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**ENGROSSED SUBSTITUTE HOUSE BILL 1028**  
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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** House Committee on Environmental Affairs (originally sponsored by Representatives Pruitt, Horn, Rust, Heavey, Anderson, Wineberry, Phillips, Wang, Sprenkle, Jones, Prentice, Fraser, Nelson, G. Fisher, Jacobsen, R. Fisher, Valle, Roland, Hine and Brekke; by request of Governor Gardner).

Read first time March 6, 1991.

1       AN ACT Relating to reducing air contaminant emissions and improving  
2 air quality; amending RCW 70.94.011, 70.94.030, 70.120.010, 70.120.020,  
3 70.120.070, 70.120.080, 70.120.120, 70.120.150, 70.120.170, 46.16.015,  
4 82.44.020, 82.44.110, 82.44.150, 82.44.155, 82.44.180, 82.50.410,  
5 82.50.510, 70.94.152, 70.94.155, 70.94.181, 70.94.205, 70.94.211,  
6 70.94.430, 70.94.431, 70.94.860, 70.94.875, 70.94.745, 70.94.660,  
7 70.94.670, 70.94.690, 70.94.650, 70.94.654, 70.94.775, 70.94.780,  
8 70.94.750, 70.94.457, 70.94.470, 70.94.473, 70.94.483, 70.94.041,  
9 70.94.656, 70.94.055, 70.94.092, 70.94.100, 70.94.130, 70.94.170,  
10 70.94.231, 70.94.240, 70.94.331, 70.94.332, 70.94.385, 70.94.395,  
11 70.94.405, 70.94.410, 70.94.420, and 70.146.080; reenacting and  
12 amending RCW 70.94.053; adding new sections to chapter 70.120 RCW;  
13 adding a new section to chapter 43.19 RCW; adding new sections to  
14 chapter 80.28 RCW; adding new sections to chapter 70.94 RCW; adding a  
15 new section to chapter 82.50 RCW; adding a new chapter to Title 70 RCW;  
16 creating new sections; repealing RCW 70.120.110, 70.120.140,  
17 70.120.900, 70.94.232, 70.94.680, 70.94.740, 70.94.810, 70.94.815,

1 70.94.825, and 70.94.870; prescribing penalties; providing effective  
2 dates; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 I.

5 PUBLIC POLICY, FINDINGS, AND INTENT

6 NEW SECTION. **Sec. 101.** The legislature finds that ambient air  
7 pollution is the most serious environmental threat in Washington state.  
8 Air pollution causes significant harm to human health; damages the  
9 environment, including trees, crops, and animals; causes deterioration  
10 of equipment and materials; contributes to water pollution; and  
11 degrades the quality of life.

12 Over three million residents of Washington state live where air  
13 pollution levels are considered unhealthy. Of all toxic chemicals  
14 released into the environment more than half enter our breathing air.  
15 Citizens of Washington state spend hundreds of millions of dollars  
16 annually to offset health, environmental, and material damage caused by  
17 air pollution. The legislature considers such air pollution levels,  
18 costs, and damages to be unacceptable.

19 **Sec. 102.** RCW 70.94.011 and 1973 1st ex.s. c 193 s 1 are each  
20 amended to read as follows:

21 It is declared to be the public policy ~~((of the state))~~ to  
22 preserve, protect, and enhance the air quality for current and future  
23 generations. Air is an essential resource that must be protected from  
24 harmful levels of pollution. Improving air quality is a matter of  
25 state-wide concern and is in the public interest. It is the intent of  
26 this chapter to secure and maintain ~~((such))~~ levels of air quality ~~((as~~

1 will)) that protect human health and safety ((and)), including the most  
2 sensitive members of the population, to comply with the requirements of  
3 the federal clean air act, ((and,)) to ((the—greatest—degree  
4 practicable,)) prevent injury to plant ((and)), animal life, and  
5 property, to foster the comfort and convenience of ((its)) Washington's  
6 inhabitants, to promote the economic and social development of the  
7 state, and to facilitate the enjoyment of the natural attractions of  
8 the state. ((The problems and effects of air pollution are frequently  
9 regional and interjurisdictional in nature, and are dependent upon the  
10 existence of urbanization and industrialization in areas having common  
11 topography and recurring weather conditions conducive to the buildup of  
12 air contaminants))

13 It is further the intent of this chapter to protect the public  
14 welfare, to preserve visibility, to protect scenic, aesthetic,  
15 historic, and cultural values, and to prevent air pollution problems  
16 that interfere with the enjoyment of life, property, or natural  
17 attractions.

18 Because of the extent of the air pollution problem the legislature  
19 finds it necessary to return areas with poor air quality to levels  
20 adequate to protect health and the environment as expeditiously as  
21 possible but no later than December 31, 1995. Further, it is the  
22 intent of this chapter to prevent any areas of the state with  
23 acceptable air quality from reaching air contaminant levels that are  
24 not protective of human health and the environment.

25 The legislature recognizes that air pollution control projects may  
26 affect other environmental media. In selecting air pollution control  
27 strategies state and local agencies shall support those strategies that  
28 lessen the negative environmental impact of the project on all  
29 environmental media, including air, water, and land.

1       The legislature further recognizes that energy efficiency and  
2 energy conservation can help to reduce air pollution and shall  
3 therefore be considered when making decisions on air pollution control  
4 strategies and projects.

5       It is the policy of the state that the costs of protecting the air  
6 resource and operating state and local air pollution control programs  
7 shall be shared as equitably as possible among all sources whose  
8 emissions cause air pollution.

9       It is also declared as public policy that regional air pollution  
10 control programs are to be encouraged and supported to the extent  
11 practicable as essential instruments for the securing and maintenance  
12 of appropriate levels of air quality.

13       ~~((It is also declared to be the public policy of the state to~~  
14 ~~provide for the people of the populous metropolitan regions in the~~  
15 ~~state the means of obtaining air pollution control not adequately~~  
16 ~~provided by existing agencies of local government. For reasons of the~~  
17 ~~present and potential dramatic growth in population, urbanization, and~~  
18 ~~industrialization, the special problem of air resource management,~~  
19 ~~encompassing both corrective and preventive measures for the control of~~  
20 ~~air pollution cannot be adequately met by the individual towns, cities,~~  
21 ~~and counties of many metropolitan regions.~~

22       ~~In addition, the state is divided into two major areas, each having~~  
23 ~~unique characteristics as to natural climatic and topographic features~~  
24 ~~which may result in the different potentials for the accumulation and~~  
25 ~~buildup of air contaminant concentrations. These two major areas are~~  
26 ~~the area lying west of the Cascade Mountain crest and the area lying~~  
27 ~~east of the Cascade Mountain crest. Within each of these major areas~~  
28 ~~are regions which, because of the climate and topography and present~~  
29 ~~and potential urbanization and industrial development may, through~~  
30 ~~definitive evaluation be classed as regional air pollution areas.))~~

1 To these ends it is the purpose of this chapter to (~~provide for~~  
2 a)) safeguard the public interest through an intensive, progressive,  
3 and coordinated state-wide program of air pollution prevention and  
4 control, to provide for an appropriate distribution of  
5 responsibilities, and to encourage coordination and cooperation between  
6 the state, regional, and local units of government, (~~and for~~  
7 cooperation across jurisdictional lines in dealing with problems of air  
8 pollution)) to improve cooperation between state and federal  
9 government, public and private organizations, and the concerned  
10 individual, as well as to provide for the use of all known, available,  
11 and reasonable methods to reduce, prevent, and control air pollution.

12 The legislature recognizes that the problems and effects of air  
13 pollution cross political boundaries, are frequently regional or  
14 interjurisdictional in nature, and are dependent upon the existence of  
15 human activity in areas having common topography and weather conditions  
16 conducive to the buildup of air contaminants. In addition, the  
17 legislature recognizes that air pollution levels are aggravated and  
18 compounded by increased population, and its consequences. These  
19 changes often result in increasingly serious problems for the public  
20 and the environment.

21 The legislature further recognizes that air emissions from  
22 thousands of small individual sources are major contributors to air  
23 pollution in many regions of the state. As the population of a region  
24 grows, small sources may contribute an increasing proportion of that  
25 region's total air emissions. It is declared to be the policy of the  
26 state to achieve significant reductions in emissions from those small  
27 sources whose aggregate emissions constitute a significant contribution  
28 to air pollution in a particular region.

29 It is the intent of the legislature that air pollution goals be  
30 incorporated in the missions and actions of state agencies.

1       **Sec. 103.** RCW 70.94.030 and 1987 c 109 s 33 are each amended to  
2 read as follows:

3       Unless a different meaning is plainly required by the context, the  
4 following words and phrases as hereinafter used in this chapter shall  
5 have the following meanings:

6       (1) "Air contaminant" means dust, fumes, mist, smoke, other  
7 particulate matter, vapor, gas, odorous substance, or any combination  
8 thereof.

9       (2) "Air pollution" is presence in the outdoor atmosphere of one or  
10 more air contaminants in sufficient quantities and of such  
11 characteristics and duration as is, or is likely to be, injurious to  
12 human health, plant or animal life, or property, or which unreasonably  
13 interfere with enjoyment of life and property.

14       (3) (~~("Person" means and includes an individual, firm, public or~~  
15 ~~private corporation, association, partnership, political subdivision,~~  
16 ~~municipality or government agency))~~ "Air quality standard" means an  
17 established concentration, exposure time, and frequency of occurrence  
18 of an air contaminant or multiple contaminants in the ambient air which  
19 shall not be exceeded.

20       (4) "Ambient air" means the surrounding outside air.

21       (5) "Authority" means any air pollution control agency whose  
22 jurisdictional boundaries are coextensive with the boundaries of one or  
23 more counties.

24       (~~(5)~~) (6) "Board" means the board of directors of an authority.

25       (~~(6)~~) (7) "Control officer" means the air pollution control  
26 officer of any authority.

27       (~~(7)~~) (8) "Department" means the department of ecology.

28       (9) "Emission" means a release of air contaminants into the  
29 (~~(outdoor atmosphere of air contaminants))~~ ambient air.

30       (~~(8)~~) ~~"Department" means the state department of ecology.~~



1 motor vehicles registered in the same name and whose owner has been  
2 assigned a fleet identifier code by the department of licensing.

3 (4) "Motor vehicle" means any self-propelled vehicle required to be  
4 licensed pursuant to chapter 46.16 RCW.

5 (5) "Motor vehicle dealer" means a motor vehicle dealer, as defined  
6 in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

7 (6) "Person" means an individual, firm, public or private  
8 corporation, association, partnership, political subdivision of the  
9 state, municipality, or governmental agency.

10 (7) The terms "air contaminant," "air pollution," "air quality  
11 standard," "ambient air," "emission," and "emission standard" have the  
12 meanings given them in RCW 70.94.030.

13 **Sec. 202.** RCW 70.120.020 and 1989 c 240 s 5 are each amended to  
14 read as follows:

15 (1) The department shall conduct ~~((the following programs in a~~  
16 ~~manner that will enhance the successful implementation of the air~~  
17 ~~pollution control system established for motor vehicles by this~~  
18 ~~chapter:~~

19 ~~(a) A voluntary motor vehicle emissions inspection program;~~

20 ~~(b)) a public educational program regarding the health effects of~~  
21 ~~air pollution emitted by motor vehicles; the purpose, operation, and~~  
22 ~~effect of emission control devices and systems; and the effect that~~  
23 ~~proper maintenance of motor vehicle engines has on fuel economy and air~~  
24 ~~pollution emission(~~~~(+and~~

25 ~~(e)) and a public notification program identifying the geographic~~  
26 ~~areas of the state that are designated as being noncompliance areas and~~  
27 ~~emission contributing areas and describing the requirements imposed~~  
28 ~~under this chapter for those areas.~~

1       (2)(a) The department(~~(, the superintendent of public instruction,~~  
2 ~~and the state board for community college education shall develop~~  
3 ~~cooperatively, after consultation with automotive trades joint~~  
4 ~~apprenticeship committees approved in accordance with RCW 49.04.040, a~~  
5 ~~program for granting~~)) shall grant certificates of instruction to  
6 persons who successfully complete a course of study, under general  
7 requirements established by the director, in the maintenance of motor  
8 vehicle engines, the use of engine and exhaust analysis equipment, and  
9 the repair and maintenance of emission control devices. The director  
10 may establish and implement procedures for granting certification to  
11 persons who successfully complete other training programs or who have  
12 received certification from public and private organizations which meet  
13 the requirements established in this subsection, including programs on  
14 clean fuel technology and maintenance.

15       (b) The department shall make available to the public a list of  
16 those persons who have received certificates of instruction under  
17 subsection (2)(a) of this section.

18       **Sec. 203.** RCW 70.120.070 and 1989 c 240 c 6 are each amended to  
19 read as follows:

20       (1) Any person:

21       (a) Whose motor vehicle is tested pursuant to this chapter and  
22 fails to comply with the emission standards established for the  
23 vehicle; and

24       (b) Who, following such a test, expends more than fifty dollars on  
25 a 1980 or earlier model year motor vehicle or expends more than one  
26 hundred fifty dollars on a 1981 or later model year motor vehicle for  
27 repairs solely devoted to meeting the emission standards and that are  
28 performed by a certified emission specialist authorized by RCW  
29 70.120.020(2)(a); and

1 (c) Whose vehicle fails a retest, may be issued a certificate of  
2 acceptance if (i) the vehicle has been in use for more than five years  
3 or fifty thousand miles, and (ii) any component of the vehicle  
4 installed by the manufacturer for the purpose of reducing emissions, or  
5 its appropriate replacement, is installed and operative(~~(-)~~); and

6 (d) To receive the certificate, the person must document compliance  
7 with (b) and (c) of this subsection to the satisfaction of the  
8 department.

9 (2) Persons who fail the initial tests shall be provided with  
10 information regarding the availability of federal warranties and  
11 certified emission specialists.

12 NEW SECTION. Sec. 204. (1) A task force is established for the  
13 purposes of recommending a program to assist with vehicles failing to  
14 comply with emission standards under RCW 70.120.120. The task force  
15 shall be appointed by the speaker of house of representatives and the  
16 president of the senate and shall consist of:

17 (a) Two members from the house committee on environmental affairs;

18 (b) Two members from the senate committee on environment and  
19 natural resources; and

20 (c) Two members from the legislative committee on transportation.

21 (2) In developing recommendations, the task force shall consult  
22 with representatives from the departments of ecology, licensing, social  
23 and health services, and revenue, the Washington state patrol, vehicle  
24 dealers and manufacturers, auto wreckers, and advocates for low-income  
25 persons and senior citizens.

26 (3) By November 1, 1991, the task force shall report to the  
27 appropriate standing committees of the legislature. The report shall  
28 recommend methods to:

1 (a) Use public and private funds to provide credit toward  
2 purchasing vehicles ten years or older from persons with vehicles not  
3 meeting the emission standards under RCW 70.120.120 for the purpose of  
4 permanently removing such vehicles from the road;

5 (b) Identify persons needing assistance with the provisions of RCW  
6 70.120.120. In identifying such persons, the task force shall give  
7 first consideration to persons with an income of less than one hundred  
8 fifty percent of the federal poverty level;

9 (c) Prevent fraud or abuse of the program developed under this  
10 section; and

11 (d) Share the cost of the program with new and used car dealers  
12 licensed under chapter 46.70 RCW.

13 In the event that the task force determines a program to provide  
14 credit toward the purchase of older, polluting vehicles, as described  
15 under (a) of this subsection, does not provide an adequate benefit to  
16 low-income persons, the task force shall include recommendations to  
17 provide public funds for the repair of such vehicles.

18 **Sec. 205.** RCW 70.120.080 and 1979 ex.s. c 163 s 8 are each amended  
19 to read as follows:

20 The director may authorize an owner or lessee of a fleet of motor  
21 vehicles, or the owner's or lessee's agent, to inspect the vehicles in  
22 the fleet and issue certificates of compliance for the vehicles in the  
23 fleet if the director determines that: (1) The director's ((~~emission~~  
24 ~~and~~)) inspection ((~~standards~~)) procedures will be complied with; and  
25 (2) certificates will be issued only to vehicles in the fleet that meet  
26 emission and equipment standards adopted under RCW 70.120.150 and only  
27 when appropriate.

28 In addition, the director may authorize an owner or lessee of one  
29 or more diesel motor vehicles with a gross vehicle weight rating in

1 excess of eight thousand five hundred pounds, or the owner's or  
2 lessee's agent, to inspect the vehicles and issue certificates of  
3 compliance for the vehicles. The inspections shall be conducted in  
4 compliance with inspection procedures adopted by the department and  
5 certificates of compliance shall only be issued to vehicles that meet  
6 emission and equipment standards adopted under RCW 70.120.150.

7 The director shall establish by rule the fee for fleet or diesel  
8 inspections provided for in this section. The fee shall be set at an  
9 amount necessary to offset the department's cost to administer the  
10 fleet and diesel inspection program authorized by this section.

11 Owners, leaseholders, or their agents conducting inspections under  
12 this section shall pay only the fee established in this section and not  
13 be subject to fees under RCW 70.120.170(4).

14 **Sec. 206.** RCW 70.120.120 and 1989 c 240 s 8 are each amended to  
15 read as follows:

16 The director shall adopt rules implementing and enforcing this  
17 chapter ~~((and RCW 46.16.015(2)(g)))~~ in accordance with chapter 34.05  
18 RCW. ~~((Notwithstanding the provisions of chapter 34.05 RCW, any rule~~  
19 ~~implementing and enforcing RCW 70.120.150(5) may not be adopted until~~  
20 ~~it has been submitted to the standing committees on ecology of the~~  
21 ~~house of representatives and senate for review and approval.))~~ The  
22 ~~((standing committees))~~ department shall take into account when  
23 considering proposed modifications of emission contributing boundaries,  
24 as provided for in RCW 70.120.150~~((+5))~~ (6), alternative ~~((plans for~~  
25 ~~traffic rerouting and traffic bans))~~ transportation control and motor  
26 vehicle emission reduction measures that ~~((may have been prepared))~~ are  
27 required by local municipal corporations for the purpose of satisfying  
28 federal emission guidelines.

1       **Sec. 207.** RCW 70.120.150 and 1989 c 240 s 2 are each amended to  
2 read as follows:

3       The director:

4       (1) Shall adopt motor vehicle emission and equipment standards to:  
5 Ensure that no less than seventy percent of the vehicles tested comply  
6 with the standards on the first inspection conducted, meet federal  
7 clean air act requirements, and protect human health and the  
8 environment.

9       (2) Shall establish, by rule, an emission standard and a test  
10 methodology to accurately measure the opacity of emissions from diesel  
11 engines. The emission standard adopted by the department shall ensure  
12 that properly maintained engines comply with the standards on the first  
13 inspection conducted.

14       (3) Shall designate a geographic area as being a "noncompliance  
15 area" for motor vehicle emissions if (a) the department's analysis of  
16 ~~((the))~~ emission and ambient air quality data, ~~((recorded for))~~  
17 covering a period of no less than one year, ~~((at the monitoring sites))~~  
18 indicates that the standard has or will probably be exceeded, and (b)  
19 the department determines that the primary source of the air  
20 contaminant ~~((being monitored at the sites))~~ is motor vehicle  
21 emissions.

22       ~~((+3))~~ (4) Shall reevaluate noncompliance areas if the United  
23 States environmental protection agency modifies the relevant air  
24 quality standards, and shall discontinue the program if compliance is  
25 indicated and if the department determines that the area would continue  
26 to be in compliance after the program is discontinued. The director  
27 shall notify persons residing in noncompliance areas of the  
28 reevaluation.

29       ~~((+4))~~ (5) Shall analyze information regarding the motor vehicle  
30 traffic in a noncompliance area to determine the smallest land area

1 within whose boundaries are present registered motor vehicles that  
2 contribute significantly to the violation of motor vehicle-related air  
3 quality standards in the noncompliance area. The director shall  
4 declare the area to be an "emission contributing area." An emission  
5 contributing area established for a carbon monoxide or oxides of  
6 nitrogen noncompliance area must contain the noncompliance area within  
7 its boundaries. An emission contributing area established for an ozone  
8 noncompliance area located in this state need not contain the ozone  
9 noncompliance area within its boundaries if it can be proven that  
10 vehicles registered in the area contribute significantly to violations  
11 of the ozone air quality standard in the noncompliance area. An  
12 emission contributing area may be established in this state for  
13 violations of federal air quality standards for ozone in an adjacent  
14 state if (a) the United States environmental protection agency  
15 designates an area to be a "nonattainment area for ozone" under the  
16 provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), and  
17 ~~((the nonattainment area encompasses portions of both Washington~~  
18 ~~and the adjacent state, and (c))~~) it can be proven that vehicles  
19 registered in this state contribute significantly to the violation of  
20 the federal air quality standards for ozone in the adjacent state's  
21 ~~((portion of the))~~ nonattainment area.

22 ~~((+5))~~ (6) Shall, after consultation with the appropriate local  
23 government entities, designate areas as being noncompliance areas or  
24 emission contributing areas, and shall establish the boundaries of such  
25 areas by rule. The director may also modify boundaries. In  
26 establishing the external boundaries of an emission contributing area,  
27 the director shall use the boundaries established for ZIP code service  
28 areas by the United States postal service.

1        ~~((6))~~ (7) May make grants to units of government in support of  
2 planning efforts to reduce motor vehicle emissions ~~((in areas where~~  
3 ~~emission control inspections are not required))~~.

4        **Sec. 208.** RCW 70.120.170 and 1989 c 240 s 4 are each amended to  
5 read as follows:

6        (1) The department shall administer a system for ~~((biennial))~~  
7 emission inspections ~~((of emissions))~~ of all motor vehicles registered  
8 within the boundaries of each emission contributing area. ~~((Persons~~  
9 ~~residing within the boundaries of an emission contributing area shall~~  
10 ~~register their motor vehicle within that area, unless business reasons~~  
11 ~~require registration outside the area. Requests for exemption from~~  
12 ~~inspection for business reasons shall be reviewed and approved by the~~  
13 ~~director))~~ Under such system a motor vehicle shall be inspected  
14 biennially except where an annual program would be required to meet  
15 federal law and prevent federal sanctions. In addition, motor vehicles  
16 shall be inspected at each change of registered owner.

17        (2) The director shall:

18        (a) Adopt procedures for conducting emission ~~((tests for))~~  
19 inspections of motor vehicles. ~~((tests shall))~~ inspections may  
20 include idle and high revolution per minute emission tests. The  
21 emission test for diesel vehicles shall consist solely of a smoke  
22 opacity test.

23        (b) Adopt criteria for calibrating emission testing equipment.  
24 Electronic equipment used to test for emissions standards provided for  
25 in this chapter shall be properly calibrated. The department shall  
26 examine frequently the calibration of the emission testing equipment  
27 used at the stations.

28        (c) Authorize, through contracts, the establishment and operation  
29 of inspection stations for conducting ~~((the))~~ vehicle emission

1 (~~tests~~) inspections authorized in this chapter. No person contracted  
2 to inspect motor vehicles may perform for compensation repairs on any  
3 vehicles. No public body may establish or operate contracted  
4 inspection stations. Any contracts must be let in accordance with the  
5 procedures established for competitive bids in chapter 43.19 RCW.

6 (3) Subsection (2)(c) of this section does not apply to volunteer  
7 motor vehicle inspections under RCW 70.120.020(1)(~~a~~) if the  
8 inspections are conducted for the following purposes:

9 (a) Auditing;

10 (b) Contractor evaluation;

11 (c) Collection of data for establishing calibration and performance  
12 standards; or

13 (d) Public information and education.

14 (4)(a) The director shall establish by rule the fee to be charged  
15 for emission inspections. The inspection fee shall be a standard fee  
16 applicable state-wide or throughout an emission contributing area and  
17 shall be no greater than eighteen dollars. Surplus moneys collected  
18 from fees over the amount due the contractor shall be paid to the state  
19 and deposited in the general fund. Fees shall be set at the minimum  
20 whole dollar amount required to (i) compensate the contractor or  
21 inspection facility owner, and (ii) offset the general fund  
22 appropriation to the department to cover the administrative costs of  
23 the motor vehicle emission inspection program.

24 (b) Before each inspection, a person whose motor vehicle is to be  
25 inspected shall pay to the inspection station the fee established under  
26 this section. The person whose motor vehicle is inspected shall  
27 receive the results of the inspection (~~test~~). If the inspected  
28 (~~vehicle's emissions comply~~) vehicle complies with the standards  
29 established by the director, the person shall receive a dated  
30 certificate of compliance. If the inspected (~~vehicle's emissions do~~)

1 vehicle does not comply with those standards, one (~~retest of the~~  
2 ~~vehicle's emission~~) reinspection of the vehicle shall be afforded  
3 without charge.

4 (5) All units of local government and agencies of the state with  
5 motor vehicles garaged or regularly operated in an emissions  
6 contributing area shall test the emissions of those vehicles  
7 (~~biennially~~) annually to ensure that the vehicle's emissions comply  
8 with the emission standards established by the director. All state  
9 agencies outside of emission contributing areas with more than twenty  
10 motor vehicles housed at a single facility or contiguous facilities  
11 shall test the emissions of those vehicles annually to ensure that the  
12 vehicles' emissions comply with standards established by the director.  
13 A report of the results of the tests shall be submitted to the  
14 department.

15 **Sec. 209.** RCW 46.16.015 and 1990 c 42 s 318 are each amended to  
16 read as follows:

17 (1) Neither the department of licensing nor its agents may issue or  
18 renew a motor vehicle license for any vehicle (~~registered in an~~  
19 ~~emission contributing area, as that area is established under chapter~~  
20 ~~70.120 RCW~~) or change the registered owner, for any (~~year in which~~  
21 ~~the~~) vehicle that is required to be (~~tested~~) inspected under chapter  
22 70.120 RCW, unless the application for issuance or renewal is: (a)  
23 Accompanied by a valid certificate of compliance or a valid certificate  
24 of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted  
25 from this requirement pursuant to subsection (2) of this section. The  
26 certificates must have a date of validation which is within (~~ninety~~  
27 ~~days~~) six months of the date of application for the vehicle license or  
28 license renewal. Certificates for fleet or owner tested diesel

1 vehicles may have a date of validation which is within twelve months of  
2 the assigned license renewal date.

3 (2) Subsection (1) of this section does not apply to the following  
4 vehicles:

5 (a) New motor vehicles whose equitable or legal title has never  
6 been transferred to a person who in good faith purchases the vehicle  
7 for purposes other than resale;

8 (b) Motor vehicles with a model year of 1967 or earlier;

9 (c) Motor vehicles that use propulsion units powered exclusively by  
10 electricity;

11 (d) Motor vehicles fueled (~~exclusively~~) by propane, compressed  
12 natural gas, or liquid petroleum gas, unless it is determined that  
13 federal sanctions will be imposed as a result of this exemption;

14 (e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles  
15 as defined in RCW 46.04.332;

16 (~~f~~) (~~Motor vehicles powered by diesel engines;~~

17 ~~g~~) Farm vehicles as defined in RCW 46.04.181; or

18 (~~h~~) ~~Used vehicles which are offered for sale by a motor vehicle~~  
19 ~~dealer licensed under chapter 46.70 RCW; or~~

20 ~~i~~) g) Motor vehicles exempted by the director of the department  
21 of ecology.

22 The provisions of subparagraph (a) of this subsection may not be  
23 construed as exempting from the provisions of subsection (1) of this  
24 section applications for the renewal of licenses for motor vehicles  
25 that are or have been leased.

26 (~~3~~) (~~The department of licensing shall mail to each owner of a~~  
27 ~~vehicle registered within an emission contributing area a notice~~  
28 ~~regarding the boundaries of the area and restrictions established under~~  
29 ~~this section that apply to vehicles registered in such areas. The~~  
30 ~~information for the notice shall be supplied to the department of~~

1 ~~licensing by the department of ecology.))~~ The department of ecology  
2 shall provide information to motor vehicle owners regarding the  
3 boundaries of emission contributing areas and restrictions established  
4 under this section that apply to vehicles registered in such areas. In  
5 addition the department of ecology shall provide information to motor  
6 vehicle owners on the relationship between motor vehicles and air  
7 pollution and steps motor vehicle owners should take to reduce motor  
8 vehicle related air pollution. The department of licensing shall send  
9 to all registered motor vehicle owners ~~((who reside within the~~  
10 ~~emissions area))~~ affected by the emission testing program notice that  
11 they must have an emission test to renew their registration.

12 NEW SECTION. Sec. 210. A new section is added to chapter 70.120  
13 RCW to read as follows:

14 (1) Motor vehicle dealers shall include a notice in each vehicle  
15 purchase order form that reads as follows: "The owner of a vehicle may  
16 be required to spend up to four hundred fifty dollars for repairs if  
17 the vehicle does not meet the vehicle emission standards under this  
18 chapter. Unless expressly warranted by the motor vehicle dealer, the  
19 dealer is not warranting that this vehicle will pass any emission tests  
20 required by federal or state law."

21 (2) A vehicle purchaser's signature on the notice required under  
22 subsection (1) of this section shall constitute a valid disclaimer of  
23 any implied warranty as to a vehicle's compliance with any emission  
24 standards.

25 (3) This section shall apply to all motor vehicle dealers located  
26 in counties where ambient air quality standards for carbon monoxide and  
27 ozone are being exceeded.

1        NEW SECTION.    **Sec. 211.**    A new section is added to chapter 70.120  
2    RCW to read as follows:

3        By July 1, 1992, the department shall develop, in cooperation with  
4    the departments of general administration and transportation, and the  
5    state energy office, aggressive clean-fuel performance and clean-fuel  
6    vehicle emissions specifications.    To the extent possible, such  
7    specifications shall be equivalent for all fuel types.    In developing  
8    such specifications the department shall consider the requirements of  
9    the clean air act and the findings of the environmental protection  
10   agency, other states, the American petroleum institute, the gas  
11   research institute, and the motor vehicles manufacturers association.

12       NEW SECTION.    **Sec. 212.**    A new section is added to chapter 43.19  
13    RCW to read as follows:

14        (1) At least thirty percent of all new vehicles purchased through  
15    a state contract shall be clean-fuel vehicles.

16        (2) The percentage of clean-fuel vehicles purchased through a state  
17    contract shall increase at the rate of five percent each year.

18        (3) In meeting the procurement requirement established in this  
19    section, preference shall be given to vehicles designed to operate  
20    exclusively on clean fuels.    Clean-fuel vehicles capable of operating  
21    on other than clean fuels shall be considered equivalent to one-half of  
22    a clean-fuel vehicle for the purposes of meeting the procurement  
23    requirements of this section, except that such vehicles shall be  
24    considered equivalent to vehicles designed to operate exclusively on  
25    clean fuel in the event that vehicles designed to operate exclusively  
26    on clean fuels are not available.

27        (4) Fuel purchased through a state contract shall be a clean fuel  
28    when the fuel is purchased for the operation of a clean-fuel vehicle.

1 (5)(a) Weight classes are established by the following motor  
2 vehicle types:

3 (i) Passenger cars;

4 (ii) Light duty trucks, trucks with a gross vehicle weight rating  
5 by the vehicle manufacturer of less than eight thousand five hundred  
6 pounds;

7 (iii) Heavy duty trucks, trucks with a gross vehicle weight rating  
8 by the vehicle manufacturer of eight thousand five hundred pounds or  
9 more.

10 (b) This subsection does not place an obligation upon the state or  
11 its political subdivisions to purchase vehicles in any number or weight  
12 class other than to meet the thirty percent requirement.

13 (6) For the purposes of this section, "clean fuels" and "clean-fuel  
14 vehicles" shall be those fuels and vehicles meeting the specifications  
15 provided for in section 211 of this act.

16 NEW SECTION. **Sec. 213.** The superintendent of public  
17 instruction, in coordination with the Washington state energy office,  
18 department of ecology, and selected local school districts that are  
19 using or considering the use of compressed natural gas, shall analyze  
20 and report on the potential benefits, costs, and safety risks  
21 associated with increasing the use of compressed natural gas as a fuel  
22 for school buses.

23 The report shall address:

24 (1) The anticipated actual operation and maintenance costs of using  
25 compressed natural gas buses versus diesel fuel or gasoline buses;

26 (2) Factors affecting the safety of passengers, drivers, mechanics,  
27 and other persons in using compressed natural gas buses versus diesel  
28 fuel and gasoline buses;

29 (3) Capital costs, including:

1 (a) The availability and capital cost of purchasing new compressed  
2 natural gas buses;

3 (b) The feasibility and capital cost of retrofitting diesel and  
4 gasoline buses; and

5 (c) Capital costs associated with fuel storage and refueling;

6 (4) Other considerations, including air quality benefits, necessary  
7 to determine the overall costs, problems, and benefits of increasing  
8 the use of compressed natural gas as a fuel for school buses.

9 The report shall be submitted to the education committees of the  
10 house of representatives and the senate by December 15, 1991.

11 NEW SECTION. **Sec. 214.** A new section is added to chapter 70.120  
12 RCW to read as follows:

13 The department, in cooperation with the departments of general  
14 administration and transportation, the utilities and transportation  
15 commission, and the state energy office, shall biennially prepare a  
16 report to the legislature starting July 1, 1992, on:

17 (1) Progress of clean fuel and clean-fuel vehicle programs in  
18 reducing automotive emissions;

19 (2) Recommendations for enhancing clean-fuel distribution systems;

20 (3) Efforts of the state, units of local government, and the  
21 private sector to evaluate and utilize "clean fuel" or "clean-fuel  
22 vehicles"; and

23 (4) Recommendations for changes in the existing program to make it  
24 more effective and, if warranted, for expansion of the program.

25 NEW SECTION. **Sec. 215.** A new section is added to chapter 80.28  
26 RCW to read as follows:

27 The legislature finds that compressed natural gas offers  
28 significant potential to reduce vehicle emissions and to significantly

1 decrease dependence on petroleum-based fuels. The legislature also  
2 finds that well-developed and convenient refueling systems are  
3 imperative if compressed natural gas is to be widely used by the  
4 public. The legislature declares that the development of compressed  
5 natural gas refueling stations are in the public interest.

6 NEW SECTION. **Sec. 216.** A new section is added to chapter 80.28  
7 RCW to read as follows:

8 The commission shall identify barriers to the development of  
9 refueling stations for vehicles operating on compressed natural gas,  
10 and shall develop policies to remove such barriers. In developing such  
11 policies, the commission shall consider providing rate incentives to  
12 encourage natural gas companies to invest in the infrastructure  
13 required by such refueling stations.

14 NEW SECTION. **Sec. 217.** A new section is added to chapter 70.94  
15 RCW to read as follows:

16 The department may disburse matching grants from funds provided by  
17 the legislature from the air pollution control account, created in  
18 section 237 of this act, to units of local government to partially  
19 offset the additional cost of purchasing "clean fuel" and/or operating  
20 "clean-fuel vehicles" provided that such vehicles are used for public  
21 transit. The department may also disburse grants to vocational-  
22 technical institutes for the purpose of establishing programs to  
23 certify clean-fuel vehicle mechanics.

24 NEW SECTION. **Sec. 218.** A new section is added to chapter 70.94  
25 RCW to read as follows:

26 No state agency, metropolitan planning organization, or local  
27 government shall approve or fund a transportation plan, program, or

1 project unless a determination has been made that the plan, program, or  
2 project conforms with the state implementation plan for air quality.

3 (1) "Conformity to the state implementation plan" means:

4 (a) Conformity to the state implementation plan's purpose of  
5 eliminating or reducing the severity and number of violations of the  
6 national ambient air quality standards and achieving expeditious  
7 attainment of such standards; and

8 (b) Ensuring that a proposed transportation plan, program, or  
9 project will not:

10 (i) Cause or contribute to any new violation of any standard in any  
11 area;

12 (ii) Increase the frequency or severity of any existing violation  
13 of any standard in any area; or

14 (iii) Delay timely attainment of any standard or any required  
15 interim emission reductions or other milestones in any area.

16 Conformity determination shall be made by the state or local  
17 government or metropolitan planning organization administering or  
18 developing the plan, program, or project. The determination of  
19 conformity shall be based on the most recent estimates of emissions,  
20 and such estimates shall be determined from the most recent  
21 population, employment, travel, and congestion estimates as determined  
22 by the metropolitan planning organization or other agency authorized to  
23 make such estimates.

24 (2) Plans and programs conform if:

25 (a) Emissions resulting from such plans and programs are consistent  
26 with baseline emission inventories and emission reduction projections  
27 and schedules assigned to those plans and programs in the state  
28 implementation plan; and

1 (b) The plans and programs provide for the timely implementation of  
2 the transportation provisions in the approved or promulgated state  
3 implementation plan.

4 (3) A project conforms if:

5 (a) It is a control measure from the state implementation plan; or

6 (b) It comes from a conforming plan and program, and the design and  
7 scope of such project has not changed significantly since the plan and  
8 program from which the project derived was found to conform.

9 (c) A project other than one referred to in (a) and (b) of this  
10 subsection conforms if it is demonstrated that the project either does  
11 not contribute to increased emissions in the nonattainment area, or  
12 that offsetting emission reductions for the project are specifically  
13 provided for in the transportation plan and program, or are otherwise  
14 enforceable through the state implementation plan, before the project  
15 is approved.

16 (d) No later than eighteen months after the effective date of this  
17 section, the director of the department of ecology and the secretary of  
18 transportation, in consultation with other state, regional, and local  
19 agencies as appropriate, shall adopt by rule criteria and guidance for  
20 demonstrating and assuring conformity of plans, programs, and projects.

21 (4) A project with a scope that is limited to preservation or  
22 maintenance, or both, shall be exempted from a conformity determination  
23 requirement.

24 NEW SECTION. **Sec. 219.** Unless the context clearly requires  
25 otherwise, the definitions in this section apply throughout this  
26 chapter.

27 (1) "Phase 1 major employer" means a private or public employer  
28 that employs one hundred or more full-time employees at a single work

1 site who begin their regular work day between 6:00 a.m. and 10:00 a.m.  
2 on weekdays for at least six continuous months during the year.

3 (2) "Phase 2 major employer" means a private or public employer  
4 that employs fifty to ninety-nine full-time employees at a single work  
5 site who begin their regular work day between 6:00 a.m. and 10:00 a.m.  
6 on weekdays for at least six continuous months during the year.

7 (3) "Major work site" means a building or group of buildings that  
8 are on physically contiguous parcels of land or on parcels separated  
9 solely by private or public roadways or rights of way, and at which  
10 there are fifty or more full-time equivalent employees of one or more  
11 employers, who begin their regular work day between 6:00 a.m. and 10:00  
12 a.m. on weekdays, for at least six continuous months.

13 (4) "Commute trip reduction zones" mean areas, such as census  
14 tracts or combinations of census tracts, within a jurisdiction that are  
15 characterized by similar employment density, population density, level  
16 of transit service, parking availability, access to high occupancy  
17 vehicle facilities, and other factors that are determined to affect the  
18 level of single occupancy vehicle commuting.

19 (5) "Commute trip" means trips made from a worker's home to a work  
20 site during the peak period of 6:00 a.m. to 10:00 a.m. on weekdays.

21 (6) "Proportion of single occupant vehicle commute trips" means the  
22 number of commute trips made by single occupant automobiles divided by  
23 the number of full-time equivalent employees.

24 (7) "Commute trip vehicle miles traveled per employee" means the  
25 sum of the individual vehicle commute trip lengths in miles over a set  
26 period divided by the number of full-time equivalent employees during  
27 that period.

28 (8) "Base year" means the year January 1, 1992, through December  
29 31, 1992, on which goals for vehicle miles traveled and single occupant  
30 vehicle trips shall be based. Base year goals may be determined using

1 the 1990 journey-to-work census data projected to the year 1992 and  
2 shall be consistent with chapter 17, Laws of 1990 1st ex.s. The task  
3 force shall establish a method to be used by jurisdictions to determine  
4 reductions of vehicle miles traveled.

5 NEW SECTION. **Sec. 220.** (1) Each county with a population over  
6 one hundred fifty thousand, and each city or town within those counties  
7 containing a phase 1 major employer shall, by July 1, 1992, adopt by  
8 ordinance and implement a commute trip reduction plan for all phase 1  
9 employers. Each county with a population over one hundred fifty  
10 thousand, and each city or town within those counties containing a  
11 phase 2 major employer shall, by July 1, 1994, adopt by ordinance and  
12 implement a commute trip reduction plan for all phase 2 employers. The  
13 plan shall be developed in cooperation with local transit agencies,  
14 regional transportation planning organizations as established in RCW  
15 47.80.020, phase 1 or phase 2 major employers, and the owners of and  
16 employers at major work sites. The plan shall be designed to achieve  
17 reductions in the proportion of single occupant vehicle commute trips  
18 and the commute trip vehicle miles traveled per employee by employees  
19 of phase 1 and phase 2 major public and private sector employers in the  
20 jurisdiction.

21 (2) All other counties, and cities and towns in those counties, may  
22 adopt and implement a commute trip reduction plan.

23 (3) The department of ecology may, after consultation with the  
24 state energy office, as part of the state implementation plan for areas  
25 that do not attain the national ambient air quality standards for  
26 carbon monoxide or ozone, require municipalities other than those  
27 identified in subsection (1) of this section to adopt and implement  
28 commute trip reduction plans if the department determines that such  
29 plans are necessary for attainment of said standards.

1 (4) A commute trip reduction plan shall be consistent with the  
2 guidelines established under section 223 of this act and shall include  
3 but is not limited to (a) goals for reductions in the proportion of  
4 single occupant vehicle commute trips and the commute trip vehicle  
5 miles traveled per employee; (b) designation of commute trip reduction  
6 zones; (c) requirements for major public and private sector employers  
7 to implement commute trip reduction programs; (d) a commute trip  
8 reduction program for employees of the county, city, or town; (e) a  
9 review of local parking policies and ordinances as they relate to  
10 employers and major work sites and any revisions necessary to comply  
11 with commute trip reduction goals and guidelines; and (f) means for  
12 determining base year values of the proportion of single occupant  
13 vehicle commute trips and the commute trip vehicle miles traveled per  
14 employee and progress toward meeting commute trip reduction plan goals  
15 on an annual basis. Goals which are established shall take into  
16 account existing transportation demand management efforts which are  
17 made by phase 1 and phase 2 major employers. The goals for miles  
18 traveled per employee for all phase 1 employers shall not be less than  
19 a fifteen percent reduction from the base year value of the commute  
20 trip reduction zone in which their work site is located by January 1,  
21 1994, twenty-five percent reduction from the base year values by  
22 January 1, 1996, and thirty-five percent reduction from the base year  
23 values by January 1, 1998. The goals for miles traveled per employee  
24 for all phase 2 employers shall not be less than a fifteen percent  
25 reduction from the base year values of the commute trip reduction zone  
26 in which their work site is located by January 1, 1996, twenty-five  
27 percent reduction from the base year values by January 1, 1998, and  
28 thirty-five percent reduction from the base year values by January 1,  
29 2000.

1 (5) A county, city, or town may, as part of its commute trip  
2 reduction plan, require commute trip reduction programs for other than  
3 phase 1 and phase 2 major employers for major work sites if the county,  
4 city, or town determines such programs are necessary to address local  
5 transportation or air quality problems.

6 (6) The commute trip reduction plans adopted by counties, cities,  
7 and towns under this chapter shall be consistent with and may be  
8 incorporated in applicable state or regional transportation plans and  
9 local comprehensive plans and shall be coordinated, and consistent  
10 with, the commute trip reduction plans of counties, cities, or towns  
11 with which the county, city, or town has, in part, common borders or  
12 related regional issues. Counties, cities, or towns adopting commute  
13 trip reduction plans may enter into agreements through the interlocal  
14 cooperation act with other jurisdictions, local transit agencies, or  
15 regional transportation planning organizations to coordinate the  
16 development and implementation of such plans. Counties, cities, or  
17 towns adopting a commute trip reduction plan shall review it annually  
18 and revise it as necessary to be consistent with applicable plans  
19 developed under RCW 36.70A.070.

20 (7) Each county, city, or town implementing a commute trip  
21 reduction program shall, by July 15, 1992, for phase 1 employers and by  
22 July 15, 1994, for phase 2 employers submit a summary of its plan along  
23 with certification of adoption to the commute trip reduction task force  
24 established under section 223 of this act.

25 (8) Each county, city, or town implementing a commute trip  
26 reduction program shall submit an annual progress report to the commute  
27 trip reduction task force established under section 223 of this act.  
28 The report shall be due July 1, 1993, and each July 1 thereafter  
29 through July 1, 2000. The report shall describe progress in attaining  
30 the applicable commute trip reduction goals for each commute trip

1 reduction zone and shall highlight any problems being encountered in  
2 achieving the goals. The information shall be reported in a form  
3 established by the commute trip reduction task force.

4 (9) Each county, city, or town implementing a commute trip  
5 reduction program shall count commute trips eliminated through work-at-  
6 home options or alternative work schedules as one and two-tenths  
7 vehicle trips eliminated for the purpose of meeting trip reduction  
8 goals.

9 (10) Plans implemented under this section shall not apply to  
10 commute trips for seasonal agricultural employees.

11 NEW SECTION. **Sec. 221.** (1) Not more than six months after the  
12 adoption of the commute trip reduction plan by a jurisdiction, each  
13 phase 1 and phase 2 major employer in that jurisdiction shall develop  
14 a commute trip reduction program and shall submit a description of that  
15 program to the jurisdiction for review. The program shall be  
16 implemented not more than six months after submission to the  
17 jurisdiction.

18 (2) A commute trip reduction program shall consist of, at a minimum  
19 (a) designation of an on-site transportation coordinator; (b) regular  
20 distribution of information to employees regarding alternatives to  
21 single occupant vehicle commuting; (c) an annual review of employee  
22 commuting and reporting of progress toward meeting the single occupant  
23 vehicle reduction goals to the county, city, or town consistent with  
24 the method established in the commute trip reduction plan; and (d)  
25 implementation of a set of measures designed to achieve the applicable  
26 commute trip reduction goals adopted by the jurisdiction. Such  
27 measures may include but are not limited to:

28 (i) Provision of preferential parking or reduced parking charges,  
29 or both, for high occupancy vehicles;

1 (ii) Instituting or increasing parking charges for single occupant  
2 vehicles;

3 (iii) Provision of commuter ride matching services to facilitate  
4 employee ridesharing for commute trips;

5 (iv) Provision of subsidies for transit fares;

6 (v) Provision of vans for van pools;

7 (vi) Provision of subsidies for car pooling or van pooling;

8 (vii) Permitting the use of the employer's vehicles for car pooling  
9 or van pooling;

10 (viii) Permitting flexible work schedules to facilitate employees'  
11 use of transit, car pools, or van pools;

12 (ix) Cooperation with transportation providers to provide  
13 additional regular or express service to the work site;

14 (x) Construction of special loading and unloading facilities for  
15 transit, car pool, and van pool users;

16 (xi) Provision of bicycle parking facilities, lockers, changing  
17 areas, and showers for employees who bicycle or walk to work;

18 (xii) Provision of a program of parking incentives such as a rebate  
19 for employees who do not use the parking facility;

20 (xiii) Establishment of a program to permit employees to work part  
21 or full time at home or at an alternative work site closer to their  
22 homes;

23 (xiv) Establishment of a program of alternative work schedules such  
24 as compressed work week schedules which reduce commuting; and

25 (xv) Implementation of other measures designed to facilitate the  
26 use of high occupancy vehicles such as on-site day care facilities and  
27 emergency taxi services.

28 (3) Employers or owners of work sites may form or utilize existing  
29 transportation management associations to assist members in developing  
30 and implementing commute trip reduction programs.

1        NEW SECTION.    **Sec. 222.**        (1) Each jurisdiction implementing a  
2 commute trip reduction plan under this chapter or as part of a plan or  
3 ordinance developed under RCW 36.70A.070 shall review each employer's  
4 initial commute trip reduction program to determine if the program is  
5 likely to meet the applicable commute trip reduction goals. The  
6 employer shall be notified by the jurisdiction of its findings. If the  
7 jurisdiction finds that the program is not likely to meet the  
8 applicable commute trip reduction goals, the jurisdiction will work  
9 with the employer to modify the program as necessary. The jurisdiction  
10 shall complete review of each employer's initial commute trip reduction  
11 program within six months of receipt.

12        (2) Each jurisdiction shall annually review each employer's  
13 progress toward meeting the applicable commute trip reduction goals.  
14 If it appears an employer is not likely to meet the applicable commute  
15 trip reduction goals, the jurisdiction shall work with the employer to  
16 make modifications to the commute trip reduction program.

17        (3) If an employer fails to meet the applicable commute trip  
18 reduction goals, the jurisdiction shall propose modifications to the  
19 program and direct the employer to revise its program within thirty  
20 days to incorporate those modifications or modifications which the  
21 jurisdiction determines to be equivalent.

22        (4) Each jurisdiction implementing a commute trip reduction plan  
23 pursuant to this chapter may impose civil penalties, in the manner  
24 provided in chapter 7.80 RCW, for failure by an employer to implement  
25 a commute trip reduction program or to modify its commute trip  
26 reduction program as required in subsection (3) of this section.

27        NEW SECTION.    **Sec. 223.**        (1) A commute trip reduction task force  
28 shall be established by the state energy office. The task force shall  
29 be composed of one representative from the state energy office who

1 shall serve as chair; one representative from each of the departments  
2 of transportation, ecology, community development, and general  
3 administration; three representatives from counties, based on  
4 recommendations from the Washington state association of counties;  
5 three representatives from cities or towns, based on recommendations  
6 from the association of Washington cities; three representatives from  
7 transit agencies recommended by Washington state transit association;  
8 three interested citizens; and six representatives from major  
9 employers. The task force shall be dissolved on July 1, 2000.

10 (2) By January 1, 1992, the commute trip reduction task force shall  
11 establish guidelines for commute trip reduction plans. The guidelines  
12 are intended to ensure consistency in commute trip reduction plans and  
13 goals among jurisdictions while fairly taking into account differences  
14 in employment and housing density, employer size, existing and  
15 anticipated levels of transit service, and other factors the task force  
16 determines to be relevant. The guidelines shall include criteria for  
17 establishing commute trip reduction zones, allowances for employers  
18 that have implemented trip reduction programs prior to the base year,  
19 and the information requirements for determining progress in meeting  
20 the commute trip reduction goals. The task force may also develop  
21 alternative but equivalent trip reduction criteria for phase 1 and  
22 phase 2 major employers, which cannot meet the goals of this chapter  
23 because of the unique nature of their business. The task force may  
24 develop alternate but equivalent criteria for major employers whose  
25 major work sites change, and who contribute substantially to traffic  
26 congestion in a trip reduction zone.

27 (3) The task force shall review the costs and benefits of commute  
28 trip plans and programs and shall make recommendations to the  
29 legislature by December 1, 1993, December 1, 1995, December 1, 1997,  
30 and December 1, 1999. In assessing the costs and benefits, the task

1 force shall also consider the costs of not having implemented commute  
2 trip reduction plans and programs. The recommendations shall address  
3 the need for continuation, modification, or termination of any or all  
4 requirements of this chapter.

5 NEW SECTION. **Sec. 224.** (1) A technical assistance team shall  
6 be established under the direction of the state energy office and  
7 include representatives of the departments of transportation and  
8 ecology. The team shall provide staff support to the commute trip  
9 reduction task force in carrying out the requirements of section 223 of  
10 this act and to the department of general administration in carrying  
11 out the requirements of section 227 of this act.

12 (2) The team shall provide technical assistance to counties,  
13 cities, and towns, the department of general administration, other  
14 state agencies, and other employers in developing and implementing  
15 commute trip reduction plans and programs. The technical assistance  
16 shall include: (a) Guidance in determining base and subsequent year  
17 values of single occupant vehicle commuting proportion and commute trip  
18 reduction vehicle miles traveled to be used in determining progress in  
19 attaining plan goals; (b) developing model plans and programs  
20 appropriate to different situations; and (c) providing consistent  
21 training and informational materials for the implementation of commute  
22 trip reduction programs. Model plans and programs, training, and  
23 informational materials shall be developed in cooperation with  
24 representatives of local governments, transit agencies, and employers.

25 NEW SECTION. **Sec. 225.** A portion of the funds made available  
26 under section 237 of this act shall be used to fund the commute trip  
27 reduction task force, the interagency technical assistance team, and  
28 counties, cities, and towns implementing commute trip reduction plans.

1 Funds shall be provided to the counties in proportion to the number of  
2 major employers and major work sites in each county. The counties  
3 shall provide funds to cities and towns within the county which are  
4 implementing commute trip reduction plans in proportion to the number  
5 of major employers and major work sites within the city or town.

6 NEW SECTION. **Sec. 226.** The legislature hereby recognizes the  
7 state's crucial leadership role in establishing and implementing  
8 effective commute trip reduction programs. Therefore, it is the policy  
9 of the state that the department of general administration and other  
10 state agencies shall aggressively develop substantive programs to  
11 reduce commuter trips by state employees. Implementation of these  
12 programs will reduce energy consumption, congestion in urban areas, and  
13 air and water pollution associated with automobile travel.

14 NEW SECTION. **Sec. 227.** (1) The director of general  
15 administration, with the concurrence of an interagency task force  
16 established for the purposes of this section, shall coordinate a  
17 commute trip reduction plan for state agencies which are phase 1 major  
18 employers by July 1, 1992, and for state agencies which are phase 2  
19 major employers by July 1, 1994. The task force shall include  
20 representatives of the state energy office, the departments of  
21 transportation and ecology, and such other departments as the director  
22 of general administration determines to be necessary to be generally  
23 representative of state agencies. The state agency plan shall be  
24 consistent with the requirements of sections 220 and 221 of this act  
25 and shall be developed in consultation with state employees, local and  
26 regional governments, local transit agencies, the business community,  
27 and other interested groups. The plan shall consider and recommend  
28 policies applicable to all state agencies including but not limited to

1 policies regarding parking and parking charges, employee incentives for  
2 commuting by other than single occupant automobiles, flexible and  
3 alternative work schedules, alternative work sites, and the use of  
4 state-owned vehicles for car and van pools. The plan shall also  
5 consider the costs and benefits to state agencies of achieving commute  
6 trip reductions and consider mechanisms for funding state agency  
7 commute trip reduction programs. The department shall, by July 15,  
8 1992, for phase 1 major employers and by July 15, 1994, for phase 2  
9 major employers submit a summary of its plan along with certification  
10 of adoption to the commute trip reduction task force established under  
11 section 223 of this act.

12 (2) Not more than three months after the adoption of the commute  
13 trip reduction plan, each state agency shall, for each facility which  
14 is a phase 1 or phase 2 major employer, develop a commute trip  
15 reduction program. The program shall be designed to meet the goals of  
16 the commute trip reduction plan of the county, city, or town or, if  
17 there is no local commute trip reduction plan, the state. The program  
18 shall be consistent with the policies of the state commute trip  
19 reduction plan and section 221 of this act. The agency shall submit a  
20 description of that program to the local jurisdiction implementing a  
21 commute trip reduction plan or, if there is no local commute trip  
22 reduction plan, to the department of general administration. The  
23 program shall be implemented not more than three months after  
24 submission to the department. Annual reports required in section  
25 221(2)(c) of this act shall be submitted to the local jurisdiction  
26 implementing a commute trip reduction plan and to the department of  
27 general administration. An agency which is not meeting the applicable  
28 commute trip reduction goals shall, to the extent possible, modify its  
29 program to comply with the recommendations of the local jurisdiction or  
30 the department of general administration.

1 (3) State agencies sharing a common location may develop and  
2 implement a joint commute trip reduction program or may delegate the  
3 development and implementation of the commute trip reduction program to  
4 the department of general administration.

5 (4) The department of general administration in consultation with  
6 the state technical assistance team shall review the initial commute  
7 trip reduction program of each state agency subject to the commute trip  
8 reduction plan for state agencies to determine if the program is likely  
9 to meet the applicable commute trip reduction goals and notify the  
10 agency of any deficiencies. If it is found that the program is not  
11 likely to meet the applicable commute trip reduction goals, the team  
12 will work with the agency to modify the program as necessary.

13 (5) For each agency subject to the state agency commute trip  
14 reduction plan, the department of general administration in  
15 consultation with the technical assistance team shall annually review  
16 progress toward meeting the applicable commute trip reduction goals.  
17 If it appears an agency is not meeting or is not likely to meet the  
18 applicable commute trip reduction goals, the team shall work with the  
19 agency to make modifications to the commute trip reduction program.

20 (6) The department of general administration shall submit an annual  
21 progress report for state agencies subject to the state agency commute  
22 trip reduction plan to the commute trip reduction task force  
23 established under section 223 of this act. The report shall be due  
24 April 1, 1993, and each April 1 through 2000. The report shall report  
25 progress in attaining the applicable commute trip reduction goals for  
26 each commute trip reduction zone and shall highlight any problems being  
27 encountered in achieving the goals. The information shall be reported  
28 in a form established by the commute trip reduction task force.

1        NEW SECTION.    **Sec. 228.**        Sections 219 through 227 of this act  
2 shall constitute a new chapter in Title 70 RCW.

3        **Sec. 229.**    RCW 82.44.020 and 1990 c 42 s 302 are each amended to  
4 read as follows:

5        (1) An excise tax is imposed for the privilege of using in the  
6 state any motor vehicle, except those operated under reciprocal  
7 agreements, the provisions of RCW 46.16.160 as now or hereafter  
8 amended, or dealer's licenses. The annual amount of such excise tax  
9 shall be two percent of the value of such vehicle.

10       (2) An additional excise tax is imposed, in addition to any other  
11 tax imposed by this section, for the privilege of using in the state  
12 any such motor vehicle, and the annual amount of such additional excise  
13 shall be two-tenths of one percent of the value of such vehicle.

14       (3) Effective with October 1992 motor vehicle registration  
15 expirations, a clean air and water excise tax is imposed in addition to  
16 any other tax imposed by this section for the privilege of using in the  
17 state any motor vehicle, and the annual amount of the additional excise  
18 tax shall be four dollars and twenty-five cents. Effective with July  
19 1994 motor vehicle registration expirations, the annual amount of  
20 additional excise tax shall be four dollars.

21       (4) In no case shall the total tax be less than two dollars except  
22 for proportionally registered vehicles.

23       (~~(4)~~) (5) Washington residents, as defined in RCW 46.16.028, who  
24 license motor vehicles in another state or foreign country and avoid  
25 Washington motor vehicle excise taxes are liable for such unpaid excise  
26 taxes. The department of revenue may assess and collect the unpaid  
27 excise taxes under chapter 82.32 RCW, including the penalties and  
28 interest provided therein.

1       **Sec. 230.** RCW 82.44.110 and 1990 2nd ex.s. c 1 s 801 are each  
2 amended to read as follows:

3       The county auditor shall regularly, when remitting license fee  
4 receipts, pay over and account to the director of licensing for the  
5 excise taxes collected under the provisions of this chapter. The  
6 director shall forthwith transmit the excise taxes to the state  
7 treasurer.

8       (1) The state treasurer shall deposit the excise taxes collected  
9 under RCW 82.44.020(1) as follows:

10       ~~((1))~~ (a) 1.60 percent into the motor vehicle fund to defray  
11 administrative and other expenses incurred by the department in the  
12 collection of the excise tax.

13       ~~((2))~~ (b) 8.15 percent into the Puget Sound capital construction  
14 account in the motor vehicle fund.

15       ~~((3))~~ (c) 4.07 percent into the Puget Sound ferry operations  
16 account in the motor vehicle fund.

17       ~~((4))~~ (d) 8.83 percent into the general fund to be distributed  
18 under RCW 82.44.155.

19       ~~((5))~~ (e) 4.75 percent into the municipal sales and use tax  
20 equalization account in the general fund created in RCW 82.14.210.

21       ~~((6))~~ (f) 1.60 percent into the county sales and use tax  
22 equalization account in the general fund created in RCW 82.14.200.

23       ~~((7))~~ (g) 62.6440 percent into the general fund through June 30,  
24 1993, 57.6440 percent into the general fund beginning July 1, 1993, and  
25 66 percent into the general fund beginning January 1, 1994.

26       ~~((8))~~ (h) 5 percent into the transportation fund created in RCW  
27 82.44.180 beginning July 1, 1993.

28       ~~((9))~~ (i) 5.9686 percent into the county criminal justice  
29 assistance account created in RCW 82.14.310 through December 31, 1993.

1       (~~(10)~~) (j) 1.1937 percent into the municipal criminal justice  
2 assistance account for distribution under RCW 82.14.320 through  
3 December 31, 1993.

4       (~~(11)~~) (k) 1.1937 percent into the municipal criminal justice  
5 assistance account for distribution under RCW 82.14.330 through  
6 December 31, 1993.

7       (2) The state treasurer shall deposit the excise taxes collected  
8 under RCW 82.44.020(2) into the transportation fund.

9       (3) The state treasurer shall deposit the excise tax imposed by RCW  
10 82.44.020(3) into the air pollution control account.

11       **Sec. 231.** RCW 82.44.150 and 1990 c 42 s 308 are each amended to  
12 read as follows:

13       (1) The director of licensing shall, on the twenty-fifth day of  
14 February, May, August, and November of each year, advise the state  
15 treasurer of the total amount of motor vehicle excise taxes imposed by  
16 RCW 82.44.020 (1) and (2) remitted to the department during the  
17 preceding calendar quarter ending on the last day of March, June,  
18 September, and December, respectively, except for those payable under  
19 RCW 82.44.030, from motor vehicle owners residing within each  
20 municipality which has levied a tax under RCW 35.58.273, which amount  
21 of excise taxes shall be determined by the director as follows:

22       The total amount of motor vehicle excise taxes remitted to the  
23 department, except those payable under RCW 82.44.020(3) and 82.44.030,  
24 from each county shall be multiplied by a fraction, the numerator of  
25 which is the population of the municipality residing in such county,  
26 and the denominator of which is the total population of the county in  
27 which such municipality or portion thereof is located. The product of  
28 this computation shall be the amount of excise taxes from motor vehicle  
29 owners residing within such municipality or portion thereof. Where the

1 municipality levying a tax under RCW 35.58.273 is located in more than  
2 one county, the above computation shall be made by county, and the  
3 combined products shall provide the total amount of motor vehicle  
4 excise taxes from motor vehicle owners residing in the municipality as  
5 a whole. Population figures required for these computations shall be  
6 supplied to the director by the office of financial management, who  
7 shall adjust the fraction annually.

8 (2) On the first day of the months of January, April, July, and  
9 October of each year, the state treasurer based upon information  
10 provided by the department shall, from motor vehicle excise taxes  
11 deposited in the general fund, under RCW 82.44.110(7), make the  
12 following deposits:

13 (a) To the high capacity transportation account created in RCW  
14 47.78.010, a sum equal to four and five-tenths percent of the special  
15 excise tax levied under RCW 35.58.273 by those municipalities  
16 authorized to levy a special excise tax within a class AA county, or  
17 within a class A county contiguous to a class AA county, or within a  
18 second class county contiguous to a class A county that is contiguous  
19 to a class AA county;

20 (b) To the central Puget Sound public transportation account  
21 created in RCW 82.44.180, for revenues distributed after December 31,  
22 1992, within a class AA county or within a class A county contiguous to  
23 a class AA county, a sum equal to the difference between (i) the  
24 special excise tax levied and collected under RCW 35.58.273 by those  
25 municipalities authorized to levy and collect a special excise tax  
26 subject to the requirements of subsections (3) and (4) of this section  
27 and (ii) the special excise tax that the municipality would otherwise  
28 have been eligible to levy and collect at a tax rate of .815 percent  
29 and been able to match with locally generated tax revenues, other than  
30 the excise tax imposed under RCW 35.58.273, budgeted for any public

1 transportation purpose. Before this deposit, the sum shall be reduced  
2 by an amount equal to the amount distributed under (a) of this  
3 subsection for each of the municipalities within the counties to which  
4 this subsection (2)(b) applies; however, any transfer under this  
5 subsection (2)(b) must be greater than zero;

6 (c) To the public transportation systems account created in RCW  
7 82.44.180, for revenues distributed after December 31, 1992, within  
8 counties not described in (b) of this subsection, a sum equal to the  
9 difference between (i) the special excise tax levied and collected  
10 under RCW 35.58.273 by those municipalities authorized to levy and  
11 collect a special excise tax subject to the requirements of subsections  
12 (3) and (4) of this section and (ii) the special excise tax that the  
13 municipality would otherwise have been eligible to levy and collect at  
14 a tax rate of .815 percent and been able to match with locally  
15 generated tax revenues, other than the excise tax imposed under RCW  
16 35.58.273, budgeted for any public transportation purpose. Before this  
17 deposit, the sum shall be reduced by an amount equal to the amount  
18 distributed under (a) of this subsection for each of the municipalities  
19 within the counties to which this subsection (2)(c) applies; however,  
20 any transfer under this subsection (2)(c) must be greater than zero;  
21 and

22 (d) To the transportation fund created in RCW 82.44.180, for  
23 revenues distributed after June 30, 1991, a sum equal to the difference  
24 between (i) the special excise tax levied and collected under RCW  
25 35.58.273 by those municipalities authorized to levy and collect a  
26 special excise tax subject to the requirements of subsections (3) and  
27 (4) of this section and (ii) the special excise tax that the  
28 municipality would otherwise have been eligible to levy and collect at  
29 a tax rate of .815 percent notwithstanding the requirements set forth

1 in subsections (3) through (6) of this section, reduced by an amount  
2 equal to distributions made under (a), (b), and (c) of this subsection.

3 (3) On the first day of the months of January, April, July, and  
4 October of each year, the state treasurer, based upon information  
5 provided by the department, shall remit motor vehicle excise tax  
6 revenues imposed and collected under RCW 35.58.273 as follows:

7 (a) The amount required to be remitted by the state treasurer to  
8 the treasurer of any municipality levying the tax shall not exceed in  
9 any calendar year the amount of locally-generated tax revenues,  
10 excluding the excise tax imposed under RCW 35.58.273 for the purposes  
11 of this section, which shall have been budgeted by the municipality to  
12 be collected in such calendar year for any public transportation  
13 purposes including but not limited to operating costs, capital costs,  
14 and debt service on general obligation or revenue bonds issued for  
15 these purposes; and

16 (b) In no event may the amount remitted in a single calendar  
17 quarter exceed the amount collected on behalf of the municipality under  
18 RCW 35.58.273 during the calendar quarter next preceding the  
19 immediately preceding quarter.

20 (4) At the close of each calendar year accounting period, but not  
21 later than April 1, each municipality that has received motor vehicle  
22 excise taxes under subsection (3) of this section shall transmit to the  
23 director of licensing and the state auditor a written report showing by  
24 source the previous year's budgeted tax revenues for public  
25 transportation purposes as compared to actual collections. Any  
26 municipality that has not submitted the report by April 1 shall cease  
27 to be eligible to receive motor vehicle excise taxes under subsection  
28 (3) of this section until the report is received by the director of  
29 licensing. If a municipality has received more or less money under  
30 subsection (3) of this section for the period covered by the report

1 than it is entitled to receive by reason of its locally-generated  
2 collected tax revenues, the director of licensing shall, during the  
3 next ensuing quarter that the municipality is eligible to receive motor  
4 vehicle excise tax funds, increase or decrease the amount to be  
5 remitted in an amount equal to the difference between the locally-  
6 generated budgeted tax revenues and the locally-generated collected tax  
7 revenues. In no event may the amount remitted for a calendar year  
8 exceed the amount collected on behalf of the municipality under RCW  
9 35.58.273 during that same calendar year. At the time of the next  
10 fiscal audit of each municipality, the state auditor shall verify the  
11 accuracy of the report submitted and notify the director of licensing  
12 of any discrepancies.

13 (5) The motor vehicle excise taxes imposed under RCW 35.58.273 and  
14 required to be remitted under this section shall be remitted without  
15 legislative appropriation.

16 (6) Any municipality levying and collecting a tax under RCW  
17 35.58.273 which does not have an operating, public transit system or a  
18 contract for public transportation services in effect within one year  
19 from the initial effective date of the tax shall return to the state  
20 treasurer all motor vehicle excise taxes received under subsection (3)  
21 of this section.

22 **Sec. 232.** RCW 82.44.155 and 1990 c 42 s 309 are each amended to  
23 read as follows:

24 When distributions are made under RCW 82.44.150, the state  
25 treasurer shall apportion and distribute the motor vehicle excise taxes  
26 deposited into the general fund under RCW 82.44.110(4) to the cities  
27 and towns ratably on the basis of population as last determined by the  
28 office of financial management. When so apportioned, the amount  
29 payable to each such city and town shall be transmitted to the city

1 treasurer thereof, and shall be used by the city or town for the  
2 purposes of police and fire protection and the preservation of the  
3 public health in the city or town, and not otherwise. If it is  
4 adjudged that revenue derived from the excise (~~(tax)~~) taxes imposed by  
5 (~~(this chapter)~~) RCW 82.44.020 (1) and (2) cannot lawfully be  
6 apportioned or distributed to cities or towns, all moneys directed by  
7 this section to be apportioned and distributed to cities and towns  
8 shall be credited and transferred to the state general fund.

9 **Sec. 233.** RCW 82.44.180 and 1990 c 42 s 312 are each amended to  
10 read as follows:

11 (1) The transportation fund is created in the state treasury.  
12 Revenues under RCW 82.44.020 (1) and (2), 82.44.110, 82.44.150, and the  
13 surcharge under RCW 82.50.510 shall be deposited into the fund as  
14 provided in those sections.

15 Moneys in the fund may be spent only after appropriation.  
16 Expenditures from the fund may be used only for transportation  
17 purposes.

18 (2) There is hereby created the central Puget Sound public  
19 transportation account within the transportation fund. Moneys  
20 deposited into the account under RCW 82.44.150(2)(b) shall be expended  
21 within the three county region from which the funds are derived, solely  
22 for:

23 (a) Development of high capacity transportation systems as defined  
24 in RCW 81.104.010;

25 (b) Development of high occupancy vehicle lanes and related  
26 facilities as defined in RCW 81.100.020; and

27 (c) Public transportation system contributions required to fund  
28 projects approved by the transportation improvement board.

1 (3) There is hereby created the public transportation systems  
2 account within the transportation fund. Moneys deposited into the  
3 account under RCW 82.44.150(2)(c) shall be available to the public  
4 transportation system from which the funds are derived, solely for:

5 (a) Development of high capacity transportation systems as defined  
6 in RCW 81.104.010;

7 (b) Development of high occupancy vehicle lanes and related  
8 facilities as defined in RCW 81.100.020;

9 (c) Other public transportation system-related roadway projects on  
10 state highways, county roads, or city streets; and

11 (d) Public transportation system contributions required to fund  
12 projects approved by the transportation improvement board.

13 **Sec. 234.** RCW 82.50.410 and 1990 c 42 s 321 are each amended to  
14 read as follows:

15 The rate and measure of tax imposed by (~~this chapter~~) RCW  
16 82.50.400 for each registration year shall be one percent, and a  
17 surcharge of one-tenth of one percent, of the value of the travel  
18 trailer or camper, as determined in the manner provided in this  
19 chapter: PROVIDED, That the excise tax upon a travel trailer or camper  
20 licensed for the first time in this state after the last day of any  
21 registration month may only be levied for the remaining months of the  
22 registration year including the month in which the travel trailer or  
23 camper is first licensed: PROVIDED FURTHER, That the minimum amount of  
24 tax payable shall be two dollars: PROVIDED FURTHER, That every dealer  
25 in mobile homes or travel trailers, for the privilege of using any  
26 mobile home or travel trailer eligible to be used under a dealer's  
27 license plate, shall pay an excise tax of two dollars, and such tax  
28 shall be collected upon the issuance of each original dealer's license  
29 plate, and also a similar tax shall be collected upon the issuance of

1 each dealer's duplicate license plate, which taxes shall be in addition  
2 to any tax otherwise payable under this chapter.

3 A travel trailer or camper shall be deemed licensed for the first  
4 time in this state when such vehicle was not previously licensed by  
5 this state for the registration year or any part thereof immediately  
6 preceding the registration year in which application for license is  
7 made or when it has been registered in another jurisdiction subsequent  
8 to any prior registration in this state.

9 NEW SECTION. **Sec. 235.** A new section is added to chapter 82.50  
10 RCW to read as follows:

11 Effective with October 1992 motor vehicle registration expirations,  
12 an additional annual clean air and water excise tax of four dollars and  
13 twenty-five cents is imposed on the owner of any travel trailer or  
14 camper for the privilege of using such travel trailer or camper in this  
15 state. Effective with July 1994 motor vehicle registration  
16 expirations, the annual amount of additional excise tax shall be four  
17 dollars. The excise tax hereby imposed shall be due and payable to the  
18 department of licensing or its agents at the time of registration of a  
19 travel trailer or camper. Whenever an application is made to the  
20 department of licensing or its agents for a license for a travel  
21 trailer or camper there shall be collected, in addition to the amount  
22 of the license fee or renewal license fee, the amount of the excise tax  
23 imposed by this chapter, and no dealer's license or license plates, and  
24 no license or license plates for a travel trailer or camper may be  
25 issued unless such tax is paid in full. No additional tax shall be  
26 imposed under this chapter upon any travel trailer or camper upon the  
27 transfer of ownership thereof, if the tax imposed by this chapter with  
28 respect to such travel trailer or camper has already been paid for the  
29 registration year or fractional part thereof in which such transfer

1 occurs. Receipts from the tax levied in this section shall be  
2 deposited in the air pollution control account.

3 **Sec. 236.** RCW 82.50.510 and 1990 c 42 s 322 are each amended to  
4 read as follows:

5 The county auditor shall regularly, when remitting motor vehicle  
6 excise taxes, pay to the state treasurer the excise taxes ((collected  
7 ~~under this chapter~~) imposed by RCW 82.50.400). The treasurer shall  
8 then distribute such funds quarterly on the first day of the month of  
9 January, April, July and October of each year in the following amount:  
10 (1) For the one percent tax imposed under RCW 82.50.410, fifteen  
11 percent to cities and towns for the use thereof apportioned ratably  
12 among such cities and towns on the basis of population; fifteen percent  
13 to counties for the use thereof to be apportioned ratably among such  
14 counties on the basis of moneys collected in such counties from the  
15 excise taxes imposed under this chapter; and seventy percent for  
16 schools to be deposited in the state general fund; and (2) for the one-  
17 tenth of one percent surcharge imposed under RCW 82.50.410, one hundred  
18 percent to the transportation fund created in RCW 82.44.180.

19 NEW SECTION. **Sec. 237.** (1) The air pollution control account  
20 is established in the state treasury. All receipts from section 235 of  
21 this act and RCW 70.94.483, 70.94.650, and 70.94.660 shall be deposited  
22 into the account. Moneys in the account may be spent only after  
23 appropriation. Expenditures from the account may be used only by the  
24 department and local air authorities to develop and implement the  
25 provisions of this chapter and chapters 70.94 and 70.120 RCW.

26 (2) The amounts collected and allocated in accordance with this  
27 section shall be expended upon appropriation except as otherwise

1 provided in this section and in accordance with the following  
2 limitations:

3 Portions of moneys received by the department of ecology from the  
4 air pollution control account shall be distributed by the department to  
5 local authorities based on:

6 (a) The level and extent of air quality problems within such  
7 authority's jurisdiction;

8 (b) The costs associated with implementing air pollution regulatory  
9 programs by such authority; and

10 (c) The amount of funding available to such authority from other  
11 sources, whether state, federal, or local, that could be used to  
12 implement such programs.

13 (3) The air operating permit account is created in the custody of  
14 the state treasurer. All receipts paid to the department of revenue  
15 under section 301 of this act shall be deposited into the account.  
16 Expenditures from the account may be used only for the direct and  
17 indirect costs of implementing the air operating permit program under  
18 section 301 of this act. Only the director of the department of  
19 ecology or the director's designee may authorize expenditures from the  
20 account. The account is subject to the allotment procedures under  
21 chapter 43.88 RCW, but no appropriation is required for such  
22 expenditures.

23 NEW SECTION. **Sec. 238.** A new section is added to chapter 70.120  
24 RCW to read as follows:

25 (1) It is the intent of the legislature that the state take  
26 advantage of the best emission control systems available on new motor  
27 vehicles. The department may adopt, by rule, the same vehicle emission  
28 standards as required in California, if it finds that such standards

1 will provide a significant benefit to ambient air quality in this  
2 state.

3 (2) In the event that California vehicle emission standards are  
4 adopted, the department shall not include a program for in-use testing  
5 and recall of vehicles required to meet California emission standards.

6 NEW SECTION. **Sec. 239.** The department of ecology shall  
7 contract with Western Washington University for the biennium ending  
8 June 30, 1993, for research and development of alternative fuel and  
9 solar powered vehicles. A report on the progress of such research  
10 shall be presented to the standing environmental committees and the  
11 department by January 1, 1994.

12 III.

13 INDUSTRIAL AND COMMERCIAL SOURCES

14 NEW SECTION. **Sec. 301.** A new section is added to chapter 70.94  
15 RCW to read as follows:

16 The department of ecology, or board of an authority, shall require  
17 renewable permits for the operation of air contaminant sources subject  
18 to the following conditions and limitations:

19 (1) Unless a different meaning is plainly required by the context,  
20 the following words and phrases shall have the following meanings:

21 (a) "Lowest achievable emission rate" (LAER) means for any source  
22 that rate of emissions which reflects:

23 (i) The most stringent emission limitation that is contained in the  
24 implementation plan of any state for such class or category of source,  
25 unless the owner or operator of the proposed new or modified source  
26 demonstrates that such limitations are not achievable; or

1 (ii) The most stringent emission limitation that is achieved in  
2 practice by such class or category of source, whichever is more  
3 stringent.

4 In no event shall the application of this term permit a proposed  
5 new or modified source to emit any pollutant in excess of the amount  
6 allowable under applicable new source performance standards.

7 (b) "Best available control technology" (BACT) means technology  
8 that will result in an emission limitation, including a visible  
9 emission standard, based on the maximum degree of reduction for each  
10 air pollutant subject to this regulation that would be emitted from any  
11 proposed new or modified source that the permitting authority, on a  
12 case-by-case basis, taking into account energy, environmental, and  
13 economic impacts and other costs, determines is achievable for such  
14 sources or modification through application of production processes,  
15 available methods, systems, and techniques, including fuel cleaning or  
16 treatment or innovative fuel combustion techniques for control of such  
17 air pollutant. In no event shall application of the best available  
18 technology result in emissions of any air pollutant that would exceed  
19 the emissions allowed by any applicable standard under 40 C.F.R. Part  
20 60 and Part 61. If the reviewing agency determines that technological  
21 or economic limitations on the application of measurement methodology  
22 to a particular class of sources would make the imposition of an  
23 emission standard infeasible, it may instead prescribe a design,  
24 equipment, work practice, or operational standard, or combination  
25 thereof, to meet the requirement of best available control technology.  
26 Such standard shall, to the degree possible, set forth the emission  
27 reduction achievable by implementation of such design, equipment, work  
28 practice, or operation and shall provide for compliance by means that  
29 achieve equivalent results. The requirement of RCW 70.94.152 that a  
30 new source will provide "all known available and reasonable methods of

1 emission control" is interpreted to mean the same as best available  
2 control technology.

3 (c) "Reasonably available control technology" (RACT) means the  
4 lowest emission limit that a particular source or source category is  
5 capable of meeting by the application of control technology that is  
6 reasonably available considering technological and economic  
7 feasibility. RACT is determined on a case-by-case basis for an  
8 individual source or source category taking into account the impact of  
9 the source upon air quality, the availability of additional controls,  
10 the emission reduction to be achieved by additional controls, the  
11 impact of additional controls on air quality, and the capital and  
12 operating costs of the additional controls. RACT requirements for any  
13 source or source category may be adopted as an order or rule after  
14 public involvement per WAC 173-403-110.

15 (d) "Source" means all of the emissions units including  
16 quantifiable fugitive emissions, that are located on one or more  
17 contiguous or adjacent properties, and are under the control of the  
18 same person, or persons under common control, whose activities are  
19 ancillary to the production of a single product or functionally related  
20 group of products.

21 (e) "New source" means a source that commences construction after  
22 the effective date of this section. Addition to, enlargement,  
23 modification, replacement, restart after a period of five years of  
24 nonoperation, or any alteration of any process or source that may  
25 increase emissions or ambient air concentrations of any contaminant for  
26 which federal or state ambient or emission standards have been  
27 established shall be construed as construction or installation or  
28 establishment of a new source. In addition every major modification  
29 shall be construed as construction.

1 (2) Permits shall be issued for a term of five years. A permit may  
2 be modified or amended during its term at the request of the permittee,  
3 or for any reason allowed by the federal clean air act. The rules  
4 adopted pursuant to subsection (3) of this section shall include rules  
5 for permit amendments and modifications.

6 (3)(a) Rules establishing the elements for a state-wide operating  
7 permit program and the process for permit application and renewal  
8 consistent with federal requirements shall be established by the  
9 department by January 1, 1993. The rules shall provide that every  
10 proposed permit must be reviewed prior to issuance by a professional  
11 engineer or staff under the direct supervision of a professional  
12 engineer in the employ of the permitting authority. The permit program  
13 established by these rules shall be administered by the department and  
14 delegated local air authorities. Rules developed under this subsection  
15 shall not preclude delegated local air authorities from requiring more  
16 stringent permit conditions or emission limits.

17 (b) The board of any local air pollution control authority may  
18 apply to the department of ecology for a delegation order authorizing  
19 the local authority to administer the operating permit program within  
20 that authority's territorial jurisdiction. The department shall, by  
21 order, approve such delegation, if the department finds that the local  
22 authority has the technical and financial resources, to discharge the  
23 responsibilities of a permitting authority under Title V of the federal  
24 clean air act. A delegation request shall include adequate information  
25 about the local authority's resources to enable the department to make  
26 the findings required by this subsection; provided, any delegation  
27 order issued under this subsection shall take effect ninety days after  
28 the environmental protection agency authorizes the local authority to  
29 issue operating permits under Title V of the federal clean air act.

1 (4) "Best available control technology" (BACT) is required for new  
2 sources in areas where ambient air quality standards are not being  
3 exceeded.

4 "Lowest achievable emission rate" (LAER) is required for new  
5 sources in areas where ambient air quality standards are being exceeded  
6 for those pollutants causing the area to exceed such standards.

7 Except as otherwise provided in RCW 70.94.331, "reasonably  
8 available control technology" (RACT) is required for existing sources.

9 In establishing technical standards, defined in subsection (2) of  
10 this section, the permitting authority shall consider and, if found to  
11 be appropriate, give credit for waste reduction within the process.

12 (5) Operating permits shall apply to all sources (a) where required  
13 by the federal clean air act, and (b) for any source that may cause or  
14 contribute to air pollution in such quantity as can reasonably be  
15 demonstrated by the department or board of any authority to create a  
16 threat to the public health or welfare. Subsection (5)(b) of this  
17 section applies only in areas exceeding or threatening to exceed  
18 federal or state air quality standards. For purposes of this section  
19 areas threatening to exceed air quality standards shall mean areas  
20 projected by the department to exceed such standards within five years.  
21 Prior to identifying threatened areas the department shall hold a  
22 public hearing or hearings within the proposed areas.

23 (6) Sources operated by government agencies are not exempt under  
24 this section.

25 (7) By October 1, 1993, or ninety days after the United States  
26 environmental protection agency approves the state operating permit  
27 program, whichever is later, any person required to have a permit shall  
28 submit to the permitting agency a compliance plan and permit  
29 application, signed by a responsible official, certifying the accuracy  
30 of the information submitted. Until permits are issued, existing

1 sources shall be allowed to operate under presently applicable  
2 standards and conditions provided that such sources submit complete and  
3 timely permit applications.

4 (8) All proposed permits shall be subject to public notice and  
5 comment. The rules adopted pursuant to subsection (3) of this section  
6 shall specify procedures for public notice and comment. Such  
7 procedures shall provide the permitting agency with an opportunity to  
8 respond to comments received from interested parties prior to the time  
9 that the proposed permit is submitted to the environmental protection  
10 agency for review pursuant to section 505(a) of the federal clean air  
11 act. In the event that the environmental protection agency objects to  
12 a proposed permit pursuant to section 505(b) of the federal clean air  
13 act, the permitting authority shall not issue the permit, unless the  
14 permittee consents to the changes required by the environmental  
15 protection agency.

16 (9) The procedures contained in chapter 43.21B RCW shall apply to  
17 permit appeals. The pollution control hearings board may stay the  
18 effectiveness of any permit issued under this section during the  
19 pendency of an appeal filed by the permittee, if the permittee  
20 demonstrates that compliance with the permit during the pendency of the  
21 appeal would require significant expenditures that would not be  
22 necessary in the event that the permittee prevailed on the merits of  
23 the appeal.

24 (10) After the effective date of any permit program promulgated  
25 under this section, it shall be unlawful for any person to: (a)  
26 Operate a permitted source in violation of any requirement of a permit  
27 issued under this section; or (b) fail to submit a permit application  
28 at the time required by rules adopted under subsection (3) of this  
29 section.

1 (11) Each air operating permit shall state the origin of and  
2 specific legal authority for each requirement included therein. Every  
3 requirement in an operating permit shall be based upon the most  
4 stringent of the following requirements:

5 (a) The federal clean air act and rules implementing that act,  
6 including provision of an approved state implementation plan;

7 (b) This chapter and rules adopted thereunder; and

8 (c) Permits issued by a local air pollution control authority or  
9 any resolution or bylaws adopted by that authority.

10 (12) Consistent with the provisions of the federal clean air act,  
11 the permitting authority may issue general permits covering categories  
12 of permitted sources, and temporary permits authorizing emissions from  
13 similar operations at multiple temporary locations.

14 (13) Permitted sources within the territorial jurisdiction of an  
15 authority delegated the operating permit program shall file their  
16 permit applications with that authority, except that permit  
17 applications for sources regulated on a state-wide basis pursuant to  
18 RCW 70.94.395 shall be filed with the department. Permitted sources  
19 outside the territorial jurisdiction of a delegated authority shall  
20 file their applications with the department.

21 (14) When issuing operating permits to coal fired electric  
22 generating plants, the permitting authority shall give consideration to  
23 the federal time lines for the implementation of required control  
24 technology.

25 (15)(a) Each source emitting one hundred tons or more per year of  
26 a regulated pollutant shall pay an interim assessment of ten dollars  
27 multiplied by the annual emissions of each regulated pollutant during  
28 calendar years 1991 and 1992. "Regulated pollutant" shall have the  
29 same meaning as defined in section 502(b) of the federal clean air act  
30 amendments of 1990.

1 (b) Fees collected under (a) of this subsection shall be  
2 distributed as follows: Eighty percent to the department and twenty  
3 percent to local air authorities.

4 (c) The fees assessed to a source under (a) of this subsection  
5 shall not exceed seventy-five thousand dollars per regulated pollutant  
6 per year.

7 (16) On or before November 1, 1992, the department, in consultation  
8 with the department of revenue, shall report to the appropriate  
9 standing committees of the legislature recommendations on air operating  
10 permit fees. The department shall recommend a level of fees to cover  
11 the direct and indirect costs of implementing the operating permit  
12 program required under the 1990 federal clean air act. In making such  
13 recommendations, the department shall address:

14 (a) The costs of the permit program elements as identified in  
15 regulations promulgated by the United States environmental protection  
16 agency, including, as applicable:

17 (i) Oversight of a delegated local air authority;

18 (ii) Ambient air monitoring, modeling, and reporting;

19 (iii) Training;

20 (iv) Data management and quality assurance;

21 (v) Development of state implementation plans;

22 (vi) Emission inventories;

23 (vii) Technical assistance;

24 (viii) Rule making and guidelines; and

25 (ix) Any other activities, consistent with the federal clean air  
26 act, that may be identified by the department;

27 (b) The appropriate division of fees with delegated local air  
28 authorities; and

29 (c) A methodology for tracking revenues and expenditures from fees  
30 paid under this chapter.

1 (17) The department shall determine the persons liable for the fee,  
2 compute the fee, and provide by November 1 of each year, the identity  
3 of the fee payer with the computation of the fee to the department of  
4 revenue for collection. The department of revenue shall collect the  
5 fee computed by the department from the fee payers identified by the  
6 department. The administrative, collection, and penalty provisions of  
7 chapter 82.32 RCW shall apply to the collection of the fee by the  
8 department of revenue. The department shall provide technical  
9 assistance to the department of revenue for decisions made by the  
10 department of revenue pursuant to RCW 82.32.160 and 82.32.170. All  
11 fees collected shall be deposited in the air pollution control account.

12 All fees identified in this section shall be due and payable on  
13 March 1 of each year.

14 (18) For sources or source categories not required to obtain  
15 permits under subsection (5) of this section, the department or local  
16 authority may establish by rule control technology requirements. If  
17 control technology rule revisions are made by the department or local  
18 authority under this subsection, the department or local authority  
19 shall consider the remaining useful life of control equipment  
20 previously installed on existing sources before requiring technology  
21 changes. The department or any local air authority may issue a general  
22 permit, as authorized under the federal clean air act, for such  
23 sources.

24 **Sec. 302.** RCW 70.94.152 and 1973 1st ex.s. c 193 s 2 are each  
25 amended to read as follows:

26 (1) The department of ecology or board of any authority may require  
27 notice of the construction, installation, or establishment of any new  
28 air contaminant sources except single family and duplex dwellings. The  
29 department of ecology or board may require such notice to be

1 accompanied by a fee and determine the amount of such fee: PROVIDED,  
2 That the amount of the fee may not exceed the cost of reviewing the  
3 plans, specifications, and other information and administering such  
4 notice: PROVIDED FURTHER, That any such notice given or notice of  
5 construction application submitted to either the board or to the  
6 department of ecology shall preclude a further ~~((notice))~~ submittal of  
7 a duplicate application to ~~((be given to))~~ any ~~((other))~~ board or to  
8 the department of ecology. Within thirty days of ~~((its))~~ receipt of  
9 ~~((such notice))~~ a notice of construction application, the department of  
10 ecology or board may require, as a condition precedent to the  
11 construction, installation, ~~((or))~~ establishment, or modification, of  
12 the air contaminant source or sources covered thereby, the submission  
13 of plans, specifications, and such other information as it deems  
14 necessary ~~((in order))~~ to determine whether the proposed construction,  
15 installation, ~~((or))~~ establishment, or modification, will be in accord  
16 with applicable rules and regulations in force ~~((pursuant to))~~ under  
17 this chapter, and will provide all known available and reasonable  
18 methods of emission control. If on the basis of plans, specifications,  
19 or other information required ~~((pursuant to))~~ under this section the  
20 department of ecology or board determines that the proposed  
21 construction, installation, ~~((or))~~ establishment, or modification, will  
22 not be in accord with this chapter or the applicable ordinances,  
23 resolutions, rules, and regulations adopted ~~((pursuant thereto))~~ under  
24 this chapter, or will not provide all known available and reasonable  
25 means of emission control, it shall issue an order for the prevention  
26 of the construction, installation, ~~((or))~~ establishment, or  
27 modification of the air contaminant source or sources. If on the basis  
28 of plans, specifications, or other information required ~~((pursuant to))~~  
29 under this section, the department of ecology or board determines that  
30 the proposed construction, installation, ~~((or))~~ establishment, or

1 modification will be in accord with this chapter, and the applicable  
2 ordinances, resolutions, rules, and regulations adopted (~~((pursuant~~  
3 ~~thereto and will provide all known available and reasonable methods of~~  
4 ~~emission control~~)) under this chapter, it shall issue (~~((an order of~~  
5 ~~approval of~~)) a permit for the construction, installation, (~~((and~~)  
6 establishment, or modification of the air contaminant source or  
7 sources, which (~~((order~~)) permit may provide such conditions (~~((of~~  
8 operation)) as are reasonably necessary to assure the maintenance of  
9 compliance with this chapter and the applicable ordinances,  
10 resolutions, rules, and regulations adopted (~~((pursuant thereto~~)) under  
11 this chapter.

12 (2) For the purposes of this chapter, addition to or enlargement or  
13 replacement of an air contaminant source, or any major alteration  
14 (~~((therein~~)) of a source, shall be construed as construction or  
15 installation or establishment of a new air contaminant source. The  
16 determination(~~((,))~~) required under subsection (1) of this section(~~((, of~~  
17 ~~whether a proposed construction, installation, or establishment will be~~  
18 ~~in accord with this chapter and the applicable ordinances, resolutions,~~  
19 ~~rules, and regulations adopted pursuant thereto~~)) shall include a  
20 determination of whether the operation of the new air contaminant  
21 source at the location proposed will cause any ambient air quality  
22 standard to be exceeded. For the purposes of this section, "source"  
23 shall be limited to the part of the facility or plant being  
24 constructed, installed, established, or modified.

25 (3) Nothing in this section shall be construed to authorize the  
26 department of ecology or board to require the use of emission control  
27 equipment or other equipment, machinery, or devices of any particular  
28 type, from any particular supplier, or produced by any particular  
29 manufacturer.

1 (4) Any features, machines, and devices constituting parts of or  
2 called for by plans, specifications, or other information submitted  
3 pursuant to subsection (1) (~~hereof~~) of this section shall be  
4 maintained and operate in good working order.

5 (5) The absence of an ordinance, resolution, rule, or regulation,  
6 or the failure to issue (~~an order pursuant to this section~~) a permit  
7 under this section shall not relieve any person from his or her  
8 obligation to comply with (~~any~~) applicable emission control  
9 requirements or with any other provision of law.

10 (6) The department or appropriate local authority shall provide in  
11 writing to any source for which notice of construction decisions will  
12 be delayed more than ninety days after a complete application is  
13 received, (a) the causes of the delay and (b) the time period that will  
14 elapse before a decision is rendered including a reasonable schedule of  
15 time requirements and steps necessary for the department or local  
16 authority to reach such decision.

17 NEW SECTION. Sec. 303. A new section is added to chapter 70.94  
18 RCW to read as follows:

19 The department shall prepare recommendations to reduce air  
20 emissions for source categories not generally required to have a permit  
21 under section 301 of this act. Such recommendations shall not require  
22 any action by the owner or operator of a source and shall be consistent  
23 with rules adopted under chapter 70.95C RCW. The recommendations shall  
24 include but not be limited to: Process changes, product substitution,  
25 equipment modifications, hazardous substance use reduction, recycling,  
26 and energy efficiency.

27 **Sec. 304.** RCW 70.94.155 and 1981 c 224 s 1 are each amended to  
28 read as follows:

1 (1) As used in subsection (3) of this section, the term "bubble"  
2 means an air pollution control system which permits aggregate  
3 measurements of allowable emissions, for a single category of  
4 pollutant, for emissions points from a specified emissions-generating  
5 facility or facilities. Individual point source emissions levels from  
6 such specified facility or facilities may be modified provided that the  
7 aggregate limit for the specified sources is not exceeded.

8 (2) Whenever any regulation relating to emission standards or other  
9 requirements for the control of emissions is adopted which provides for  
10 compliance with such standards or requirements no later than a  
11 specified time after the date of adoption of the regulation, the  
12 appropriate activated air pollution control authority or, if there be  
13 none, the department of ecology shall, by permit or regulatory order,  
14 issue to air contaminant sources subject to the standards or  
15 requirements, schedules of compliance setting forth timetables for the  
16 achievement of compliance as expeditiously as practicable, but in no  
17 case later than the time specified in the regulation. Interim dates in  
18 such schedules for the completion of steps of progress toward  
19 compliance shall be as enforceable as the final date for full  
20 compliance therein.

21 (3) Wherever requirements necessary for the attainment of air  
22 quality standards or, where such standards are not exceeded, for the  
23 maintenance of air quality can be achieved through the use of a control  
24 program involving the bubble concept, such program may be authorized by  
25 a regulatory order or orders or permit issued to the air contaminant  
26 source or sources involved. Such order or permit shall only be  
27 authorized after the control program involving the bubble concept is  
28 accepted by United States environmental protection agency as part of an  
29 approved state implementation plan. Any such order or permit provision  
30 shall restrict total emissions within the bubble to no more than would

1 otherwise be allowed in the aggregate for all emitting processes  
2 covered. The orders or permits provided for by this subsection shall  
3 be issued by the department or the authority with jurisdiction. If the  
4 bubble involves interjurisdictional approval, concurrence in the total  
5 program must be secured from each regulatory entity concerned.

6 **Sec. 305.** RCW 70.94.181 and 1983 c 3 s 176 are each amended to  
7 read as follows:

8 (1) Any person who owns or is in control of any plant, building,  
9 structure, establishment, process or equipment may apply to the  
10 department of ecology (~~((where it has regulatory authority under RCW~~  
11 ~~70.94.390, 70.94.395, 70.94.410, and 70.94.420,))~~) or appropriate local  
12 authority board for a variance from rules or regulations governing the  
13 quality, nature, duration or extent of discharges of air contaminants.  
14 The application shall be accompanied by such information and data as  
15 the department of ecology or board may require. The department of  
16 ecology or board may grant such variance, provided that variances to  
17 state rules shall require the department's approval prior to being  
18 issued by a local authority board. The total time period for a  
19 variance and renewal of such variance shall not exceed one year.  
20 Variances may be issued by either the department or a local board but  
21 only after public hearing or due notice, if ((it)) the department or  
22 board finds that:

23 (a) The emissions occurring or proposed to occur do not endanger  
24 public health or safety or the environment; and

25 (b) Compliance with the rules or regulations from which variance is  
26 sought would produce serious hardship without equal or greater benefits  
27 to the public.

28 (2) No variance shall be granted pursuant to this section until the  
29 department of ecology or board has considered the relative interests of

1 the applicant, other owners of property likely to be affected by the  
2 discharges, and the general public.

3 (3) Any variance or renewal thereof shall be granted within the  
4 requirements of subsection (1) ~~((and for time periods))~~ of this section  
5 and under conditions consistent with the reasons therefor, and within  
6 the following limitations:

7 (a) If the variance is granted on the ground that there is no  
8 practicable means known or available for the adequate prevention,  
9 abatement or control of the pollution involved, it shall be only until  
10 the necessary means for prevention, abatement or control become known  
11 and available, and subject to the taking of any substitute or alternate  
12 measures that the department of ecology or board may prescribe.

13 ~~(b) ((If the application for variance shows that there is no  
14 automobile fragmentizer within a reasonable distance of the wrecking  
15 yard for which the variance is sought, a variance will be granted for  
16 a period not to exceed three years for commercial burning of automobile  
17 hulks, subject to such conditions as the department of ecology may  
18 impose as to climatic conditions and hours during which burning of such  
19 hulks may be carried out: PROVIDED, HOWEVER, That any variance granted  
20 hereunder shall be of no force and effect after July 1, 1970.~~

21 ~~(c))~~ If the variance is granted on the ground that compliance with  
22 the particular requirement or requirements from which variance is  
23 sought will require the taking of measures which, because of their  
24 extent or cost, must be spread over a considerable period of time, it  
25 shall be for a period not to exceed such reasonable time as, in the  
26 view of the department of ecology or board is requisite for the taking  
27 of the necessary measures. A variance granted on the ground specified  
28 herein shall contain a timetable for the taking of action in an  
29 expeditious manner and shall be conditioned on adherence to such  
30 timetable.

1        ~~((d))~~ (c) If the variance is granted on the ground that it is  
2 justified to relieve or prevent hardship of a kind other than that  
3 provided for in ~~((item))~~ (a)~~((, —(b)))~~ and ~~((e))~~ (b) of this  
4 ~~((subparagraph))~~ subsection, it shall be for not more than one year.

5        (4) Any variance granted pursuant to this section may be renewed on  
6 terms and conditions and for periods which would be appropriate on  
7 initial granting of a variance. If complaint is made to the department  
8 of ecology or board on account of the variance, no renewal thereof  
9 shall be granted unless following a public hearing on the complaint on  
10 due notice the ~~((state board))~~ department or board finds that renewal  
11 is justified. No renewal shall be granted except on application  
12 therefor. Any such application shall be made at least sixty days prior  
13 to the expiration of the variance. Immediately upon receipt of an  
14 application for renewal, the department of ecology or board shall give  
15 public notice of such application in accordance with rules ~~((and~~  
16 ~~regulations))~~ of the department of ecology or board.

17        (5) A variance or renewal shall not be a right of the applicant or  
18 holder thereof but shall be granted at the discretion of the department  
19 of ecology or board. However, any applicant adversely affected by the  
20 denial or the terms and conditions of the granting of an application  
21 for a variance or renewal of a variance by the department of ecology or  
22 board may obtain judicial review thereof under the provisions of  
23 chapter 34.05 RCW as now or hereafter amended.

24        (6) Nothing in this section and no variance or renewal granted  
25 pursuant hereto shall be construed to prevent or limit the application  
26 of the emergency provisions and procedures of RCW 70.94.710 through  
27 70.94.730 to any person or his or her property.

28        (7) An application for a variance, or for the renewal thereof,  
29 submitted to the department of ecology or board pursuant to this  
30 section shall be approved or disapproved by the department or board

1 within sixty-five days of receipt unless the applicant and the  
2 department of ecology or board agree to a continuance.

3 (8) Variances approved under this section shall not be included in  
4 orders or permits provided for in section 301 of this act or RCW  
5 70.94.152 until such time as the variance has been accepted by the  
6 United States environmental protection agency as part of an approved  
7 state implementation plan.

8 **Sec. 306.** RCW 70.94.205 and 1973 1st ex.s. c 193 s 4 are each  
9 amended to read as follows:

10 Whenever any records or other information, other than ambient air  
11 quality data or emission data, furnished to or obtained by the  
12 department of ecology or the board of any authority (~~pursuant to any~~  
13 ~~sections in chapter 70.94 RCW~~) under this chapter, relate to processes  
14 or production unique to the owner or operator, or is likely to affect  
15 adversely the competitive position of such owner or operator if  
16 released to the public or to a competitor, and the owner or operator of  
17 such processes or production so certifies, such records or information  
18 shall be only for the confidential use of the department of ecology or  
19 board. Nothing herein shall be construed to prevent the use of records  
20 or information by the department of ecology or board in compiling or  
21 publishing analyses or summaries relating to the general condition of  
22 the outdoor atmosphere: PROVIDED, That such analyses or summaries do  
23 not reveal any information otherwise confidential under the provisions  
24 of this section: PROVIDED FURTHER, That emission data furnished to or  
25 obtained by the department of ecology or board shall be correlated with  
26 applicable emission limitations and other control measures and shall be  
27 available for public inspection during normal business hours at offices  
28 of the department of ecology or board.

1        NEW SECTION.    **Sec. 307.**    A new section is added to chapter 70.94  
2 RCW to read as follows:

3        The department shall establish a technical assistance unit within  
4 its air quality program, consistent with the federal clean air act, to  
5 provide the regulated community, especially small businesses with:

6        (1) Information on air pollution laws, rules, compliance methods,  
7 and technologies;

8        (2) Information on air pollution prevention methods and  
9 technologies, and prevention of accidental releases;

10       (3) Assistance in obtaining permits and developing emission  
11 reduction plans;

12       (4) Information on the health and environmental effects of air  
13 pollution.

14       No representatives of the department designated as part of the  
15 technical assistance unit created in this section may have any  
16 enforcement authority. Staff of the technical assistance unit who  
17 provide on-site consultation at an industrial or commercial facility  
18 and who observe violations of air quality rules shall immediately  
19 inform the owner or operator of the facility of such violations. On-  
20 site consultation visits shall not be regarded as an inspection or  
21 investigation and no notices or citations may be issued or civil  
22 penalties assessed during such a visit. However, violations shall be  
23 reported to the appropriate enforcement agency and the facility owner  
24 or operator shall be notified that the violations will be reported. No  
25 enforcement action shall be taken by the enforcement agency for  
26 violations reported by technical assistance unit staff unless and until  
27 the facility owner or operator has been provided reasonable time to  
28 correct the violation. Violations that place any person in imminent  
29 danger of death or substantial bodily harm or cause physical damage to  
30 the property of another in an amount exceeding one thousand dollars may

1 result in immediate enforcement action by the appropriate enforcement  
2 agency.

3 **Sec. 308.** RCW 70.94.211 and 1974 ex.s. c 69 s 4 are each amended  
4 to read as follows:

5 Whenever the board or the control officer has reason to believe  
6 that any provision of this chapter or any ordinance, resolution, rule  
7 or regulation relating to the control or prevention of air pollution  
8 has been violated, such board or control officer may cause written  
9 notice to be served upon the alleged violator or violators. The notice  
10 shall specify the provision of this chapter or the ordinance,  
11 resolution, rule or regulation alleged to be violated, and the facts  
12 alleged to constitute a violation thereof, and may include an order  
13 directing that necessary corrective action be taken within a reasonable  
14 time. In lieu of an order, the board or the control officer may  
15 require that the alleged violator or violators appear before the board  
16 for a hearing, or in addition to or in place of an order or hearing,  
17 the board may initiate action pursuant to RCW 70.94.425, 70.94.430,  
18 70.94.431, and 70.94.435.

19 **Sec. 309.** RCW 70.94.430 and 1984 c 255 s 1 are each amended to  
20 read as follows:

21 (1) Any person who knowingly violates any of the provisions of  
22 (~~this~~) chapter 70.94 or 70.120 RCW, or any ordinance, resolution,  
23 (~~rule~~) or regulation in force pursuant thereto shall be guilty of a  
24 (~~misdemeanor~~) crime and upon conviction thereof shall be punished by  
25 a fine of not more than (~~one~~) ten thousand dollars, or by  
26 imprisonment in the county jail for not more than (~~ninety days~~) one  
27 year, or by both (~~fine and imprisonment~~) for each separate violation.

1       (~~Any person who wilfully violates any of the provisions of this~~  
2 ~~chapter or any ordinance, resolution, rule or regulation in force~~  
3 ~~pursuant thereto shall be guilty of a gross misdemeanor. Upon~~  
4 ~~conviction the offender shall be punished by a fine of not less than~~  
5 ~~one hundred dollars for each offense or by imprisonment for a term of~~  
6 ~~not more than one year or by both fine and imprisonment.~~)

7       ~~In case of a continuing violation, whether or not wilfully~~  
8 ~~committed, each day's continuance shall be a separate and distinct~~  
9 ~~violation.)~~)

10       (2) Any person who negligently releases into the ambient air any  
11 substance listed by the department of ecology as a hazardous air  
12 pollutant, other than in compliance with the terms of an applicable  
13 permit or emission limit, and who at the time negligently places  
14 another person in imminent danger of death or substantial bodily harm  
15 shall be guilty of a crime and shall, upon conviction, be punished by  
16 a fine of not more than ten thousand dollars, or by imprisonment for  
17 not more than one year, or both.

18       (3) Any person who knowingly releases into the ambient air any  
19 substance listed by the department of ecology as a hazardous air  
20 pollutant, other than in compliance with the terms of an applicable  
21 permit or emission limit, and who knows at the time that he or she  
22 thereby places another person in imminent danger of death or  
23 substantial bodily harm, shall be guilty of a crime and shall, upon  
24 conviction, be punished by a fine of not less than fifty thousand  
25 dollars, or by imprisonment for not more than five years, or both.

26       (4) Any person who knowingly fails to disclose a potential conflict  
27 of interest under RCW 70.94.100 shall be guilty of a gross misdemeanor,  
28 and upon conviction thereof shall be punished by a fine or not more  
29 than five thousand dollars.

1       **Sec. 310.** RCW 70.94.431 and 1990 c 157 s 1 are each amended to  
2 read as follows:

3       (1) In addition to or as an alternate to any other penalty provided  
4 by law, any person who violates any of the provisions of chapter 70.94  
5 RCW, chapter 70.120 RCW, or any of the rules ~~((and regulations of the~~  
6 ~~department or the board shall))~~ in force under such chapters may incur  
7 a civil penalty in an amount not to exceed ~~((one))~~ ten thousand dollars  
8 per day for each violation. Each such violation shall be a separate  
9 and distinct offense, and in case of a continuing violation, each day's  
10 continuance shall be a separate and distinct violation. ~~((For the~~  
11 ~~purposes of this subsection, the maximum daily fine imposed by a local~~  
12 ~~board for violations of standards by a specific emissions unit is one~~  
13 ~~thousand dollars.))~~

14       Any person who fails to take action as specified by an order issued  
15 pursuant to this chapter shall be liable for a civil penalty of not  
16 more than ten thousand dollars for each day of continued noncompliance.

17       (2) Penalties incurred but not paid shall accrue interest,  
18 beginning on the ninety-first day following the date that the penalty  
19 becomes due and payable, at the highest rate allowed by RCW 19.52.020  
20 on the date that the penalty becomes due and payable. If violations or  
21 penalties are appealed, interest shall not begin to accrue until the  
22 thirty-first day following final resolution of the appeal.

23       The maximum penalty amounts established in this section may be  
24 increased annually to account for inflation as determined by the state  
25 office of the economic and revenue forecast council.

26       ~~((2) Further, the person is subject to a fine of up to five~~  
27 ~~thousand dollars to be levied by the director of the department of~~  
28 ~~ecology if requested by the board of a local authority or if the~~  
29 ~~director determines that the penalty is needed for effective~~  
30 ~~enforcement of this chapter. A local board shall not make such a~~

1 ~~request until notice of violation and compliance order procedures have~~  
2 ~~been exhausted, if such procedures are applicable. For the purposes of~~  
3 ~~this subsection, the maximum daily fine imposed by the department of~~  
4 ~~ecology for violations of standards by a specific emissions unit is~~  
5 ~~five thousand dollars.))~~

6 (3) Each act of commission or omission which procures, aids or  
7 abets in the violation shall be considered a violation under the  
8 provisions of this section and subject to the same penalty. The  
9 penalties provided in this section shall be imposed pursuant to RCW  
10 43.21B.300.

11 (4) All penalties recovered under this section by the department  
12 shall be paid into the state treasury and credited to the ~~((general~~  
13 ~~fund))~~ air pollution control account established in section 237 of this  
14 act or, if recovered by the authority, shall be paid into the treasury  
15 of the authority and credited to its funds. If a prior penalty for the  
16 same violation has been paid to a local authority, the penalty imposed  
17 by the department under subsection ~~((+2))~~ (1) of this section shall be  
18 reduced by the amount of the payment. ~~((Notwithstanding any other~~  
19 ~~provisions of this chapter, no penalty may be levied for the violation~~  
20 ~~of any opacity standard in an amount exceeding four hundred dollars per~~  
21 ~~day.))~~

22 (5) To secure the penalty incurred under this section, the state or  
23 the authority shall have a lien on any vessel used or operated in  
24 violation of this chapter which shall be enforced as provided in RCW  
25 60.36.050.

26 (6) Public or private entities that are recipients or potential  
27 recipients of department grants, whether for air quality related  
28 activities or not, may have such grants rescinded or withheld by the  
29 department for failure to comply with provisions of this chapter.

1        (7) In addition to other penalties provided by this chapter,  
2 persons knowingly under-reporting emissions or other information used  
3 to set fees, or persons required to pay emission or permit fees who are  
4 more than ninety days late with such payments may be subject to a  
5 penalty equal to three times the amount of the original fee owed.

6        **Sec. 311.** RCW 70.94.860 and 1984 c 164 s 2 are each amended to  
7 read as follows:

8        The department of ecology may accept delegation of (~~the prevention~~  
9 ~~of significant deterioration program pursuant to Part C, Subpart 1 of~~)  
10 programs as provided for in the federal clean air act. Subject to  
11 federal approval, the department may, in turn, delegate ((this)) such  
12 programs to the local authority with jurisdiction in a given area.

13        **Sec. 312.** RCW 70.94.875 and 1985 c 456 s 3 are each amended to  
14 read as follows:

15        The department of ecology, in consultation with the (~~joint~~  
16 ~~legislative committee on science and technology or the~~) appropriate  
17 committees of the house of representatives and of the senate, shall:

18        (1) Continue evaluation of information and research on acid  
19 deposition in the Pacific Northwest region;

20        (2) Establish critical levels of acid deposition and lake, stream,  
21 and soil acidification; and

22        (3) Notify the legislature if acid deposition or lake, stream, and  
23 soil acidification reaches the levels established under subsection (2)  
24 of this section.

25        NEW SECTION. **Sec. 313.** A new section is added to chapter 70.94  
26 RCW to read as follows:

1 (1) The science advisory board is hereby created to advise the  
2 department on procedures for assessing and managing the risks  
3 associated with air contaminant emissions. The board shall consist of  
4 five members knowledgeable in the fields of risk assessment or risk  
5 management. Members shall be appointed by the director of the  
6 department. The board shall be staffed by the department.

7 (2) The board shall:

8 (a) Advise the department on the most appropriate methods for  
9 identifying and measuring cancer risks or other chronic health effects  
10 resulting from exposure to air contaminant emissions; and

11 (b) Identify, evaluate, and recommend procedures relating to  
12 managing the risks associated with exposure to air contaminant  
13 emissions.

14 (3) In fulfilling its duties under subsection (2) of this section,  
15 the board shall consider all appropriate studies and reports relating  
16 to risk assessment or risk management including but not limited to  
17 reports authorized by the federal clean air act from the national  
18 academy of sciences and the risk assessment and risk management  
19 commission.

20 (4) Members shall be compensated as provided in RCW 43.03.250 and  
21 shall be reimbursed for travel expenses as provided in RCW 43.03.050  
22 and 43.03.060.

23 (5) The duties of the board shall terminate on July 1, 1996.

24 IV.

25 OUTDOOR BURNING

26 **Sec. 401.** RCW 70.94.745 and 1972 ex.s. c 136 s 2 are each amended  
27 to read as follows:

1 It shall be the responsibility and duty of the department of  
2 natural resources, department of ecology, department of agriculture,  
3 fire districts, and local air pollution control authorities to  
4 establish, through regulations, ordinances, or policy, a limited  
5 burning program for the people of this state, consisting of a one-  
6 permit system, until such time as ~~((an))~~ alternate technology or  
7 methods of disposing of the organic refuse ~~((described in this chapter~~  
8 ~~shall))~~ have been developed ~~((which is))~~ that are reasonably economical  
9 and less harmful to the environment. It is the policy of this state to  
10 ~~((encourage the fostering and development of such))~~ foster and  
11 encourage development of alternate methods or technology for disposing  
12 of or reducing the amount of organic refuse.

13 NEW SECTION. Sec. 402. A new section is added to chapter 70.94  
14 RCW to read as follows:

15 (1) Consistent with the policy of the state to reduce outdoor  
16 burning to the greatest extent practical:

17 (a) Outdoor burning shall not be allowed in any area of the state  
18 where federal or state ambient air quality standards are exceeded for  
19 pollutants emitted by outdoor burning.

20 (b) Outdoor burning shall not be allowed in any urban growth area  
21 as defined by RCW 36.70A.030, or any city of the state having a  
22 population greater than ten thousand people if such cities are  
23 threatened to exceed state or federal air quality standards, and  
24 alternative disposal practices consistent with good solid waste  
25 management are reasonably available or practices eliminating production  
26 of organic refuse are reasonably available. In no event shall such  
27 burning be allowed after December 31, 2000.

1 (2) "Outdoor burning" means the combustion of material of any type  
2 in an open fire or in an outdoor container without providing for the  
3 control of combustion or the control of emissions from the combustion.

4 (3) This section shall not apply to silvicultural burning used to  
5 improve or maintain fire dependent ecosystems for rare plants or  
6 animals within state, federal, and private natural area preserves,  
7 natural resource conservation areas, parks, and other wildlife areas.

8 NEW SECTION. **Sec. 403.** A new section is added to chapter 70.94  
9 RCW to read as follows:

10 (1) The department of natural resources shall administer a program  
11 to reduce state-wide emissions from silvicultural forest burning so as  
12 to achieve the following minimum objectives:

13 (a) Twenty percent reduction by December 31, 1994 providing a  
14 ceiling for emissions until December 31, 2000; and

15 (b) Fifty percent reduction by December 31, 2000 providing a  
16 ceiling for emissions thereafter.

17 Reductions shall be calculated from the average annual emissions  
18 level from calendar years 1985 to 1989, using the same methodology for  
19 both reduction and base year calculations. The average annual  
20 emissions level from calendar years 1985 to 1989 shall constitute an  
21 emissions ceiling until December 31, 1994.

22 (2) The department of natural resources, within twelve months after  
23 the effective date of this section, shall develop a plan, in  
24 consultation with the department of ecology, public and private land  
25 owners, engaged in silvicultural forest burning, and representatives of  
26 the public to carry out the program as described in this section.

27 The plan shall recognize the variations in silvicultural forest  
28 burning including, but not limited to, a landowner's responsibility to  
29 abate an extreme fire hazard under chapter 76.04 RCW and other

1 objectives of burning, including abating and preventing a fire hazard,  
2 geographic region, climate, elevation and slope, proximity to populated  
3 areas, and diversity of land ownership. The plan shall establish  
4 priorities that the department of natural resources shall use to  
5 allocate allowable emissions, including but not limited to,  
6 silvicultural burning used to improve or maintain fire dependent  
7 ecosystems for rare plants or animals within state, federal, and  
8 private natural area preserves, natural resource conservation areas,  
9 parks, and other wildlife areas.

10 The emission reductions in this section are to apply to all forest  
11 lands including those owned and managed by the United States. If the  
12 United States does not participate in implementing the plan, the  
13 departments of natural resources and ecology shall use all appropriate  
14 and available methods or enforcement powers to ensure participation.  
15 Until such time as satisfactory participation occurs, the contribution  
16 of emissions from such lands shall be deleted from the calculation of  
17 the base period and the percentage reductions.

18 The plan shall include a tracking system designed to measure the  
19 degree of progress toward the emission reductions goals set in this  
20 section. Emissions are to be determined by the department of natural  
21 resources using the Pacific Northwest research station's smoke  
22 management system information model or best available method of  
23 estimation. The department of natural resources shall report annually  
24 to the department of ecology and the legislature on the status of the  
25 plan, emission reductions and progress toward meeting the objectives  
26 specified in this section, and the goals of this chapter and chapter  
27 76.04 RCW.

28 (3) If the December 31, 1994, emission reductions targets in this  
29 section are not met, the department of natural resources, in  
30 consultation with the department of ecology, shall use its authority

1 granted in this chapter and chapter 76.04 RCW to immediately limit  
2 emissions from such burning to the 1994 target levels and limit  
3 silvicultural forest burning in subsequent years to achieve equal  
4 annual incremental reductions so as to achieve the December 31, 2000,  
5 target level. If, as a result of the program established in this  
6 section, the emission reductions are met in 1994, but are not met by  
7 December 31, 2000, the department of natural resources in consultation  
8 with the department of ecology shall immediately limit silvicultural  
9 forest burning to reduce emissions from such burning to the December  
10 31, 2000, target level in all subsequent years.

11 **Sec. 404.** RCW 70.94.660 and 1971 ex.s. c 232 s 2 are each amended  
12 to read as follows:

13 (1) The department of natural resources shall have the  
14 responsibility for issuing and regulating burning permits required by  
15 it relating to the following activities ~~((declared to be))~~ for the  
16 protection of life or property and/or ~~((in))~~ for the public health,  
17 safety, and welfare:

18 ~~((+1))~~ (a) Abating a forest fire hazard;

19 ~~((+2))~~ (b) Prevention of a fire hazard;

20 ~~((+3))~~ (c) Instruction of public officials in methods of forest  
21 fire fighting; ~~((and~~

22 ~~(+4))~~ (d) Any silvicultural operation to improve the forest lands  
23 of the state; and

24 (e) Silvicultural burning used to improve or maintain fire  
25 dependent ecosystems for rare plants or animals within state, federal,  
26 and private natural area preserves, natural resource conservation  
27 areas, parks, and other wildlife areas.

28 (2) The department of natural resources shall not retain such  
29 authority, but it shall be the responsibility of the appropriate fire

1 protection agency for permitting and regulating outdoor burning on  
2 lands where the department of natural resources does not have fire  
3 protection responsibility.

4 (3) Permit fees shall be assessed for silvicultural burning under  
5 the jurisdiction of the department of natural resources and collected  
6 by the department of natural resources as provided for in this section.  
7 All fees shall be deposited in the air pollution control account,  
8 created in section 237 of this act. The legislature shall appropriate  
9 to the department of natural resources funds from the air pollution  
10 control account to enforce and administer the program under section 403  
11 of this act and RCW 70.94.660, 70.94.670, and 70.94.690. Fees shall be  
12 set by rule by the department of natural resources at the level  
13 necessary to cover the costs of the program.

14 **Sec. 405.** RCW 70.94.670 and 1971 ex.s. c 232 s 3 are each amended  
15 to read as follows:

16 The department of natural resources in granting burning permits for  
17 fires for the purposes set forth in RCW 70.94.660 shall condition the  
18 issuance and use of such permits to comply with air quality standards  
19 established by the department of ecology after full consultation with  
20 the department of natural resources. Such burning shall not cause the  
21 state air quality standards ~~((for suspended particulate matter))~~ to be  
22 exceeded in the ambient air up to two thousand feet above ground level  
23 over critical areas designated by the department of ecology, otherwise  
24 subject to air pollution from other sources. Air quality standards  
25 ~~((for suspended particulate matter))~~ shall be established and published  
26 by the department of ecology which shall also establish a procedure for  
27 advising the department of natural resources when ~~((the))~~ and where air  
28 contaminant levels exceed~~((s))~~ or threaten~~((s))~~ to exceed the ambient  
29 air standards over such critical areas. The ~~((suspended particulate~~

1 matter)) air quality shall be quantitatively measured by the department  
2 of ecology or the appropriate local air pollution control authority at  
3 established (~~primary air mass stations or primary ground level~~)  
4 monitoring stations over such designated areas. Further, such  
5 permitted burning shall not cause damage to public health or the  
6 environment. All permits issued under this section shall be subject to  
7 all applicable fees, permitting, penalty, and enforcement provisions of  
8 this chapter. The department of natural resources shall set forth  
9 smoke dispersal objectives designed consistent with this section to  
10 minimize any air pollution (~~from smoke~~) from such burning and the  
11 procedures necessary to meet those objectives.

12 The department of natural resources shall encourage more intense  
13 utilization in logging and alternative silviculture practices to reduce  
14 (~~forest fire hazards and shall encourage development and use of~~  
15 ~~procedures and equipment to burn forest debris in a manner that will~~  
16 ~~produce less smoke~~) the need for burning. The department of natural  
17 resources shall, whenever practical, encourage development and use of  
18 alternative acceptable disposal methods subject to the following  
19 priorities: (1) Slash production minimization, (2) slash utilization,  
20 (3) nonburning disposal, (4) silvicultural burning. Such alternative  
21 methods shall be evaluated as to the relative impact on air, water, and  
22 land pollution, public health, and their financial feasibility.

23 The department of natural resources shall not issue burning permits  
24 and shall revoke previously issued permits at any time in any area  
25 where the department of ecology or local board has declared a stage of  
26 impaired air quality as defined in RCW 70.94.473.

27 **Sec. 406.** RCW 70.94.690 and 1971 ex.s. c 232 s 5 are each amended  
28 to read as follows:

1 In the regulation of outdoor burning not included in RCW 70.94.660  
2 requiring permits from the department of natural resources, said  
3 department and the state, local, or regional air pollution control  
4 authorities will cooperate in regulating such burning so as to minimize  
5 insofar as possible duplicate inspections and separate permits while  
6 still accomplishing the objectives and responsibilities of the  
7 respective agencies. The department of natural resources shall include  
8 any local authority's burning regulations with permits issued where  
9 applicable pursuant to RCW 70.94.740 through 70.94.775. The department  
10 shall develop agreements with all local authorities to coordinate  
11 regulations.

12 Permits shall be withheld by the department of natural resources  
13 when so requested by the department of ecology if a forecast, alert,  
14 warning, or emergency condition exists as defined in the episode  
15 criteria of the department of ecology.

16 NEW SECTION. Sec. 407. A new section is added to chapter 70.94  
17 RCW to read as follows:

18 Nothing contained in this chapter shall prohibit fires necessary:  
19 (1) To promote the regeneration of rare and endangered plants found  
20 within natural area preserves as identified under chapter 79.70 RCW;  
21 and (2) for Indian ceremonies or for the sending of smoke signals if  
22 part of a religious ritual. Permits issued for burning under this  
23 section shall be drafted to minimize emissions including denial of  
24 permission to burn during periods of adverse meteorological conditions.

25 **Sec. 408.** RCW 70.94.650 and 1971 ex.s. c 232 s 1 are each amended  
26 to read as follows:

27 (1) Any person who proposes to set fires in the course of ~~((the~~  
28 ~~following:~~

1       ~~(1))~~ (a) weed abatement,  
2       ~~((2))~~ (b) instruction in methods of fire fighting (except forest  
3 fires), or  
4       ~~((3) Disease prevention relating to)~~ (c) agricultural activities,  
5 shall, prior to carrying out the same, obtain a permit from an air  
6 pollution control authority or the department of ecology, as  
7 appropriate. Each such authority and the department of ecology shall,  
8 by rule or ordinance, establish a permit system to carry out the  
9 provisions of this section except as provided in RCW 70.94.660.  
10 General criteria of state-wide applicability for ruling on such permits  
11 shall be established by the department, by rule ~~((or regulation))~~,  
12 after consultation with the various air pollution control authorities.  
13 Permits shall be issued under this section based on seasonal operations  
14 or by individual operations, or both~~((: PROVIDED, That))~~. All permits  
15 so issued shall be conditioned to insure that the public interest in  
16 air, water, and land pollution and safety to life and property is fully  
17 considered. In addition to any other requirements established by the  
18 department to protect air quality pursuant to other laws, applicants  
19 for permits must show that the setting of fires as requested is the  
20 most reasonable procedure to follow in safeguarding life or property  
21 under all circumstances or is otherwise reasonably necessary to  
22 successfully carry out the enterprise in which the applicant is engaged  
23 ~~((in))~~, or both. All burning permits will be designed to minimize air  
24 pollution insofar as practical. Nothing in this section shall relieve  
25 the applicant from obtaining permits, licenses, or other approvals  
26 required by any other law~~((: PROVIDED FURTHER, That))~~. An application  
27 for a permit to set fires in the course of agricultural burning for  
28 controlling diseases, insects, ~~((and))~~ weed abatement or development of  
29 physiological conditions conducive to increased crop yield, shall be  
30 ~~((granted))~~ acted upon within ~~((fourteen))~~ seven days from the date

1 such application is filed(~~(: PROVIDED, That nothing herein shall~~  
2 ~~prevent a householder from setting fire in the course of burning~~  
3 ~~leaves, clippings or trash when otherwise permitted locally. Nothing~~  
4 ~~contained herein shall prohibit Indian campfires or the sending of~~  
5 ~~smoke signals if part of a religious ritual))).~~

6 (2) Except as provided in RCW 70.94.780 permit fees shall be  
7 assessed for outdoor burning under this section and shall be collected  
8 by the department of ecology or the appropriate local air authority at  
9 the time the permit is issued. All fees collected shall be deposited  
10 in the air pollution control account created in section 237 of this  
11 act. Fees shall be set by rule by the permitting agency at the level  
12 necessary to cover the costs of administering and enforcing the permit  
13 programs, to provide funds for research into alternative methods to  
14 reduce emissions from such burning, and to the extent possible be  
15 consistent with fees charged for such burning permits in neighboring  
16 states.

17 The permitting agency shall provide, to the extent possible, in its  
18 rules developed under this subsection for lesser fees for permittees  
19 who use best management practices to minimize air contaminant  
20 emissions. After fees are established by rule, any increases in such  
21 fees shall be limited to annual inflation adjustments as determined by  
22 the state office of the economic and revenue forecast council.

23 (3) Conservation districts and the Washington State University  
24 agricultural extension program in conjunction with the department shall  
25 develop public education material for the agricultural community  
26 identifying the health and environmental affects of agricultural  
27 outdoor burning and providing technical assistance in alternatives to  
28 agricultural outdoor burning.

29 (4) An agricultural burning practices and research task force shall  
30 be established under the direction of the department. The task force

1 shall be composed of a representative from the department who shall  
2 serve as chair; one representative of eastern Washington local air  
3 authorities; three representatives of the agricultural community from  
4 different agricultural pursuits; one representative of the department  
5 of agriculture; two representatives from universities or colleges  
6 knowledgeable in agricultural issues; one representative of the public  
7 health or medical community; and one representative of the conservation  
8 districts. The task force shall identify best management practices for  
9 reducing air contaminant emissions from agricultural activities and  
10 provide such information to the department and local air authorities.  
11 The task force shall identify research needs related to minimizing  
12 emissions from agricultural burning and alternatives to such burning.  
13 Further, the task force shall make recommendations to the department on  
14 priorities for spending funds provided through this chapter for  
15 research into alternative methods to reduce emissions from agricultural  
16 burning.

17 **Sec. 409.** RCW 70.94.654 and 1973 1st ex.s. c 193 s 6 are each  
18 amended to read as follows:

19 Whenever the department of ecology shall find that any fire  
20 protection agency, county, or conservation district which is outside  
21 the jurisdictional boundaries of an activated air pollution control  
22 authority is capable of effectively administering the issuance and  
23 enforcement of permits for any or all of the kinds of burning  
24 identified in RCW 70.94.650 (~~((1) and (3))~~) and desirous of doing so,  
25 the department of ecology may delegate (~~(all)~~) powers necessary for the  
26 issuance (~~(and)~~) or enforcement, or both, of permits for any or all of  
27 the kinds of burning to the fire protection agency, county(~~(: PROVIDED,~~  
28 ~~That))~~), or conservation district. Such delegation may be withdrawn by  
29 the department of ecology upon ((a)) its finding that the fire

1 protection agency, county, or conservation district is not effectively  
2 administering the permit program.

3 **Sec. 410.** RCW 70.94.775 and 1974 ex.s. c 164 s 1 are each amended  
4 to read as follows:

5 No person shall cause or allow any outdoor fire:

6 (1) Containing garbage, dead animals, asphalt, petroleum products,  
7 paints, rubber products, plastics, or any substance other than natural  
8 vegetation (~~((which))~~) that normally emits dense smoke or obnoxious odors  
9 (~~((except as provided in RCW 70.94.650: PROVIDED, That))~~). Agricultural  
10 heating devices (~~((which))~~) that otherwise meet the requirements of this  
11 chapter shall not be considered outdoor fires under this section;

12 (2) During a forecast, alert, warning or emergency condition as  
13 defined in RCW 70.94.715 or impaired air quality condition as defined  
14 in RCW 70.94.473;

15 (3) In any area which has been designated by the department of  
16 ecology or board of an activated authority as an area exceeding or  
17 threatening to exceed state or federal ambient air quality standards(~~(~~  
18 ~~or after July 1, 1976, state ambient air quality goals for~~  
19 ~~particulates))~~, except instructional fires permitted by RCW  
20 70.94.650(2).

21 **Sec. 411.** RCW 70.94.780 and 1973 1st ex.s. c 193 s 10 are each  
22 amended to read as follows:

23 In addition to any other powers granted to them by law, the fire  
24 protection agency, county, or conservation district authorized to issue  
25 burning permits (~~((may))~~) shall regulate or prohibit outdoor burning (~~((in~~  
26 ~~order))~~) as necessary to prevent or abate the nuisances caused by such  
27 burning. No fire protection agency, county, or conservation district  
28 may issue a burning permit in an area where the department or local

1 board has declared any stage of impaired air quality per RCW 70.94.473  
2 or any stage of an air pollution episode. All burning permits issued  
3 shall be subject to all applicable fee, permitting, penalty, and  
4 enforcement provisions of this chapter. The permitted burning shall  
5 not cause damage to public health or the environment.

6 Any entity authorized to issue a permit under this section may  
7 charge a fee at the level necessary to recover the costs of  
8 administering and enforcing the permit program.

9 **Sec. 412.** RCW 70.94.750 and 1972 ex.s. c 136 s 3 are each amended  
10 to read as follows:

11 The following outdoor fires described in this section may be burned  
12 subject to the provisions of ~~((the program established pursuant to RCW~~  
13 ~~70.94.755 for any area))~~ this chapter and also subject to city  
14 ordinances, county resolutions, ~~((and))~~ rules ~~((and regulations))~~ of  
15 fire districts and laws, and rules ~~((and regulations))~~ enforced by the  
16 department of natural resources if a permit has been issued by a fire  
17 protection agency, county, or conservation district:

18 (1) Fires consisting of leaves, clippings, prunings and other yard  
19 and gardening refuse originating on lands immediately adjacent and in  
20 close proximity to a human dwelling and burned on such lands by the  
21 property owner or his or her designee.

22 (2) Fires consisting of residue of a natural character such as  
23 trees, stumps, shrubbery or other natural vegetation arising from land  
24 clearing projects or agricultural pursuits for pest or disease control;  
25 provided the fires described in this subsection may be prohibited in  
26 those areas having a general population density of one thousand or more  
27 persons per square mile.

1

2       **Sec. 501.** RCW 70.94.457 and 1987 c 405 s 4 are each amended to  
3 read as follows:

4       (~~Before January 1, 1988,~~) The department of ecology shall  
5 establish by rule under chapter 34.05 RCW:

6       (1) State-wide emission performance standards for new (~~wood~~  
7 ~~stoves~~) solid fuel burning devices. Notwithstanding any other  
8 provision of this chapter which allows an authority to adopt more  
9 stringent emission standards, no authority shall adopt any emission  
10 standard for new (~~wood stoves~~) solid fuel burning devices other than  
11 the state-wide standard adopted by the department under this section.

12       (a) (~~For new wood stoves sold after July 1, 1988, the state-wide~~  
13 ~~performance standard, by rule, shall be the equivalent of and~~  
14 ~~consistent with state-wide emission standards in effect in bordering~~  
15 ~~states on or before January 1, 1987. For solid fuel burning devices~~  
16 ~~for which bordering states have not established emission standards, the~~  
17 ~~department may temporarily exempt or establish, by rule, state-wide~~  
18 ~~standards including emission levels and test procedures for such~~  
19 ~~devices and such emission levels and test procedures shall be~~  
20 ~~equivalent to emission levels per pound per hour burned for other new~~  
21 ~~wood stoves regulated by this subsection)) After January 1, 1995, no  
22 solid fuel burning device shall be offered for sale that has  
23 particulate air contaminant emissions exceeding four and one-half grams  
24 per hour, except that catalytic wood stoves shall not have contaminant  
25 emissions exceeding two and one-half grams per hour. The appropriate  
26 standing committees of the legislature shall review the standard under  
27 this subsection (a) during the regular session beginning in January  
28 1998.~~

1        (b) After January 1, 1997, no fireplace, except masonry fireplaces,  
2 shall be offered for sale unless such fireplace meets the 1990 United  
3 States environmental protection agency standards for wood stoves.

4        (c) Subsection (1) (a) and (b) of this section shall not apply to  
5 fireplaces.

6        ~~((b))~~ (d) Notwithstanding (a) of this subsection, the department  
7 is authorized to adopt, by rule, emission standards adopted by the  
8 United States environmental protection agency for new wood stoves sold  
9 at retail. For solid fuel burning devices for which the United States  
10 environmental protection agency has not established emission standards,  
11 the department may ~~((temporarily))~~ exempt or establish, by rule, state-  
12 wide standards including emission levels and test procedures for such  
13 devices and such emission levels and test procedures shall be  
14 equivalent to emission levels per pound per hour burned for other new  
15 wood stoves and fireplaces regulated under this subsection.

16        (2) A program to:

17        (a) Determine whether a new ~~((wood stove))~~ solid fuel burning  
18 device complies with the state-wide emission performance standards  
19 established in subsection (1) of this section; and

20        (b) Approve the sale of ~~((stoves))~~ devices that comply with the  
21 state-wide emission performance standards.

22        **Sec. 502.** RCW 70.94.470 and 1987 c 405 s 5 are each amended to  
23 read as follows:

24        ~~((Before January 1, 1988,))~~ The department shall establish, by  
25 rule under chapter 34.05 RCW, ~~((state wide opacity levels for~~  
26 residential solid fuel burning devices as follows:

27        ~~((a) A state wide opacity level of twenty percent for the purpose of~~  
28 public education;

1       ~~(b) Until July 1, 1990, a state-wide opacity level of forty percent~~  
2 ~~for the purpose of enforcement on a complaint basis; and~~

3       ~~(c) After July 1, 1990, a)) (a) a state-wide opacity level of~~  
4 ~~twenty percent for residential solid fuel burning devices for the~~  
5 ~~purpose of enforcement on a complaint basis and (b) a state-wide~~  
6 ~~opacity of ten percent for purposes of public education.~~

7       (2) Notwithstanding any other provision of this chapter which may  
8 allow an authority to adopt a more stringent opacity level, no  
9 authority shall adopt or enforce an opacity level((+)

10       ~~(a) Lower than forty percent until July 1, 1990; and~~

11       ~~(b) Lower than twenty percent after July 1, 1990)) for solid fuel~~  
12 ~~burning devices other than established in this section.~~

13       NEW SECTION. Sec. 503. A new section is added to chapter 70.94  
14 RCW to read as follows:

15       After January 1, 1992, no used solid fuel burning device shall be  
16 installed in new or existing buildings unless such device is either  
17 Oregon department of environmental quality phase II or United States  
18 environmental protection agency certified or a pellet stove either  
19 certified or exempt from certification by the United States  
20 environmental protection agency.

21       (1) By July 1, 1992, the state building code council shall adopt  
22 rules requiring an adequate source of heat other than woodstoves in all  
23 new and substantially remodeled residential and commercial  
24 construction. This rule shall apply to areas designated by a county to  
25 be an urban growth area under chapter 36.70A RCW.

26       (2) For purposes of this section, "substantially remodeled" means  
27 any alteration or restoration of a building exceeding sixty percent of  
28 the appraised value of such building within a twelve-month period.

1       **Sec. 504.** RCW 70.94.473 and 1990 c 128 s 2 are each amended to  
2 read as follows:

3       (1) Any person in a residence or commercial establishment which has  
4 an adequate source of heat without burning wood shall:

5       (a) Not burn wood in any solid fuel burning device whenever the  
6 department has determined under RCW 70.94.715 that any air pollution  
7 episode exists in that area;

8       (b) Not burn wood in any solid fuel burning device except those  
9 which ~~((meet the standards set forth in RCW 70.94.457,))~~ are either  
10 Oregon department of environmental quality phase II or United States  
11 environmental protection agency certified or certified by the  
12 department under RCW 70.94.457(1) or a pellet stove either certified or  
13 issued an exemption ~~((certificate))~~ by the United States environmental  
14 protection agency in accordance with Title 40, Part 60 of the code of  
15 federal regulations, in the geographical area and for the period of  
16 time that a first stage of impaired air quality has been determined, by  
17 the department or any authority, for that area. A first stage of  
18 impaired air quality is reached when particulates ten microns and  
19 smaller in diameter are at an ambient level of seventy-five micrograms  
20 per cubic meter measured on a twenty-four hour average or when carbon  
21 monoxide is at an ambient level of eight parts of contaminant per  
22 million parts of air by volume measured on an eight-hour average; and

23       (c) Not burn wood in any solid fuel burning device ~~((, including~~  
24 ~~those which meet the standards set forth in RCW 70.94.457,))~~ in a  
25 geographical area and for the period of time that a second stage of  
26 impaired air quality has been determined by the department or any  
27 authority, for that area. A second stage of impaired air quality is  
28 reached when particulates ten microns and smaller in diameter are at an  
29 ambient level of one hundred five micrograms per cubic meter measured  
30 on a twenty-four hour average. This subsection shall not apply to

1 noncatalytic wood stoves emitting two and one-half grams or less of  
2 particulate air contaminants or to catalytic wood stoves emitting one  
3 and four-tenths grams or less of particulate air contaminants if such  
4 wood stoves are operated in the unincorporated area of a county that  
5 has not been designated as an urban growth area under chapter 36.70A  
6 RCW.

7 (2) (~~When~~) If a local air authority exercises the limitation on  
8 solid fuel burning devices specified under RCW 70.94.477(2), a single  
9 stage of impaired air quality applies in the geographical area defined  
10 by the authority in accordance with RCW 70.94.477(2) and is reached  
11 when particulates ten microns and smaller in diameter are at an ambient  
12 level of ninety micrograms per cubic meter measured on a twenty-four  
13 hour average or when carbon monoxide is at an ambient level of eight  
14 parts of contaminant per million parts of air by volume measured on an  
15 eight-hour average.

16 (~~When~~) If this single stage of impaired air quality is reached,  
17 no person in a residence or commercial establishment (~~which~~) that has  
18 an adequate source of heat without burning wood shall burn wood in any  
19 solid fuel burning device, including those which meet the standards set  
20 forth in RCW 70.94.457.

21 **Sec. 505.** RCW 70.94.483 and 1990 c 128 s 5 are each amended to  
22 read as follows:

23 (1) The wood stove education and enforcement account is hereby  
24 created in the general fund. Money placed in the account shall include  
25 all money received under subsection (2) of this section and any other  
26 money appropriated by the legislature. Money in the account shall be  
27 spent for the purposes of the wood stove education program established  
28 under RCW 70.94.480 and for enforcement of the wood stove program, and  
29 shall be subject to legislative appropriation.

1           (2) The department of ecology, with the advice of the advisory  
2 committee, shall set a flat fee(~~(, not to exceed fifteen)~~) of thirty  
3 dollars, on the retail sale, as defined in RCW 82.04.050, of each solid  
4 fuel burning device, excepting masonry fireplaces, after January 1,  
5 (~~(1988)~~) 1992. The fee shall be imposed upon the consumer and shall  
6 not be subject to the retail sales tax provisions of chapters 82.08 and  
7 82.12 RCW. The fee may be adjusted annually above (~~(fifteen)~~) thirty  
8 dollars (~~(according to changes in the consumer price index after~~  
9 ~~January 1, 1989)~~) to account for inflation as determined by the state  
10 office of the economic and revenue forecast council. The fee shall be  
11 collected by the department of revenue in conjunction with the retail  
12 sales tax under chapter 82.08 RCW. If the seller fails to collect the  
13 fee herein imposed or fails to remit the fee to the department of  
14 revenue in the manner prescribed in chapter 82.08 RCW, the seller shall  
15 be personally liable to the state for the amount of the fee. The  
16 collection provisions of chapter 82.32 RCW shall apply. The department  
17 of revenue shall deposit fees collected under this section in the wood  
18 stove education and enforcement account.

19           **Sec. 506.** RCW 70.94.041 and 1983 c 3 s 175 are each amended to  
20 read as follows:

21           Except as otherwise provided in this section, any building or  
22 structure listed on the national register of historic sites,  
23 structures, or buildings established pursuant to 80 Stat. 915, 16  
24 U.S.C. Sec. 470a, or on the state register established pursuant to RCW  
25 (~~(43.51A.080)~~) 27.34.220, shall be permitted to burn wood as it would  
26 have when it was a functioning facility as an authorized exception to  
27 the provisions of this chapter. Such burning of wood shall not be  
28 exempted from the provisions of RCW 70.94.710 through 70.94.730.

1       **Sec. 507.** RCW 70.94.656 and 1990 c 113 s 1 are each amended to  
2 read as follows:

3       It is hereby declared to be the policy of this state that strong  
4 efforts should be made to minimize adverse effects on air quality from  
5 the open burning of field and turf grasses grown for seed. To such end  
6 this section is intended to promote the development of economical and  
7 practical alternate agricultural practices to such burning, and to  
8 provide for interim regulation of such burning until practical  
9 alternates are found.

10       (1) The department shall approve of a study or studies for the  
11 exploration and identification of economical and practical alternate  
12 agricultural practices to the open burning of field and turf grasses  
13 grown for seed. Prior to the issuance of any permit for such burning  
14 under RCW 70.94.650, there shall be collected a fee not to exceed one  
15 dollar per acre of crop to be burned. Any such fees received by any  
16 authority shall be transferred to the department of ecology. The  
17 department of ecology shall deposit all such acreage fees in a special  
18 grass seed burning research account, hereby created, in the state  
19 treasury. All earnings of investments of balances in the special grass  
20 seed burning research account shall be credited to the general fund.  
21 The department shall allocate moneys annually from this account for the  
22 support of any approved study or studies as provided for in this  
23 subsection. For the conduct of any such study or studies, the  
24 department may contract with public or private entities: PROVIDED,  
25 That whenever the department of ecology shall conclude that sufficient  
26 reasonably available alternates to open burning have been developed,  
27 and at such time as all costs of any studies have been paid, the grass  
28 seed burning research account shall be dissolved, and any money  
29 remaining therein shall revert to the general fund.

1       The fee collected under this subsection shall constitute the  
2 research portion of fees required under RCW 70.94.650 for open burning  
3 of grass grown for seed.

4       (2) Whenever on the basis of information available to it, the  
5 department after public hearings have been conducted wherein testimony  
6 will be received and considered from interested parties wishing to  
7 testify shall conclude that any procedure, program, technique, or  
8 device constitutes a practical alternate agricultural practice to the  
9 open burning of field or turf grasses grown for seed, the department  
10 shall, by order, certify approval of such alternate. Thereafter, in  
11 any case which any such approved alternate is reasonably available, the  
12 open burning of field and turf grasses grown for seed shall be  
13 disallowed and no permit shall issue therefor.

14       (3) Until approved alternates become available, the department or  
15 the authority may limit the number of acres on a pro rata basis among  
16 those affected for which permits to burn will be issued in order to  
17 effectively control emissions from this source.

18       (4) Permits issued for burning of field and turf grasses may be  
19 conditioned to minimize emissions insofar as practical, including  
20 denial of permission to burn during periods of adverse meteorological  
21 conditions.

22       NEW SECTION. Sec. 508. A new section is added to chapter 70.94  
23 RCW to read as follows:

24       (1) A task force is established for the purposes of recommending  
25 programs to:

26       (a) Encourage persons with wood stoves not meeting the requirements  
27 of RCW 70.94.457 or United States environmental protection agency  
28 certificate requirements to remove such wood stoves and install a less  
29 polluting source of heat; and

1 (b) Educate the public on wood stove emissions and methods to  
2 reduce such emissions.

3 (2) The task force shall be appointed by the speaker of the house  
4 of representatives and the president of the senate and shall consist  
5 of:

6 (a) Two members from the house of representatives committee on  
7 environmental affairs;

8 (b) Two members from the senate committee on environment and  
9 natural resources;

10 (c) Two members from the house of representatives committee on  
11 energy and utilities; and

12 (d) Two members from the senate committee on energy and utilities.

13 (3) In developing recommendations, the task force shall consult  
14 with representatives from the department of ecology, local air  
15 authorities, wood stove dealers, wood stove manufacturers, public and  
16 investor owned utilities, citizen organizations, environmental  
17 organizations, and public health organizations.

18 (4) By November 1, 1991, the task force shall report to the  
19 appropriate standing committees of the legislature. The report shall  
20 recommend methods to:

21 (a) Use public and private funds to provide credit toward  
22 purchasing old wood stoves not certified under RCW 70.94.457;

23 (b) Use public and private funds to implement public education  
24 programs designed to reduce emissions from wood stoves; and

25 (c) Prevent fraud or abuse of the programs developed under this  
26 section.

27 (5) The task force created in subsection (1) of this section shall  
28 terminate on July 1, 1995.

GLOBAL WARMING AND OZONE DEPLETION

NEW SECTION. **Sec. 601.** The legislature finds that:

(1) The release of chlorofluorocarbons and other ozone-depleting chemicals into the atmosphere contributes to the destruction of stratospheric ozone and threatens plant and animal life with harmful overexposure to ultraviolet radiation;

(2) The technology and equipment to extract and recover chlorofluorocarbons and other ozone-depleting chemicals from air conditioners, refrigerators, and other appliances are available;

(3) A number of nonessential consumer products contain ozone-depleting chemicals; and

(4) Unnecessary releases of chlorofluorocarbons and other ozone-depleting chemicals from these sources should be eliminated.

NEW SECTION. **Sec. 602.** A new section is added to chapter 70.94 RCW to read as follows:

(1) Regulated refrigerant means a class I or class II substance as listed in Title VI of section 602 of the federal clean air act amendments of November 15, 1990.

(2) A person who services or repairs or disposes of a motor vehicle air conditioning system; commercial or industrial air conditioning, heating, or refrigeration system; or consumer appliance shall use refrigerant extraction equipment to recover regulated refrigerant that would otherwise be released into the atmosphere. This subsection does not apply to off-road commercial equipment.

(3) Upon request, the department shall provide information and assistance to persons interested in collecting, transporting, or recycling regulated refrigerants.

1 (4) The willful release of regulated refrigerant from a source  
2 listed in subsection (2) of this section is prohibited.

3 NEW SECTION. **Sec. 603.** A new section is added to chapter 70.94  
4 RCW to read as follows:

5 No person may sell, offer for sale, or purchase any of the  
6 following:

7 (1) A regulated refrigerant in a container designed for consumer  
8 recharge of a motor vehicle air conditioning system or consumer  
9 appliance during repair or service. This subsection does not apply to  
10 a regulated refrigerant purchased for the recharge of the air  
11 conditioning system of off-road commercial or agricultural equipment  
12 and sold or offered for sale at an establishment which specializes in  
13 the sale of off-road commercial or agricultural equipment or parts or  
14 service for such equipment;

15 (2) A cleaning spray designed for noncommercial or nonindustrial  
16 cleaning of electronic or photographic equipment that contains  
17 chlorofluorocarbons or other ozone-depleting chemicals; and

18 (3) Nonessential consumer products that contain chlorofluorocarbons  
19 or other ozone-depleting chemicals, and for which substitutes are  
20 readily available. Products affected under this subsection shall  
21 include, but are not limited to, party streamers, tire inflators, air  
22 horns, and noise makers.

23 NEW SECTION. **Sec. 604.** A new section is added to chapter 70.94  
24 RCW to read as follows:

25 The department shall adopt rules to implement sections 602 and 603  
26 of this act. Rules shall include but not be limited to minimum  
27 performance specifications for refrigerant extraction equipment, as  
28 well as procedures for enforcing sections 602 and 603 of this act.

1 Enforcement provisions adopted by the department shall not include  
2 penalties or fines in areas where equipment to collect or recycle  
3 regulated refrigerants is not readily available.

4 VII.

5 MISCELLANEOUS SECTIONS

6 **Sec. 701.** RCW 70.94.053 and 1987 c 505 s 60 and 1987 c 109 s 34  
7 are each reenacted and amended to read as follows:

8 (1) In each county of the state there is hereby created an air  
9 pollution control authority, which shall bear the name of the county  
10 within which it is located. The boundaries of each authority shall be  
11 coextensive with the boundaries of the county within which it is  
12 located. An authority shall include all incorporated and  
13 unincorporated areas of the county within which it is located.

14 (2) All authorities which are presently (~~or may hereafter be~~  
15 ~~within counties of the first class, class A or class AA, are hereby~~  
16 ~~designated as~~) activated authorities ((and)) shall carry out the  
17 duties and exercise the powers provided in this chapter. Those  
18 activated authorities ((~~hereby activated~~)) which encompass contiguous  
19 counties ((~~located in one or the other of the two major areas~~  
20 ~~determined in RCW 70.94.011~~)) are declared to be and directed to  
21 function as a multicounty authority.

22 (3) Except as provided in RCW 70.94.232, all other air pollution  
23 control authorities are hereby designated as inactive authorities.

24 (4) The boards of those authorities designated as activated  
25 authorities by this chapter shall be comprised of such appointees  
26 and/or county commissioners or other officers as is provided in RCW  
27 70.94.100. (~~The first meeting of the boards of those authorities~~

1 designated as activated authorities by this chapter shall be on or  
2 before sixty days after June 8, 1967.

3 (5) The department is directed to conduct the necessary evaluations  
4 and delineate appropriate air pollution regions throughout the state,  
5 taking into consideration:

6 (a) The natural climatic and topographic features affecting the  
7 potential for buildup of air contaminant concentrations.

8 (b) The degree of urbanization and industrialization and the  
9 existence of activities which are likely to cause air pollution.

10 (c) The county boundaries as related to the air pollution regions  
11 and the practicality of administering air pollution control programs.))

12 **Sec. 702.** RCW 70.94.055 and 1967 c 238 s 5 are each amended to  
13 read as follows:

14 The board of county commissioners of any county ((~~other than a~~  
15 ~~first class, class A or class AA county~~)) may activate an air pollution  
16 control authority following a public hearing on its own motion, or upon  
17 a filing of a petition signed by one hundred property owners within the  
18 county. If the board of county commissioners determines as a result of  
19 the public hearing that:

20 (1) Air pollution exists or is likely to occur; and

21 (2) The city or town ordinances, or county resolutions, or their  
22 enforcement, are inadequate to prevent or control air pollution, they  
23 ((~~shall~~)) may by resolution activate an air pollution control authority  
24 or combine with a contiguous county or counties to form a multicounty  
25 air pollution control authority.

26 **Sec. 703.** RCW 70.94.092 and 1975 1st ex.s. c 106 s 1 are each  
27 amended to read as follows:

1       Notwithstanding the provisions of RCW 1.16.030, the budget year of  
2 each activated authority shall be the fiscal year beginning July 1st  
3 and ending on the following June 30th. ~~((The current budget year shall  
4 be terminated June 30, 1975, and a budget for the fiscal year beginning  
5 July 1, 1975, shall be adopted pursuant to this section as now or  
6 hereafter amended.))~~ On or before the fourth Monday in June of each  
7 year, each activated authority shall adopt a budget for the following  
8 fiscal year. The activated authority budget shall contain adequate  
9 funding and provide for staff sufficient to carry out the provisions of  
10 all applicable ordinances, resolutions, and local regulations related  
11 to the reduction, prevention, and control of air pollution. The  
12 legislature acknowledges the need for the state to provide reasonable  
13 funding to local authorities to carry out the requirements of this  
14 chapter. The budget shall contain an estimate of all revenues to be  
15 collected during the following budget year, including any surplus funds  
16 remaining unexpended from the preceding year. The remaining funds  
17 required to meet budget expenditures, if any, shall be designated as  
18 "supplemental income" and shall be obtained from the component cities,  
19 towns, and counties in the manner provided in this chapter. The  
20 affirmative vote of three-fourths of all members of the board shall be  
21 required to authorize emergency expenditures.

22       **Sec. 704.** RCW 70.94.100 and 1989 c 150 s 1 are each amended to  
23 read as follows:

24       (1) The governing body of each authority shall be known as the  
25 board of directors.

26       (2) In the case of an authority comprised of one county the board  
27 shall be comprised of two appointees of the city selection committee  
28 ~~((as hereinafter provided))~~, at least one of whom shall represent the  
29 city having the most population in the county, and two representatives

1 to be designated by the board of county commissioners. In the case of  
2 an authority comprised of two ~~((or))~~, three, four, or five counties,  
3 the board shall be comprised of one appointee ~~((of the city selection  
4 committee of))~~ from each county ~~((as hereinafter provided))~~, who shall  
5 represent the city having the most population in such county, to be  
6 designated by the mayor and city council of such city, and one  
7 representative from each county to be designated by the board of county  
8 commissioners of each county making up the authority. ~~((In the case of  
9 an authority comprised of four or five counties, the board shall be  
10 comprised of one appointee of the city selection committee of each  
11 county as hereinafter provided who shall represent the city having the  
12 most population in such county, and one representative from each county  
13 to be designated by the board of county commissioners of each county  
14 making up the authority.))~~ In the case of an authority comprised of  
15 six or more counties, the board shall be comprised of one  
16 representative from each county to be designated by the board of county  
17 commissioners of each county making up the authority, and ~~((one))~~ three  
18 appointees, one each from ~~((each city with over one hundred thousand  
19 population))~~ the three largest cities within the local authority's  
20 jurisdiction to be appointed by the mayor and city council of such  
21 city.

22 (3) If the board of an authority otherwise would consist of an even  
23 number, the members selected as above provided shall agree upon and  
24 elect an additional member who shall be either a member of the  
25 governing body of one of the towns, cities or counties comprising the  
26 authority, or a private citizen residing in the authority. ~~((All board  
27 members shall hold office at the pleasure of the appointing body.))~~

28 (4) The terms of office of board members shall be four years.

29 (5) Wherever a member of a board has a potential conflict of  
30 interest in an action before the board, the member shall declare to the

1 board the nature of the potential conflict prior to participating in  
2 the action review. The board shall, if the potential conflict of  
3 interest, in the judgment of a majority of the board, may prevent the  
4 member from a fair and objective review of the case, remove the member  
5 from participation in the action.

6 **Sec. 705.** RCW 70.94.130 and 1969 ex.s. c 168 s 15 are each amended  
7 to read as follows:

8 The board shall exercise all powers of the authority except as  
9 otherwise provided. The board shall conduct its first meeting within  
10 thirty days after all of its members have been appointed or designated  
11 as provided in RCW 70.94.100. The board shall meet at least ten times  
12 per year. All meetings shall be publicly announced prior to their  
13 occurrence. All meetings shall be open to the public. A majority of  
14 the board shall constitute a quorum for the transaction of business and  
15 shall be necessary for any action taken by the board. The board shall  
16 elect from its members a (~~chairman~~) chair and such other officers as  
17 may be necessary. Any member of the board may designate a regular  
18 alternate to serve on the board in his or her place with the same  
19 authority as the member when he or she is unable to attend. Each  
20 member of the board, or his or her representative, shall receive from  
21 the authority (~~twenty-five dollars per day~~) compensation consistent  
22 with such authority's rates (but not to exceed one thousand dollars per  
23 year) for (~~each full day~~) time spent in the performance of (~~his~~)  
24 duties under this chapter, plus the actual and necessary expenses  
25 incurred by (~~him~~) the member in such performance. The board may  
26 appoint (~~an executive director~~) a control officer, and any other  
27 personnel, and shall determine their salaries, and pay same, together  
28 with any other proper indebtedness, from authority funds.

1       **Sec. 706.** RCW 70.94.170 and 1969 ex.s. c 168 s 21 are each amended  
2 to read as follows:

3       Any activated authority which has adopted an ordinance, resolution,  
4 or valid rules and regulations as provided herein for the control and  
5 prevention of air pollution shall appoint a full time control officer,  
6 ((~~who~~)) whose sole responsibility shall be to observe and enforce the  
7 provisions of this chapter and all orders, ordinances, resolutions, or  
8 rules and regulations of such activated authority pertaining to the  
9 control and prevention of air pollution.

10       **Sec. 707.** RCW 70.94.231 and 1969 ex.s. c 168 s 29 are each amended  
11 to read as follows:

12       Upon the date that an authority begins to exercise its powers and  
13 functions, all ((~~districts formed as a district under chapter 70.94 RCW~~  
14 ~~prior to June 8, 1967 which previously were wholly or partially~~  
15 ~~composed of one or more cities or towns located within such activated~~  
16 ~~authority shall be considered to be dissolved but its~~)) rules and  
17 regulations in force on such date shall remain in effect until  
18 superseded by the rules and regulations of the authority as provided in  
19 RCW 70.94.230. ((~~In such event, the board of any such district shall~~  
20 ~~proceed to wind up the affairs of the district in the same manner as if~~  
21 ~~the district were dissolved as provided in RCW 70.94.260.~~))

22       **Sec. 708.** RCW 70.94.240 and 1969 ex.s. c 168 s 30 are each amended  
23 to read as follows:

24       The board of any authority ((~~shall~~)) may appoint an air pollution  
25 control advisory council to advise and consult with such board, and the  
26 control officer in effectuating the purposes of this chapter. The  
27 council shall consist of at least five appointed members who are  
28 residents of the authority and who are preferably skilled and

1 experienced in the field of air pollution control, ~~((two))~~ chemistry,  
2 meteorology, public health, or a related field, at least one of whom  
3 shall serve as a representative~~((s))~~ of industry and one of whom shall  
4 serve as a representative of the environmental community. The  
5 ~~((chairman))~~ chair of the board of any such authority shall serve as ex  
6 officio member of the council and be its ~~((chairman))~~ chair. Each  
7 member of the council shall receive from the authority per diem and  
8 travel expenses in an amount not to exceed that provided for the state  
9 board in this chapter (but not to exceed one thousand dollars per year)  
10 for each full day spent in the performance of his or her duties under  
11 this chapter.

12 **Sec. 709.** RCW 70.94.331 and 1988 c 106 s 1 are each amended to  
13 read as follows:

14 (1) The department shall have all the powers as provided in RCW  
15 70.94.141.

16 (2) The department, in addition to any other powers vested in it by  
17 law after consideration at a public hearing held in accordance with  
18 chapters 42.30 ~~((RCW))~~ and ~~((chapter))~~ 34.05 RCW shall:

19 (a) Adopt rules ~~((and regulations))~~ establishing air quality  
20 objectives and air quality standards;

21 (b) Adopt emission standards which shall constitute minimum  
22 emission standards throughout the state. An authority may enact more  
23 stringent emission standards, except for emission performance standards  
24 for new wood stoves and opacity levels for residential solid fuel  
25 burning devices which shall be state-wide, but in no event may less  
26 stringent standards be enacted by an authority without the prior  
27 approval of the department after public hearing and due notice to  
28 interested parties;

1 (c) Adopt by rule (~~and regulation~~) air quality standards and  
2 emission standards for the control or prohibition of emissions to the  
3 outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other  
4 particulate matter, vapor, gas, odorous substances, or any combination  
5 thereof. Such requirements may be based upon a system of  
6 classification by types of emissions or types of sources of emissions,  
7 or combinations thereof, which it determines most feasible for the  
8 purposes of this chapter. However, an industry, or the air pollution  
9 control authority having jurisdiction, can choose, subject to the  
10 submittal of appropriate data that the industry has quantified, to have  
11 any limit on the opacity of emissions from a source whose emission  
12 standard is stated in terms of a weight of particulate per unit volume  
13 of air (e.g., grains per dry standard cubic foot) be based on the  
14 applicable particulate emission standard for that source, such that any  
15 violation of the opacity limit accurately indicates a violation of the  
16 applicable particulate emission standard. Any alternative opacity  
17 limit provided by this section that would result in increasing air  
18 contaminants emissions in any nonattainment area shall only be granted  
19 if equal or greater emission reductions are provided for by the same  
20 source obtaining the revised opacity limit. A reasonable fee may be  
21 assessed to the industry to which the alternate opacity standard would  
22 apply. The fee shall cover only those costs to the air pollution  
23 control authority which are directly related to the determination on  
24 the acceptability of the alternate opacity standard, including testing,  
25 oversight and review of data.

26 (3) The air quality standards and emission standards may be for the  
27 state as a whole or may vary from area to area or source to source,  
28 except that emission performance standards for new wood stoves and  
29 opacity levels for residential solid fuel burning devices shall be  
30 state-wide, as may be appropriate to facilitate the accomplishment of

1 the objectives of this chapter and to take necessary or desirable  
2 account of varying local conditions of population concentration, the  
3 existence of actual or ((reasonable)) reasonably foreseeable air  
4 pollution, topographic and meteorologic conditions and other pertinent  
5 variables.

6 (4) The department is directed to cooperate with the appropriate  
7 agencies of the United States or other states or any interstate  
8 agencies or international agencies with respect to the control of air  
9 pollution and air contamination, or for the formulation for the  
10 submission to the legislature of interstate air pollution control  
11 compacts or agreements.

12 (5) The department is directed to conduct or cause to be conducted  
13 a continuous surveillance program to monitor the quality of the ambient  
14 atmosphere as to concentrations and movements of air contaminants and  
15 conduct or cause to be conducted a program to determine the quantity of  
16 emissions to the atmosphere.

17 (6) The department shall enforce the air quality standards and  
18 emission standards throughout the state except where a local authority  
19 is enforcing the state regulations or its own regulations which are  
20 more stringent than those of the state.

21 (7) The department shall encourage local units of government to  
22 handle air pollution problems within their respective jurisdictions;  
23 and, on a cooperative basis provide technical and consultative  
24 assistance therefor.

25 (8) The department shall have the power to require the addition to  
26 or deletion of a county or counties from an existing authority in order  
27 to carry out the purposes of this chapter(~~(:—PROVIDED, HOWEVER,~~  
28 ~~That))~~). No such addition or deletion shall be made without the  
29 concurrence of any existing authority involved. Such action shall only

1 be taken after a public hearing held pursuant to the provisions of  
2 chapter 34.05 RCW.

3 (9) The department shall establish rules requiring sources or  
4 source categories to apply reasonable and available control methods.  
5 Such rules shall apply to those sources or source categories that  
6 individually or collectively contribute the majority of state-wide air  
7 emissions of each regulated pollutant. The department shall review,  
8 and if necessary, update its rules every five years to ensure  
9 consistency with current reasonable and available control methods. The  
10 department shall have adopted rules required under this subsection for  
11 all sources by July 1, 1996.

12 For the purposes of this section, "reasonable and available control  
13 methods" shall include but not be limited to, changes in technology,  
14 processes, or other control strategies.

15 **Sec. 710.** RCW 70.94.332 and 1987 c 109 s 18 are each amended to  
16 read as follows:

17 Whenever the department of ecology has reason to believe that any  
18 provision of this chapter or any rule or regulation adopted by it or  
19 being enforced by it under RCW 70.94.410 relating to the control or  
20 prevention of air pollution has been violated, it may cause written  
21 notice to be served upon the alleged violator or violators. The notice  
22 shall specify the provision of this chapter or the rule or regulation  
23 alleged to be violated, and the facts alleged to constitute a violation  
24 thereof, and may include an order that necessary corrective action be  
25 taken within a reasonable time. In lieu of an order, the department  
26 may require that the alleged violator or violators appear before it for  
27 the purpose of providing the department information pertaining to the  
28 violation or the charges complained of. In addition to or in place of

1 an order or hearing, the department may initiate action pursuant to RCW  
2 70.94.425, 70.94.430, 70.94.431, and 70.94.435.

3 **Sec. 711.** RCW 70.94.385 and 1987 c 109 s 41 are each amended to  
4 read as follows:

5 (1) Any authority may apply to the department for state financial  
6 aid. The department shall ~~((by rule and regulation))~~ annually  
7 establish the ~~((ratio))~~ amount of state funds ~~((to))~~ available for the  
8 local ~~((funds))~~ authorities taking into consideration available federal  
9 and state funds. The establishment of funding amounts shall be  
10 consistent with federal requirements and local maintenance of effort  
11 necessary to carry out the provisions of this chapter. Any such aid  
12 shall be expended from the general fund or from ~~((such))~~ other  
13 appropriations as the legislature may provide for this purpose:  
14 PROVIDED, That federal funds shall be utilized to the maximum unless  
15 otherwise approved by the department: PROVIDED FURTHER, That the  
16 ~~((ratio))~~ amount of state funds provided to local ~~((funds of))~~  
17 authorities during the previous year shall not be ~~((changed))~~ reduced  
18 without a public notice or public hearing held by the department if  
19 requested by the affected local authority, unless such changes are the  
20 direct result of a reduction in the available federal funds for air  
21 pollution control programs.

22 (2) Before any such application is approved and financial aid is  
23 given or approved by the department, the authority shall demonstrate to  
24 the satisfaction of the department that it is fulfilling the  
25 requirements of ~~((RCW 70.94.380, or,))~~ this chapter. If the department  
26 has not adopted ambient air quality standards and objectives as  
27 permitted by RCW 70.94.331, the authority shall demonstrate to the  
28 satisfaction of the department that it is acting in good faith and  
29 doing all that is possible and reasonable to control and prevent air

1 pollution within its jurisdictional boundaries and to carry out the  
2 purposes of this chapter.

3 (3) The department shall adopt rules ~~((and regulations))~~ requiring  
4 the submission of such information by each authority including the  
5 submission of its proposed budget and a description of its program in  
6 support of the application for state financial aid as necessary to  
7 enable the department to determine the need for state aid.

8 **Sec. 712.** RCW 70.94.395 and 1987 c 109 s 43 are each amended to  
9 read as follows:

10 If the department finds, after public hearing upon due notice to  
11 all interested parties, that the emissions from a particular type or  
12 class of air contaminant source should be regulated on a state-wide  
13 basis in the public interest and for the protection of the welfare of  
14 the citizens of the state, it may adopt and enforce rules ~~((and  
15 regulations))~~ to control and/or prevent the emission of air  
16 contaminants from such source~~((:—PROVIDED, That))~~. An authority may,  
17 after public hearing and a finding by the board of a need for more  
18 stringent rules ~~((and regulations))~~ than those adopted by the  
19 department under this section, propose the adoption of such rules ~~((and  
20 regulations))~~ by the department for the control of emissions from the  
21 particular type or class ~~((or))~~ of air contaminant source within the  
22 geographical area of the authority. The department shall hold a public  
23 hearing and shall adopt the proposed rules ~~((and regulations))~~ within  
24 the area of the requesting authority, unless it finds that the proposed  
25 rules ~~((and regulations))~~ are inconsistent with the rules ~~((and  
26 regulations))~~ adopted by the department under this section~~((:—  
27 PROVIDED, FURTHER, That))~~. When such standards are adopted by the  
28 department it shall delegate solely to the requesting authority all  
29 powers necessary for their enforcement at the request of the

1 authority(~~(:— PROVIDED, That the department may delegate the~~  
2 ~~responsibility for the enforcement of such rules and regulations to any~~  
3 ~~authority which it deems capable of enforcing such regulations:~~  
4 ~~PROVIDED FURTHER, That))\_. If after public hearing the department finds  
5 that the regulation on a state-wide basis of a particular type ((of))  
6 or class of air contaminant source is no longer required for the public  
7 interest and the protection of the welfare of the citizens of the  
8 state, the department may relinquish exclusive jurisdiction over such  
9 source.~~

10 **Sec. 713.** RCW 70.94.405 and 1987 c 109 s 45 are each amended to  
11 read as follows:

12 At any time after an authority has been activated for no less than  
13 one year, the department may, on its own motion, conduct a hearing held  
14 in accordance with chapters 42.30 ((RCW)) and ((chapter)) 34.05 RCW,  
15 ((as now or hereafter amended)) to determine whether or not the air  
16 pollution prevention and control program of such authority is being  
17 carried out in good faith and is as effective as possible ((under the  
18 circumstances)). If at such hearing the department finds that such  
19 authority is not carrying out its air pollution control or prevention  
20 program in good faith, ((or)) is not doing all that is possible and  
21 reasonable to control and/or prevent air pollution within the  
22 geographical area over which it has jurisdiction, or is not carrying  
23 out the provisions of this chapter, it shall set forth in a report or  
24 order to the appropriate authority: (1) Its recommendations as to how  
25 air pollution prevention and/or control might be more effectively  
26 accomplished; and (2) guidelines which will assist the authority in  
27 carrying out the recommendations of the department.

1       **Sec. 714.** RCW 70.94.410 and 1987 c 109 s 46 are each amended to  
2 read as follows:

3       (1) If, after thirty days from the time that the department issues  
4 a report or order to an authority under RCW 70.94.400 and 70.94.405,  
5 such authority has not taken ~~((any))~~ action which indicates that it is  
6 attempting in good faith to implement the recommendations or actions of  
7 the department as set forth in the report or order, the department may,  
8 by order, declare as null and void any or all ordinances, resolutions,  
9 rules or regulations of such authority relating to the control and/or  
10 prevention of air pollution, and at such time the department shall  
11 become the sole body with authority to make and enforce rules and  
12 regulations for the control and/or prevention of air pollution within  
13 the geographical area of such authority. ~~((In))~~ If this ~~((connection))~~  
14 occurs, the department may assume all those powers which are given to  
15 it by law to effectuate the purposes of this chapter. The department  
16 may, by order, continue in effect and enforce ~~((those))~~ provisions of  
17 the ordinances, resolutions, or rules ~~((and regulations))~~ of such  
18 authority which are not less stringent than those requirements which  
19 the department may have found applicable to the area under RCW  
20 70.94.331, until such time as the department adopts its own rules ~~((and~~  
21 ~~regulations))~~. Any rules ~~((and regulations))~~ promulgated by the  
22 department shall be subject to the provisions of chapter 34.05 RCW ~~((as~~  
23 ~~it now appears or may hereinafter be amended))~~. Any enforcement actions  
24 shall be subject to RCW 43.21B.300 or 43.21B.310.

25       (2) No provision of this chapter is intended to prohibit any  
26 authority from reestablishing its air pollution control program which  
27 meets with the approval of the department and which complies with the  
28 purposes of this chapter and with applicable rules ~~((and regulations))~~  
29 and orders of the department.

1 (3) Nothing in this chapter shall prevent the department from  
2 withdrawing the exercise of its jurisdiction over an authority upon its  
3 own motion(~~(:—PROVIDED, That)~~) if the department has found at a  
4 hearing held in accordance with chapters 42.30 ((RCW)) and ((chapter))  
5 34.05 RCW ((as now or hereafter amended)), that the air pollution  
6 prevention and control program of such authority will be carried out in  
7 good faith ((~~or~~)), that such program will do all that is possible and  
8 reasonable to control and/or prevent air pollution within the  
9 geographical area over which it has jurisdiction, and that the program  
10 complies with the provisions of this chapter. Upon the withdrawal of  
11 the department, the department shall prescribe certain recommendations  
12 as to how air pollution prevention and/or control is to be effectively  
13 accomplished and guidelines which will assist the authority in carrying  
14 out the recommendations of the department.

15 **Sec. 715.** RCW 70.94.420 and 1987 c 109 s 47 are each amended to  
16 read as follows:

17 ((~~(1)~~)) It is declared to be the intent of the legislature of the  
18 state of Washington that any state department or agency having  
19 jurisdiction over any building, installation, ((~~or~~)) other property, or  
20 other activity creating or likely to create significant air pollution  
21 shall cooperate with the department and with air pollution control  
22 agencies in preventing and/or controlling the pollution of the air in  
23 any area insofar as the discharge of ((~~the matter~~)) air contaminants  
24 from or by such building, installation, ((~~or~~)) other property, or  
25 activity may cause or contribute to pollution of the air in such area.  
26 Such state department or agency shall comply with the provisions of  
27 this chapter and with any ordinance, resolution, rule or regulation  
28 issued hereunder in the same manner as any other person subject to such  
29 laws((~~(7)~~)) or rules ((~~or regulations~~)).

1       (~~(2) In addition to its other powers and duties prescribed by law,~~  
2 ~~the department may establish classes of potential pollution sources for~~  
3 ~~which any state department or agency having jurisdiction over any~~  
4 ~~building, installation, or other property, which is not located within~~  
5 ~~the geographical boundaries of any authority which has an air pollution~~  
6 ~~control and/or prevention program in effect, shall, before discharging~~  
7 ~~any matter into the air, obtain a permit from the department for such~~  
8 ~~discharge, such permits to be issued for a specified period of time to~~  
9 ~~be determined by the department and subject to revocation if the~~  
10 ~~department finds that such discharge is endangering the health and~~  
11 ~~welfare of any persons. Such permits may also be required for any such~~  
12 ~~building, installation, or other property which is located within the~~  
13 ~~geographical boundaries of any authority which has an air pollution~~  
14 ~~control and prevention program in effect if the standards set by the~~  
15 ~~department for state departments and agencies are more stringent than~~  
16 ~~those of the authority. In connection with the issuance of any permits~~  
17 ~~under this section, there shall be submitted to the department such~~  
18 ~~plans, specifications, and other information as it deems relevant~~  
19 ~~thereto and under such other conditions as it may prescribe.))~~)

20       **Sec. 716.** RCW 70.146.080 and 1986 c 3 s 11 are each amended to  
21 read as follows:

22       Within thirty days after June 30, 1987, and within thirty days  
23 after each succeeding fiscal year thereafter, the state treasurer shall  
24 determine the tax receipts deposited into the water quality account for  
25 the preceding fiscal year. If the tax receipts deposited into the  
26 account in each of the fiscal years 1988 and 1989 are less than forty  
27 million dollars, the state treasurer shall transfer sufficient moneys  
28 from general state revenues into the water quality account to bring the  
29 total receipts in each fiscal year up to forty million dollars.

1 After June 30, 1989, if the tax receipts deposited into the water  
2 quality account for the preceding fiscal year are less than forty-five  
3 million dollars, the state treasurer shall transfer sufficient moneys  
4 from general state revenues into the water quality account to bring the  
5 total receipts up to forty-five million dollars.

6 Beginning in fiscal year 1992, if the tax receipts deposited into  
7 the water quality account for the preceding fiscal year are less than  
8 forty-five million dollars, the state treasurer shall transfer  
9 sufficient moneys from the air pollution control account to bring the  
10 receipts up to forty-five million dollars. When transferring  
11 sufficient moneys into the water quality account the state treasurer  
12 shall transfer one-quarter of the required amount each calendar  
13 quarter.

14 NEW SECTION. Sec. 717. Sections 602 and 603 of this act shall  
15 take effect July 1, 1992. Sections 202 through 209 of this act shall  
16 take effect January 1, 1993.

17 The remainder of this act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of the  
19 state government and its existing public institutions, and shall take  
20 effect immediately.

21 NEW SECTION. Sec. 718. The following acts or parts of acts are  
22 each repealed:

23 (1) RCW 70.120.110 and 1989 c 240 s 7, 1985 c 7 s 131, & 1979 ex.s.  
24 c 163 s 12;

25 (2) RCW 70.120.140 and 1987 c 505 s 62 & 1980 c 176 s 5;

26 (3) RCW 70.120.900 and 1989 c 240 s 9;

27 (4) RCW 70.94.232 and 1983 c 3 s 177 & 1967 c 238 s 40;

28 (5) RCW 70.94.680 and 1971 ex.s. c 232 s 4;

- 1 (6) RCW 70.94.740 and 1972 ex.s. c 136 s 1;  
2 (7) RCW 70.94.810 and 1984 c 277 s 3;  
3 (8) RCW 70.94.815 and 1984 c 277 s 5;  
4 (9) RCW 70.94.825 and 1984 c 277 s 7; and  
5 (10) RCW 70.94.870 and 1984 c 164 s 3.

6 NEW SECTION. **Sec. 719.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 720.** A new section is added to chapter 70.94  
11 RCW to read as follows:

12 This chapter shall be known and may be cited as the clean air  
13 Washington act.