also own more than half of the acreage in the area. Upon presentation of such a petition, the county governing body shall declare such area a special weed control district and such weeds noxious within the district, in accordance with the petition. [Amended by 1985 c.621 §3]

570.520 Weed inspectors; appointment; duties; compensation. (1) The court shall, upon declaring a weed control district, appoint a weed inspector or inspectors, whose duties it shall be:

(a) To find out if any noxious weeds or plants are being permitted to grow and produce bloom or seed within the district or districts contrary to the provisions of ORS 570.515 to 570.600;

(b) To serve notices;

(c) When necessary to destroy or cut or to supervise the destruction or cutting of the noxious weeds growing or seeding within the weed control district; and

(d) To conduct investigations, approve plans and certify expenditures pertaining to weed control projects pursuant to ORS 570.590.

(2) The person or persons appointed by the county court shall receive for their services reasonable wages, as determined by the county court, for the time actually employed in the performance of duty under ORS 570.515 to 570.600. [Amended by 1975 c 555 §12]

570.525 Notice of district creation and weeds to be controlled. The county court shall, upon declaring a weed control district or districts, cause to be published an official notice describing each district and naming weeds to be destroyed and to be prevented from producing seed within the districts. The notice shall be published in a newspaper or newspapers, not exceeding three in number, serving the districts, in two consecutive issues if weekly, or two times at intervals of one week if daily or semiweekly. Immediately after the last publication of the official notice, the provisions of ORS 570.515 to 570.600 shall be enforced.

570.530 Weed inspector has right of entry; service of notice to eradicate weeds. (1) The weed inspector shall have access to the land within the district.

(2) When the provisions of ORS 570.515 to 570.600 are not being complied with, the weed inspector shall serve a written notice to the owner or occupant of the land. When the weed inspector is unable to serve such notice personally, the weed inspector shall post the notice and two copies thereof in three conspicuous places on the land. Such notice shall contain:

(a) The date of service or posting of notice.

(b) The name of the weed or weeds growing on such land, and a statement setting forth that such weeds must be destroyed or must be prevented from producing seed within a specified time of not less than two days or more than 20 days, to be established by the inspector, from the date of service of such notice.

(3) The service of such notice as provided in this section shall have the effect to require the owner or occupant of such land to destroy or prevent such weeds from seeding or spreading during the continuation of ownership or occupancy of the land or until the district is dissolved. A copy of such notice, together with proof of service indorsed thereon, shall be filed with the county court.

570.535 Owner or occupant to eradicate weeds; disposition of fines. (1) Each person, firm or corporation owning or occupying land within the district shall destroy or prevent the seeding on such land of any noxious weed within the meaning of ORS 570.515 to 570.600 in accordance with the declaration of the county court and by the use of the best means at hand and within a time declared reasonable and set by the court, except that no weed declared noxious shall be permitted to produce seed.

(2) All moneys collected as fines for violation of ORS 570.515 to 570.600 in any county shall be paid into the county treasury and shall become a part of the weed control fund.

570.540 Eradication of weeds on public lands and rights of way. The State Highway Commission, the respective county courts, reclamation districts and municipalities shall destroy or prevent the spread or seeding of any noxious weed within the meaning of ORS 570.515 to 570.600 on any land owned by them or constituting the right of way for any highway, county road, drainage or irrigation ditch, power or transmission line, or other purposes under their respective jurisdictions.

570.545 Eradication of weeds when owner or occupant refuses to do so; request for quarantine; statement of expenses to be filed. (1) If the owner or occupant of the land fails or refuses to immediately destroy or cut the noxious weeds in accordance with ORS 570.515 to 570.600, the weed inspector shall at once notify the district attorney of the county who shall at once take necessary steps for enforcement of ORS 570.515 to 570.600. The county court shall authorize the weed inspector or such assistants as the weed inspector may employ to go upon the land or premises and destroy the noxious weeds or control them in such manner as will destroy all seeds of such noxious weeds; provided, however, that if destruction or control of the weeds on any farm is in the judgment of the county weed inspector impracticable because the weeds may be too far advanced, or if for any other reason the means of control available are unsatisfactory, the weed inspector shall so notify the county court, which shall request the department to immediately quarantine any such uncontrolled noxious weed infested farm within the county to prevent the movement of infested crops or of livestock from such farm except under conditions prescribed in the quarantine that will prevent spread of the weeds by such crops or livestock. In all cases where the inspector undertakes to destroy or control noxious weeds, the most effective and practical method, in the judgment of the inspector, and with least injury to the land or crops, shall be used.

(2) Upon the completion of such work the person so appointed and authorized by the county court shall file with the county clerk an itemized statement of the expenses necessarily incurred in the destruction of such weeds, including the wages of the person as provided in ORS 570.520, verified by the oath of the person.

570.550 Statement to be entered on lien docket; extension upon tax roll if not paid. When the statement of expenses is filed, the county clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the charges and expenses when so docketed shall constitute a first lien upon such lands or premises, except as to taxes. If the charges and expenses are not paid and the lien discharged by the owner or occupant of such lands within 90 days from the date the lien is docketed, the county clerk shall certify the same to the officer having charge of the assessment or tax rolls for such county, who shall extend the amount thereof upon the current assessment or tax rolls. When so extended, the same shall constitute a valid lien against such premises and shall be collected by the tax collector in the same manner as taxes are collected. All liens so certified by the county clerk after September 1 of each year shall be extended on the next roll delivered to the tax collector under ORS 311.115. [Amended by 1957 c.99 §1; 1985 c 621 §4]

570.555 Payment for work. If within 10 days from the date of filing and docketing the lien as provided in ORS 570.545 and 570.550, no objections have been filed thereto, the county court shall pay to the person or persons appointed by the court, as provided in ORS 570.520 (1), out of the gen-

eral funds of the county, the amount of such lien.

570.560 County tax for weed control fund; expenditure. (1) The county courts of the several counties of this state hereby are required to levy a tax and create a fund to be known as the weed control fund for the control of weeds on county highways and public lands and for cooperation with individuals, state and federal agencies in controlling noxious weeds within weed control districts. The amount estimated by the county court as being sufficient for such purposes may be placed in the county budget and after consideration at the meeting held for the purpose of passing upon the tax levy by the electors of the county, may become one of the items for which expenditure may be made during the ensuing year.

(2) When such a fund is created, it shall be expended under the supervision of the county court in such manner as to effectuate the purposes of ORS 570.515 to 570.600.

570.562 Special assessment. Notwithstanding ORS 570.560, in addition to or in lieu of the tax authorized by ORS 570.560, a county governing body may levy a special assessment based upon benefit to finance weed control activities. All such assessments shall be treated in the same manner as the tax referred to in ORS 570.560. [1985 c.621 §5a; 1989 c 570 §1]

570.565 Dissolution of weed control district; disposition of funds. If in the judgment of the court the enforcement of ORS 570.515 to 570.600 in any county which has been declared a weed control district seems impracticable or likely to work injury to the people of the district, it may after a hearing declare that such weed control district no longer exists. Any special weed control district shall be declared terminated by the county court when a majority of landowners in the district, by petition or by public hearing state that they desire such district terminated for any weeds declared noxious in the district. Any moneys remaining in any fund for weed control shall, after the termination of the district, be credited to the general fund of the county.

570.570 Duty to clean machinery before moving; weed infested residue not to be moved. No person operating or having control of any threshing machinery, clover huller, hay baler, seed cleaning or treating machinery or other machinery shall move said machinery over any public road or from one farm to another without first thoroughly cleaning it. Before moving it, all hay or bundle racks and all other equipment shall be thoroughly swept and cleaned. All hay, straw or other crop residue infested with noxious weeds under the meaning of ORS 570.515 to 570.600 having partially or fully formed seeds shall not be moved from the land on which grown to other lands not infested with any of the weeds in the field from which such crop material came.

570.575 Copy of statute to be posted on machinery; copies furnished by county clerk. (1) No person shall operate any threshing machine, clover huller or hay baler, seed cleaning or treating machinery or any other similar machinery within any duly created weed control district in this state without first having posted in a conspicuous place on such machinery a copy of ORS 570.570 and this section.

(2) The county clerks of the various counties of this state hereby are authorized and directed to have printed a sufficient number of copies of ORS 570.570 and 570.575 and shall deliver such copies upon request to owners or operators of such machinery.

(Cost-share Assistance Grants)

570.580 Cost-share assistance grants for weed control; application. Any person owning or occupying land within a weed control district or special weed control district who conducts a weed control project in accordance with the provisions of ORS 570.520 and 570.580 to 570.600 may apply to the county court or commission for a cost-share assistance grant. [1975 c.555 §10]

570.585 Cost-share assistance grants for weed control; source of expenditures; limit on grants. (1) The county courts of the several counties of this state hereby are required to provide cost-share assistance grants to persons owning or occupying land within such counties who conduct a weed control project in accordance with the provisions of ORS 570.520 and 570.580 to 570.600. Expenditures by any county court or commission for cost-share assistance grants shall be made from the county's weed control fund pursuant to ORS 570.560.

(2) In any fiscal year, the amount of cost-share assistance to any person eligible for such assistance under ORS 570.580 and 570.590 shall be an amount equal to, but not exceeding, 50 percent of the actual cost of the eligible person's weed control project. [1975 c.555 §9]

570.590 Eligibility for grants. No person shall be eligible for a cost-share assistance grant under ORS 570.520 and 570.580 to 570.600 unless:

(1) A weed control inspector has:

(a) Conducted a field inspection of the weed control site;

(b) Approved the eligible person's plan for implementing a weed control project; and

(c) Certified that specific expenditures are appropriate for implementation of the project.

(2) The eligible person has made certified expenditures for the purpose of implementing an approved weed control project. Adequate proof of such expenditures shall consist of:

(a) Receipts, invoices or other evidence indicating the amount and cost of the project; and

(b) Such other weed control information as the county court or commission may require. [1975 c.555 §11]

570.595 Department funds for grants; reports by county. (1) Subject to ORS 291.232 to 291.260, the department may distribute in the manner prescribed in subsection (3) of this section to each county court an amount equal to 50 percent of the amount of cost-share assistance grants actually provided by the county court to eligible persons pursuant to ORS 570.580 to 570.590.

(2) Any funds available and received by any county court under this section shall be placed in the county's weed control fund and shall be expended by the county court to carry out the purposes of ORS 570.520 and 570.580 to 570.600.

(3) Each county court receiving funds under this section shall report to the department, at such times as the department shall require:

(a) The total number of eligible owners who have received cost-share assistance grants under ORS 570.580; and

(b) Any other weed control information the department shall require to carry out the purposes of ORS 570.520 and 570.580 to 570.600. The department shall make any necessary adjustments in the amounts due each county court at such times as the department determines appropriate in order to avoid overpayment. [1975 c.555 §13]

570.600 Financial assistance by department for weed control; limit on county responsibility. (1) The State Department of Agriculture may provide financial assistance to counties to promote the implementation of noxious weed control projects.

(2) Notwithstanding any other provision of ORS 570.520 and 570.580 to 570.600, a county court is not required to perform any duty, function or power provided in ORS 570.520 and 570.580 to 570.600 unless the department provides financial assistance to the county pursuant to subsection (1) of this section. [1975 c.555 §§14,15]

INTERSTATE COMPACT ON PEST CONTROL

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

INTERSTATE COMPACT ON PEST CONTROL

ARTICLE I

Findings

The party states find that:

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

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

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

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

ARTICLE II

Definitions

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

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

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification

of measures to control or eradicate one or more pests within one or more other states.

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

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

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

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

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

ARTICLE III
The Insurance Fund

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The Insurance Fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the Insurance Fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

ARTICLE IV
The Insurance Fund, Internal Operations and Management

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

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

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

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

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

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States or any other governmental agency, or from any person, firm, association or corporation.

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

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

the appropriate agency or officer in each of the party states.

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

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

ARTICLE V

Compact and Insurance Fund Administration

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

1. Assist in the coordination of activities pursuant to the compact in the state; and

2. Represent the state on the Governing Board of the Insurance Fund.

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

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

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

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

ARTICLE VI

Assistance and Reimbursement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE VII
Advisory and Technical Committees

The Governing Board may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the Governing Board or Executive Committee an advisory or technical committee may furnish information and recommendations with re-

spect to any application for assistance from the Insurance Fund being considered by such board or committee and the board or committee may receive and consider the same: Provided that any participant in a meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof, or, if made thereafter, no later than the time at which the Governing Board or Executive Committee makes its disposition of the application.

ARTICLE VIII
Relations with Nonparty Jurisdictions

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

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

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

ARTICLE IX
Finance

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

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

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

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

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under

its bylaws. However, all receipts and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the Insurance Fund.

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

ARTICLE X

Entry into Force and Withdrawal

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

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

ARTICLE XI

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[1981 c.699 §1]

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

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

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

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

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

570.680 Credit of expenditure to department account. The department, agency or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to the account of the department, agency or officer in the State Treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof. [1981 c 699 §6]

PENALTIES

570.990 Penalties. Violation of ORS 570.010 to 570.050, 570.105 to 570.200, 570.320 to 570.360, 570.410 and 570.515 to 570.600 is punishable, upon conviction, by a fine not to exceed $500. [Amended by 1955 c 166 §1, 1961 c 394 §5; 1985 c 621 §6]