

2 **ESHB 1028** - S COMM AMD
3 By Committee on Ways & Means

4 Not Adopted 4/19/91 - Voice Vote

5 Strike everything after the enacting clause and insert the
6 following:

7 "I.

8 PUBLIC POLICY, FINDINGS, AND INTENT"

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

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

22 The department of ecology and local air pollution control
23 authorities shall preempt actions of other state agencies or local
24 governments for the purposes of controlling air pollution in Washington
25 state, except where provided in this act."

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

3 It is declared to be the public policy ~~((of the state))~~ to
4 preserve, protect, and enhance the air quality for current and future
5 generations. Air is an essential resource that must be protected from
6 harmful levels of pollution. Improving air quality is a matter of
7 state-wide concern and is in the public interest. It is the intent of
8 this chapter to secure and maintain ((such)) levels of air quality ((as
9 will)) that protect human health and safety ((and)), including the most
10 sensitive members of the population, to comply with the requirements of
11 the federal clean air act, ((and,)) to ((the greatest degree
12 practicable,)) prevent injury to plant ((and)), animal life, and
13 property, to foster the comfort and convenience of ((its)) Washington's
14 inhabitants, to promote the economic and social development of the
15 state, and to facilitate the enjoyment of the natural attractions of
16 the state. ((The problems and effects of air pollution are frequently
17 regional and interjurisdictional in nature, and are dependent upon the
18 existence of urbanization and industrialization in areas having common
19 topography and recurring weather conditions conducive to the buildup of
20 air contaminants))

21 It is further the intent of this chapter to protect the public
22 welfare, to preserve visibility, to protect scenic, aesthetic,
23 historic, and cultural values, and to prevent air pollution problems
24 that interfere with the enjoyment of life, property, or natural
25 attractions.

26 Because of the extent of the air pollution problem the legislature
27 finds it necessary to return areas with poor air quality to levels
28 adequate to protect health and the environment as expeditiously as
29 possible but no later than December 31, 1995. Further, it is the
30 intent of this chapter to prevent any areas of the state with

1 acceptable air quality from reaching air contaminant levels that are
2 not protective of human health and the environment.

3 The legislature recognizes that air pollution control projects may
4 affect other environmental media. In selecting air pollution control
5 strategies state and local agencies shall support those strategies that
6 lessen the negative environmental impact of the project on all
7 environmental media, including air, water, and land.

8 The legislature further recognizes that energy efficiency and
9 energy conservation can help to reduce air pollution and shall
10 therefore be considered when making decisions on air pollution control
11 strategies and projects.

12 It is the policy of the state that the costs of protecting the air
13 resource and operating state and local air pollution control programs
14 shall be shared as equitably as possible among all sources whose
15 emissions cause air pollution.

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

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

29 In addition, the state is divided into two major areas, each having
30 unique characteristics as to natural climatic and topographic features

1 which may result in the different potentials for the accumulation and
2 buildup of air contaminant concentrations. These two major areas are
3 the area lying west of the Cascade Mountain crest and the area lying
4 east of the Cascade Mountain crest. Within each of these major areas
5 are regions which, because of the climate and topography and present
6 and potential urbanization and industrial development may, through
7 definitive evaluation be classed as regional air pollution areas.)

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

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

28 The legislature further recognizes that air emissions from
29 thousands of small individual sources are major contributors to air
30 pollution in many regions of the state. As the population of a region

1 grows, small sources may contribute an increasing proportion of that
2 region's total air emissions. It is declared to be the policy of the
3 state to achieve significant reductions in emissions from those small
4 sources whose aggregate emissions constitute a significant contribution
5 to air pollution in a particular region.

6 It is the intent of the legislature that air pollution goals be
7 incorporated in the missions and actions of state agencies."

8 "Sec. 103. RCW 70.94.030 and 1987 c 109 s 33 are each amended to
9 read as follows:

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

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

16 (2) "Air pollution" is presence in the outdoor atmosphere of one or
17 more air contaminants in sufficient quantities and of such
18 characteristics and duration as is, or is likely to be, injurious to
19 human health, plant or animal life, or property, or which unreasonably
20 interfere with enjoyment of life and property. For the purpose of this
21 chapter, air pollution shall not include air contaminants emitted in
22 compliance with chapter 17.21 RCW.

23 (~~(("Person" means and includes an individual, firm, public or~~
24 ~~private corporation, association, partnership, political subdivision,~~
25 ~~municipality or government agency))~~ "Air quality standard" means an
26 established concentration, exposure time, and frequency of occurrence
27 of an air contaminant or multiple contaminants in the ambient air which
28 shall not be exceeded.

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

MOTOR VEHICLES AND FUELS"

"Sec. 201. RCW 70.120.010 and 1979 ex.s. c 163 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology.

(3) "Fleet" means ~~((a group of twenty five or more motor vehicles owned or leased concurrently by one person))~~ a group of fifteen or more motor vehicles registered in the same name and whose owner has been assigned a fleet identifier code by the department of licensing.

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

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

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

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

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

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

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

1 ~~(b))~~ a public educational program regarding the health effects of
2 air pollution emitted by motor vehicles; the purpose, operation, and
3 effect of emission control devices and systems; and the effect that
4 proper maintenance of motor vehicle engines has on fuel economy and air
5 pollution emission(~~(; and~~

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

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

24 (b) The department shall make available to the public a list of
25 those persons who have received certificates of instruction under
26 subsection (2)(a) of this section."

27 "**Sec. 203.** RCW 70.120.070 and 1989 c 240 c 6 are each amended to
28 read as follows:

29 (1) Any person:

1 (a) Whose motor vehicle is tested pursuant to this chapter and
2 fails to comply with the emission standards established for the
3 vehicle; ~~((and))~~

4 (b) Who, following such a test, expends more than ~~((fifty))~~ one
5 hundred dollars on a 1980 or earlier model year motor vehicle or
6 expends more than one hundred fifty dollars on a 1981 or later model
7 year motor vehicle for repairs solely devoted to meeting the emission
8 standards and that are performed by a certified emission specialist
9 authorized by RCW 70.120.020(2)(a); ~~((and))~~

10 (c) Should any provision of (b) of this subsection be disapproved
11 by the administrator of the United States environmental protection
12 agency, all vehicles shall be required to expend at least four hundred
13 fifty dollars to qualify for a certificate of acceptance;

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

19 ~~((d))~~ (e) To receive the certificate, the person must document
20 compliance with (b) and ~~((e))~~ (d) of this subsection to the
21 satisfaction of the department.

22 (2) Persons who fail the initial tests shall be provided with
23 information regarding the availability of federal warranties and
24 certified emission specialists."

25 "NEW SECTION. Sec. 204. (1) A task force is established for the
26 purposes of recommending a program to assist persons with vehicles
27 failing to comply with emission standards under RCW 70.120.120. The
28 task force shall be appointed by the speaker of house of
29 representatives and the president of the senate and shall consist of:

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

2 (b) Two members from the senate committee on environment and
3 natural resources; and

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

5 (2) In developing recommendations, the task force shall consult
6 with representatives from the departments of ecology, licensing, social
7 and health services, and revenue, the Washington state patrol, vehicle
8 dealers and manufacturers, automobile associations, auto wreckers, and
9 advocates for low-income persons and senior citizens.

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

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

17 (b) Identify persons needing assistance with the provisions of RCW
18 70.120.120. In identifying such persons, the task force shall give
19 first consideration to persons with an income of less than one hundred
20 fifty percent of the federal poverty level;

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

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

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

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

3 The director may authorize an owner or lessee of a fleet of motor
4 vehicles, or the owner's or lessee's agent, to inspect the vehicles in
5 the fleet and issue certificates of compliance for the vehicles in the
6 fleet if the director determines that: (1) The director's (~~emission~~
7 ~~and~~) inspection (~~standards~~) procedures will be complied with; and
8 (2) certificates will be issued only to vehicles in the fleet that meet
9 emission and equipment standards adopted under RCW 70.120.150 and only
10 when appropriate.

11 In addition, the director may authorize an owner or lessee of one
12 or more diesel motor vehicles with a gross vehicle weight rating in
13 excess of eight thousand five hundred pounds, or the owner's or
14 lessee's agent, to inspect the vehicles and issue certificates of
15 compliance for the vehicles. The inspections shall be conducted in
16 compliance with inspection procedures adopted by the department and
17 certificates of compliance shall only be issued to vehicles that meet
18 emission and equipment standards adopted under RCW 70.120.150.

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

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

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

28 The director shall adopt rules implementing and enforcing this
29 chapter (~~and RCW 46.16.015(2)(g)~~) in accordance with chapter 34.05

1 RCW. (~~Notwithstanding the provisions of chapter 34.05 RCW, any rule~~
2 ~~implementing and enforcing RCW 70.120.150(5) may not be adopted until~~
3 ~~it has been submitted to the standing committees on ecology of the~~
4 ~~house of representatives and senate for review and approval.)) The~~
5 ~~((standing committees))~~ department shall take into account when
6 considering proposed modifications of emission contributing boundaries,
7 as provided for in RCW 70.120.150(~~(+5))~~) (6), alternative ~~((plans for~~
8 ~~traffic rerouting and traffic bans))~~ transportation control and motor
9 vehicle emission reduction measures that ~~((may have been prepared))~~ are
10 required by local municipal corporations for the purpose of satisfying
11 federal emission guidelines."

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

14 The director:

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

20 (2) Shall adopt rules implementing the smoke opacity testing
21 requirement for diesel vehicles that ensure that such test is objective
22 and repeatable and that properly maintained engines that otherwise
23 would meet the applicable federal emission standards, as measured by
24 the new engine certification test, would not fail the smoke opacity
25 test.

26 (3) Shall designate a geographic area as being a "noncompliance
27 area" for motor vehicle emissions if (a) the department's analysis of
28 ~~((the))~~ emission and ambient air quality data, ~~((recorded for))~~
29 covering a period of no less than one year, ((at the monitoring sites))

1 indicates that the standard has or will probably be exceeded, and (b)
2 the department determines that the primary source of the air
3 contaminant (~~((being monitored at the sites))~~) is motor vehicle
4 emissions.

5 ~~((+3))~~ (4) Shall reevaluate noncompliance areas if the United
6 States environmental protection agency modifies the relevant air
7 quality standards, and shall discontinue the program if compliance is
8 indicated and if the department determines that the area would continue
9 to be in compliance after the program is discontinued. The director
10 shall notify persons residing in noncompliance areas of the
11 reevaluation.

12 ~~((+4))~~ (5) Shall analyze information regarding the motor vehicle
13 traffic in a noncompliance area to determine the smallest land area
14 within whose boundaries are present registered motor vehicles that
15 contribute significantly to the violation of motor vehicle-related air
16 quality standards in the noncompliance area. The director shall
17 declare the area to be an "emission contributing area." An emission
18 contributing area established for a carbon monoxide or oxides of
19 nitrogen noncompliance area must contain the noncompliance area within
20 its boundaries. An emission contributing area established for an ozone
21 noncompliance area located in this state need not contain the ozone
22 noncompliance area within its boundaries if it can be proven that
23 vehicles registered in the area contribute significantly to violations
24 of the ozone air quality standard in the noncompliance area. An
25 emission contributing area may be established in this state for
26 violations of federal air quality standards for ozone in an adjacent
27 state if (a) the United States environmental protection agency
28 designates an area to be a "nonattainment area for ozone" under the
29 provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), and
30 (b) ~~((the nonattainment area encompasses portions of both Washington~~

1 ~~and the adjacent state, and (c))~~ it can be proven that vehicles
2 registered in this state contribute significantly to the violation of
3 the federal air quality standards for ozone in the adjacent state's
4 ~~((portion of the))~~ nonattainment area.

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

12 ~~((+6))~~ (7) May make grants to units of government in support of
13 planning efforts to reduce motor vehicle emissions ~~((in areas where~~
14 ~~emission control inspections are not required))~~)." "

15 "Sec. 208. RCW 70.120.170 and 1989 c 240 s 4 are each amended to
16 read as follows:

17 (1) The department shall administer a system for ~~((biennial))~~
18 emission inspections ~~((of emissions))~~ of all motor vehicles registered
19 within the boundaries of each emission contributing area. ~~((Persons~~
20 ~~residing within the boundaries of an emission contributing area shall~~
21 ~~register their motor vehicle within that area, unless business reasons~~
22 ~~require registration outside the area. Requests for exemption from~~
23 ~~inspection for business reasons shall be reviewed and approved by the~~
24 ~~director))~~ Under such system a motor vehicle shall be inspected
25 biennially except where an annual program would be required to meet
26 federal law and prevent federal sanctions. In addition, motor vehicles
27 shall be inspected at each change of registered owner.

28 (2) The director shall:

1 (a) Adopt procedures for conducting emission ~~((tests—for))~~
2 inspections of motor vehicles. The ~~((tests—shall))~~ inspections may
3 include idle and high revolution per minute emission tests. The
4 emission test for diesel vehicles shall consist solely of a smoke
5 opacity test.

6 (b) Adopt criteria for calibrating emission testing equipment.
7 Electronic equipment used to test for emissions standards provided for
8 in this chapter shall be properly calibrated. The department shall
9 examine frequently the calibration of the emission testing equipment
10 used at the stations.

11 (c) Authorize, through contracts, the establishment and operation
12 of inspection stations for conducting ~~((the))~~ vehicle emission
13 ~~((tests))~~ inspections authorized in this chapter. No person contracted
14 to inspect motor vehicles may perform for compensation repairs on any
15 vehicles. No public body may establish or operate contracted
16 inspection stations. Any contracts must be let in accordance with the
17 procedures established for competitive bids in chapter 43.19 RCW.

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

21 (a) Auditing;

22 (b) Contractor evaluation;

23 (c) Collection of data for establishing calibration and performance
24 standards; or

25 (d) Public information and education.

26 (4)(a) The director shall establish by rule the fee to be charged
27 for emission inspections. The inspection fee shall be a standard fee
28 applicable state-wide or throughout an emission contributing area and
29 shall be no greater than eighteen dollars. Surplus moneys collected
30 from fees over the amount due the contractor shall be paid to the state

1 and deposited in the general fund. Fees shall be set at the minimum
2 whole dollar amount required to (i) compensate the contractor or
3 inspection facility owner, and (ii) offset the general fund
4 appropriation to the department to cover the administrative costs of
5 the motor vehicle emission inspection program.

6 (b) Before each inspection, a person whose motor vehicle is to be
7 inspected shall pay to the inspection station the fee established under
8 this section. The person whose motor vehicle is inspected shall
9 receive the results of the inspection (~~(test)~~). If the inspected
10 (~~(vehicle's emissions comply)~~) vehicle complies with the standards
11 established by the director, the person shall receive a dated
12 certificate of compliance. If the inspected (~~(vehicle's emissions do)~~)
13 vehicle does not comply with those standards, one (~~(retest of the~~
14 ~~vehicle's emission)~~) reinspection of the vehicle shall be afforded
15 without charge.

16 (5) All units of local government and agencies of the state with
17 motor vehicles garaged or regularly operated in an emissions
18 contributing area shall test the emissions of those vehicles
19 (~~(biennially)~~) annually to ensure that the vehicle's emissions comply
20 with the emission standards established by the director. All state
21 agencies outside of emission contributing areas with more than twenty
22 motor vehicles housed at a single facility or contiguous facilities
23 shall test the emissions of those vehicles annually to ensure that the
24 vehicles' emissions comply with standards established by the director.
25 A report of the results of the tests shall be submitted to the
26 department."

27 "Sec. 209. RCW 46.16.015 and 1990 c 42 s 318 are each amended to
28 read as follows:

1 (1) Neither the department of licensing nor its agents may issue or
2 renew a motor vehicle license for any vehicle (~~registered in an~~
3 ~~emission contributing area, as that area is established under chapter~~
4 ~~70.120 RCW~~) or change the registered owner, for any (~~year in which~~
5 ~~the~~) vehicle that is required to be (~~tested~~) inspected under chapter
6 70.120 RCW, unless the application for issuance or renewal is: (a)
7 Accompanied by a valid certificate of compliance or a valid certificate
8 of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted
9 from this requirement pursuant to subsection (2) of this section. The
10 certificates must have a date of validation which is within (~~ninety~~
11 ~~days~~) six months of the date of application for the vehicle license or
12 license renewal. Certificates for fleet or owner tested diesel
13 vehicles may have a date of validation which is within twelve months of
14 the assigned license renewal date.

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

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

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

21 (c) Motor vehicles that use propulsion units powered exclusively by
22 electricity;

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

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

28 (~~Motor vehicles powered by diesel engines;~~

29 ~~g~~) Farm vehicles as defined in RCW 46.04.181;

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

3 ~~((i))~~ (h) Motor vehicles exempted by the director of the
4 department of ecology.

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

9 (3) ~~((The department of licensing shall mail to each owner of a
10 vehicle registered within an emission contributing area a notice
11 regarding the boundaries of the area and restrictions established under
12 this section that apply to vehicles registered in such areas. The
13 information for the notice shall be supplied to the department of
14 licensing by the department of ecology.))~~ The department of ecology
15 shall provide information to motor vehicle owners regarding the
16 boundaries of emission contributing areas and restrictions established
17 under this section that apply to vehicles registered in such areas. In
18 addition the department of ecology shall provide information to motor
19 vehicle owners on the relationship between motor vehicles and air
20 pollution and steps motor vehicle owners should take to reduce motor
21 vehicle related air pollution. The department of licensing shall send
22 to all registered motor vehicle owners ~~((who reside within the
23 emissions area))~~ affected by the emission testing program notice that
24 they must have an emission test to renew their registration."

25 "NEW SECTION. Sec. 210. A new section is added to chapter 70.120
26 RCW to read as follows:

27 (1) Motor vehicle dealers selling a used vehicle not under a new
28 vehicle warranty shall include a notice in each vehicle purchase order
29 form that reads as follows: "The owner of a vehicle may be required to

1 spend up to four hundred fifty dollars for repairs if the vehicle does
2 not meet the vehicle emission standards under this chapter. Unless
3 expressly warranted by the motor vehicle dealer, the dealer is not
4 warranting that this vehicle will pass any emission tests required by
5 federal or state law."

6 (2) The signature of the purchaser on the notice required under
7 subsection (1) of this section shall constitute a valid disclaimer of
8 any implied warranty by the dealer as to a vehicle's compliance with
9 any emission standards.

10 (3) The disclosure requirement of subsection (1) of this section
11 applies to all motor vehicle dealers located in counties where state
12 emission inspections are required."

13 "NEW SECTION. **Sec. 211.** A new section is added to chapter 70.120
14 RCW to read as follows:

15 Engine manufacturers shall certify that new engines conform with
16 current exhaust emission standards of the federal environmental
17 protection agency."

18 "NEW SECTION. **Sec. 212.** A new section is added to chapter 70.120
19 RCW to read as follows:

20 By July 1, 1992, the department shall develop, in cooperation with
21 the departments of general administration and transportation, and the
22 state energy office, aggressive clean-fuel performance and clean-fuel
23 vehicle emissions specifications including clean-fuel vehicle
24 conversion equipment. To the extent possible, such specifications
25 shall be equivalent for all fuel types. In developing such
26 specifications the department shall consider the requirements of the
27 clean air act and the findings of the environmental protection agency,

1 other states, the American petroleum institute, the gas research
2 institute, and the motor vehicles manufacturers association."

3 "NEW SECTION. Sec. 213. A new section is added to chapter 43.19
4 RCW to read as follows:

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

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

9 (3) In meeting the procurement requirement established in this
10 section, preference shall be given to vehicles designed to operate
11 exclusively on clean fuels. Clean-fuel vehicles capable of operating
12 on other than clean fuels shall be considered equivalent to one-half of
13 a clean-fuel vehicle for the purposes of meeting the procurement
14 requirements of this section, except that such vehicles shall be
15 considered equivalent to vehicles designed to operate exclusively on
16 clean fuel in the event that vehicles designed to operate exclusively
17 on clean fuels are not available.

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

20 (5)(a) Weight classes are established by the following motor
21 vehicle types:

22 (i) Passenger cars;

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

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

1 (b) This subsection does not place an obligation upon the state or
2 its political subdivisions to purchase vehicles in any number or weight
3 class other than to meet the percent procurement requirement.

4 (6) For the purposes of this section, "clean fuels" and "clean-fuel
5 vehicles" shall be those fuels and vehicles meeting the specifications
6 provided for in section 212 of this act."

7 "NEW SECTION. Sec. 214. The Washington state energy office, and
8 selected local school districts that are using or considering the use
9 of compressed natural gas, shall analyze and report on the potential
10 benefits, costs, and safety risks associated with increasing the use of
11 compressed natural gas as a fuel for school buses.

12 The report shall address:

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

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

18 (3) Capital costs, including:

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

21 (b) The feasibility and capital cost of retrofitting diesel and
22 gasoline buses; and

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

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

27 The report shall be submitted to the environmental affairs
28 committee of the house of representatives and the environment and
29 natural resources committee of the senate by December 15, 1991."

1 "NEW SECTION. **Sec. 215.** A new section is added to chapter 70.120
2 RCW to read as follows:

3 The department, in cooperation with the departments of general
4 administration and transportation, the utilities and transportation
5 commission, and the state energy office, shall biennially prepare a
6 report to the legislature starting July 1, 1992, on:

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

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

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

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

15 "NEW SECTION. **Sec. 216.** A new section is added to chapter 80.28
16 RCW to read as follows:

17 The legislature finds that compressed natural gas offers
18 significant potential to reduce vehicle emissions and to significantly
19 decrease dependence on petroleum-based fuels. The legislature also
20 finds that well-developed and convenient refueling systems are
21 imperative if compressed natural gas is to be widely used by the
22 public. The legislature declares that the development of compressed
23 natural gas refueling stations are in the public interest."

24 "NEW SECTION. **Sec. 217.** A new section is added to chapter 80.28
25 RCW to read as follows:

26 The commission shall identify barriers to the development of
27 refueling stations for vehicles operating on compressed natural gas,
28 and shall develop policies to remove such barriers. In developing such

1 policies, the commission shall consider providing rate incentives to
2 encourage natural gas companies to invest in the infrastructure
3 required by such refueling stations."

4 "NEW SECTION. Sec. 218. A new section is added to chapter 70.94
5 RCW to read as follows:

6 The department may disburse matching grants from funds provided by
7 the legislature from the air pollution control account, created in
8 section 239 of this act, to units of local government to partially
9 offset the additional cost of purchasing "clean fuel" and/or operating
10 "clean-fuel vehicles" provided that such vehicles are used for public
11 transit. Publicly owned school buses are considered public transit for
12 the purposes of this section. The department may also disburse grants
13 to vocational-technical institutes for the purpose of establishing
14 programs to certify clean-fuel vehicle mechanics. The department may
15 also distribute grants to the state energy office for the purpose of
16 furthering the establishment of clean fuel refueling infrastructure."

17 "NEW SECTION. Sec. 219. A new section is added to chapter 70.94
18 RCW to read as follows:

19 No state agency, metropolitan planning organization, or local
20 government shall approve or fund a transportation plan, program, or
21 project unless a determination has been made that the plan, program, or
22 project conforms with the state implementation plan for air quality.

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

24 (a) Conformity to the state implementation plan's purpose of
25 eliminating or reducing the severity and number of violations of the
26 national ambient air quality standards and achieving expeditious
27 attainment of such standards; and

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

3 (i) Cause or contribute to any new violation of any standard in any
4 area;

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

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

9 Conformity determination shall be made by the state or local
10 government or metropolitan planning organization administering or
11 developing the plan, program, or project. The determination of
12 conformity shall be based on the most recent estimates of emissions,
13 and such estimates shall be determined from the most recent
14 population, employment, travel, and congestion estimates as determined
15 by the metropolitan planning organization or other agency authorized to
16 make such estimates.

17 (2) Plans and programs conform if:

18 (a) Emissions resulting from such plans and programs are consistent
19 with baseline emission inventories and emission reduction projections
20 and schedules assigned to those plans and programs in the state
21 implementation plan; and

22 (b) The plans and programs provide for the timely implementation of
23 the transportation provisions in the approved or promulgated state
24 implementation plan.

25 (3) A project conforms if:

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

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

1 (c) A project other than one referred to in (a) and (b) of this
2 subsection conforms if it is demonstrated that the project either does
3 not contribute to increased emissions in the nonattainment area, or
4 that offsetting emission reductions for the project are specifically
5 provided for in the transportation plan and program, or are otherwise
6 enforceable through the state implementation plan, before the project
7 is approved.

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

13 (4) A project with a scope that is limited to preservation or
14 maintenance, or both, shall be exempted from a conformity determination
15 requirement."

16 "NEW SECTION. **Sec. 220.** FINDINGS--DEMAND MANAGEMENT. The
17 legislature finds that automotive traffic in Washington's metropolitan
18 areas is the major source of emissions of air contaminants. This air
19 pollution causes significant harm to public health, causes damage to
20 trees, plants, structures, and materials and degrades the quality of
21 the environment.

22 Increasing automotive traffic is also aggravating traffic
23 congestion in Washington's metropolitan areas. This traffic congestion
24 imposes significant costs on Washington's businesses, governmental
25 agencies, and individuals in terms of lost working hours and delays in
26 the delivery of goods and services. Traffic congestion worsens
27 automobile-related air pollution, increases the consumption of fuel,
28 and degrades the habitability of many of Washington's cities and
29 suburban areas. The capital and environmental costs of fully

1 accommodating the existing and projected automobile traffic on roads
2 and highways are prohibitive. Decreasing the demand for vehicle trips
3 is significantly less costly and at least as effective in reducing
4 traffic congestion and its impacts as constructing new transportation
5 facilities such as roads and bridges, to accommodate increased traffic
6 volumes.

7 The legislature also finds that increasing automotive
8 transportation is a major factor in increasing consumption of gasoline
9 and, thereby, increasing reliance on imported sources of petroleum.
10 Moderating the growth in automotive travel is essential to stabilizing
11 and reducing dependence on imported petroleum and improving the
12 nation's energy security.

13 The legislature further finds that reducing the number of commute
14 trips to work made via single occupant cars and light trucks is an
15 effective way of reducing automobile-related air pollution, traffic
16 congestion, and energy use. Major employers have significant
17 opportunities to encourage and facilitate reducing single occupant
18 vehicle commuting by employees.

19 The intent of this chapter is to require local governments in those
20 counties experiencing the greatest automobile-related air pollution and
21 traffic congestion to develop and implement plans to reduce single
22 occupant vehicle commute trips. Such plans shall require major
23 employers and employers at major worksites to implement programs to
24 reduce single occupant vehicle commuting by employees at major
25 worksites. Local governments in counties experiencing significant but
26 less severe automobile-related air pollution and traffic congestion may
27 implement such plans. State agencies shall implement programs to
28 reduce single occupant vehicle commuting at all major worksites
29 throughout the state."

1 "NEW SECTION. Sec. 221. DEFINITIONS. Unless the context clearly
2 requires otherwise, the definitions in this section apply throughout
3 this chapter.

4 (1) "A major employer" means a private or public employer that
5 employs one hundred or more full-time employees at a single worksite
6 who begin their regular work day between 6:00 a.m. and 9:00 a.m. on
7 weekdays for at least twelve continuous months during the year.

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

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

20 (4) "Commute trip" means trips made from a worker's home to a
21 worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

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

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

28 (7) "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 the growth management act. The task force
3 shall establish a method to be used by jurisdictions to determine
4 reductions of vehicle miles traveled."

5 "NEW SECTION. **Sec. 222.** REQUIREMENTS FOR COUNTIES AND CITIES.

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

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

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

26 (4) A commute trip reduction plan shall be consistent with the
27 guidelines established under section 225 of this act and shall include
28 but is not limited to (a) goals for reductions in the proportion of
29 single occupant vehicle commute trips and the commute trip vehicle

1 miles traveled per employee; (b) designation of commute trip reduction
2 zones; (c) requirements for major public and private sector employers
3 to implement commute trip reduction programs; (d) a commute trip
4 reduction program for employees of the county, city, or town; (e) a
5 review of local parking policies and ordinances as they relate to
6 employers and major worksites and any revisions necessary to comply
7 with commute trip reduction goals and guidelines; (f) an appeals
8 process by which major employers, who as a result of special
9 characteristics of their business or its locations would be unable to
10 meet the requirements of a commute trip reduction plan, may obtain
11 waiver or modification of those requirements; and (g) 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 that are established shall take into account
16 existing transportation demand management efforts that are made by
17 major employers. Each jurisdiction shall ensure that employers shall
18 receive full credit for the results of transportation demand management
19 efforts and commute trip reduction programs which have been implemented
20 by major employers prior to the base year. The goals for miles
21 traveled per employee for all major employers shall not be less than a
22 fifteen percent reduction from the base year value of the commute trip
23 reduction zone in which their worksite is located by January 1, 1995,
24 twenty-five percent reduction from the base year values by January 1,
25 1997, and thirty-five percent reduction from the base year values by
26 January 1, 1999.

27 (5) A county, city, or town may, as part of its commute trip
28 reduction plan, require commute trip reduction programs for employers
29 other than major employers at major worksites if the regional air

1 pollution control board determines such programs are necessary to
2 comply with ambient air standards for carbon monoxide and ozone.

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

20 (7) Each county, city, or town implementing a commute trip
21 reduction program shall, within thirty days submit a summary of its
22 plan along with certification of adoption to the commute trip reduction
23 task force established under section 225 of this act.

24 (8) Each county, city, or town implementing a commute trip
25 reduction program shall submit an annual progress report to the commute
26 trip reduction task force established under section 225 of this act.
27 The report shall be due July 1, 1994, and each July 1 thereafter
28 through July 1, 2000. The report shall describe progress in attaining
29 the applicable commute trip reduction goals for each commute trip
30 reduction zone and shall highlight any problems being encountered in

1 achieving the goals. The information shall be reported in a form
2 established by the commute trip reduction task force.

3 (9) Any waivers or modifications of the requirements of a commute
4 trip reduction plan granted by a jurisdiction shall be submitted for
5 review to the commute trip reduction task force established under
6 section 225 of this act. The commute trip reduction task force may not
7 deny the granting of a waiver or modification of the requirements of a
8 commute trip reduction plan by a jurisdiction but they may notify the
9 jurisdiction of any comments or objections.

10 (10) Each county, city, or town implementing a commute trip
11 reduction program shall count commute trips eliminated through work-at-
12 home options or alternate work schedules as one and two-tenths vehicle
13 trips eliminated for the purpose of meeting trip reduction goals.

14 (11) Plans implemented under this section shall not apply to
15 commute trips for seasonal agricultural employees.

16 (12) Plans implemented under this section shall not apply to
17 construction worksites when the expected duration of the construction
18 project is less than two years."

19 "NEW SECTION. Sec. 223. REQUIREMENTS FOR EMPLOYERS. (1) Not more
20 than six months after the adoption of the commute trip reduction plan
21 by a jurisdiction, each major employer in that jurisdiction shall
22 develop a commute trip reduction program and shall submit a description
23 of that program to the jurisdiction for review. The program shall be
24 implemented not more than six months after submission to the
25 jurisdiction.

26 (2) A commute trip reduction program shall consist of, at a minimum
27 (a) designation of a transportation coordinator and the display of the
28 name, location, and telephone number of the coordinator in a prominent
29 manner at each affected worksite; (b) regular distribution of

1 information to employees regarding alternatives to single occupant
2 vehicle commuting; (c) an annual review of employee commuting and
3 reporting of progress toward meeting the single occupant vehicle
4 reduction goals to the county, city, or town consistent with the method
5 established in the commute trip reduction plan; and (d) implementation
6 of a set of measures designed to achieve the applicable commute trip
7 reduction goals adopted by the jurisdiction. Such measures may include
8 but are not limited to:

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

11 (ii) Instituting or increasing parking charges for single occupant
12 vehicles;

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

15 (iv) Provision of subsidies for transit fares;

16 (v) Provision of vans for van pools;

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

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

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

22 (ix) Cooperation with transportation providers to provide
23 additional regular or express service to the worksite;

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

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

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

1 (xiii) Establishment of a program to permit employees to work part
2 or full time at home or at an alternative worksite closer to their
3 homes;

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

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

9 (3) Employers or owners of worksites may form or utilize existing
10 transportation management associations to assist members in developing
11 and implementing commute trip reduction programs."

12 "NEW SECTION. Sec. 224. JURISDICTIONS' REVIEW AND PENALTIES. (1)
13 Each jurisdiction implementing a commute trip reduction plan under this
14 chapter or as part of a plan or ordinance developed under RCW
15 36.70A.070 shall review each employer's initial commute trip reduction
16 program to determine if the program is likely to meet the applicable
17 commute trip reduction goals. The employer shall be notified by the
18 jurisdiction of its findings. If the jurisdiction finds that the
19 program is not likely to meet the applicable commute trip reduction
20 goals, the jurisdiction will work with the employer to modify the
21 program as necessary. The jurisdiction shall complete review of each
22 employer's initial commute trip reduction program within three months
23 of receipt.

24 (2) Each jurisdiction shall annually review each employer's
25 progress toward meeting the applicable commute trip reduction goals.
26 If it appears an employer is not likely to meet the applicable commute
27 trip reduction goals, the jurisdiction shall work with the employer to
28 make modifications to the commute trip reduction program.

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

6 (4) Each jurisdiction implementing a commute trip reduction plan
7 pursuant to this chapter may impose civil penalties, in the manner
8 provided in chapter 7.80 RCW, for failure by an employer to implement
9 a commute trip reduction program or to modify its commute trip
10 reduction program as required in subsection (3) of this section. No
11 major employer shall be liable for civil penalties under this chapter
12 if failure to achieve a commute trip reduction program goal was the
13 result of an inability to reach agreement with a certified collective
14 bargaining agent under applicable laws where the issue was raised by
15 the employer and pursued in good faith."

16 "NEW SECTION. Sec. 225. (1) A twenty-three member state commute
17 trip reduction task force shall be established as follows:

18 (a) The director of the state energy office or the director's
19 designee who shall serve as chair;

20 (b) The secretary of the department of transportation or the
21 secretary's designee;

22 (c) The director of the department of ecology or the director's
23 designee;

24 (d) The director of the department of community development or the
25 director's designee;

26 (e) The director of the department of general administration or the
27 director's designee;

1 (f) Three representatives from counties appointed by the governor
2 from a list of at least six recommended by the Washington state
3 association of counties;

4 (g) Three representatives from cities and towns appointed by the
5 governor from a list of at least six recommended by the association of
6 Washington cities;

7 (h) Three representatives from transit agencies appointed by the
8 governor from a list of at least six recommended by the Washington
9 state transit association;

10 (i) Six representatives of major employers in Washington appointed
11 by the governor from a list of at least twelve recommended by the
12 association of Washington business; and

13 (j) Three citizens appointed by the governor.

14 Members of the commute trip reduction task force shall serve
15 without compensation but shall be reimbursed for travel expenses as
16 provided in RCW 43.03.050 and 43.03.060. Members appointed by the
17 governor shall be compensated in accordance with RCW 43.03.220. The
18 task force has all powers necessary to carry out its duties as
19 prescribed by this chapter. The task force shall be dissolved on July
20 1, 2000.

21 (2) By March 1, 1992, the commute trip reduction task force shall
22 establish guidelines for commute trip reduction plans. The guidelines
23 are intended to ensure consistency in commute trip reduction plans and
24 goals among jurisdictions while fairly taking into account differences
25 in employment and housing density, employer size, existing and
26 anticipated levels of transit service, special employer circumstances,
27 and other factors the task force determines to be relevant. The
28 guidelines shall include:

29 (a) Criteria for establishing commute trip reduction zones;

1 (b) Methods and information requirements for determining base year
2 values of the proportion of single-occupant vehicle commute trips and
3 the commute trip vehicle miles traveled per employee and progress
4 toward meeting commute trip reduction plan goals;

5 (c) Model commute trip reduction ordinances;

6 (d) Methods for assuring consistency in the treatment of employers
7 who have worksites subject to the requirements of this chapter in more
8 than one jurisdiction;

9 (e) An appeals process by which major employers, who as a result of
10 special characteristics of their business or its locations would be
11 unable to meet the requirements of a commute trip reduction plan, may
12 obtain a waiver or modification of those requirements and criteria for
13 determining eligibility for waiver or modification;

14 (f) Methods to ensure that employers shall receive full credit for
15 the results of transportation demand management efforts and commute
16 trip reduction programs which have been implemented by major employers
17 prior to the base year;

18 (g) Alternative commute trip reduction goals for major employers
19 which cannot meet the goals of this chapter because of the unique
20 nature of their business; and

21 (h) Alternative commute trip reduction goals for major employers
22 whose worksites change and who contribute substantially to traffic
23 congestion in a trip reduction zone.

24 (3) The task force shall review progress toward implementing
25 commute trip reduction plans and programs and the costs and benefits of
26 commute trip reduction plans and programs and shall make
27 recommendations to the legislature by December 1, 1995, and December 1,
28 1999. In assessing the costs and benefits, the task force shall
29 consider the costs of not having implemented commute trip reduction
30 plans and programs. The task force shall examine other transportation

1 demand management programs nationally and incorporate its findings into
2 its recommendations to the legislature. The recommendations shall
3 address the need for continuation, modification, or termination or any
4 or all requirements of this chapter. The recommendations made December
5 1, 1995, shall include recommendations regarding extension of the
6 requirements of this chapter to employers with fifty or more full-time
7 employees at a single worksite who begin their regular work day between
8 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous
9 months."

10 "NEW SECTION. **Sec. 226.** TECHNICAL ASSISTANCE TEAM. (1) A
11 technical assistance team shall be established under the direction of
12 the state energy office and include representatives of the departments
13 of transportation and ecology. The team shall provide staff support to
14 the commute trip reduction task force in carrying out the requirements
15 of section 225 of this act and to the department of general
16 administration in carrying out the requirements of section 229 of this
17 act.

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

1 informational materials shall be developed in cooperation with
2 representatives of local governments, transit agencies, and employers.

3 (3) In carrying out this section the state energy office and
4 department of transportation may contract with state-wide associations
5 representing cities, towns, and counties to assist cities, towns, and
6 counties in implementing commute trip reduction plans and programs."

7 "NEW SECTION. Sec. 227. USE OF FUNDS. A portion of the funds
8 made available for the purposes of this chapter shall be used to fund
9 the commute trip reduction task force in carrying out the
10 responsibilities of section 226 of this act, and the interagency
11 technical assistance team, including the activities authorized under
12 section 226(2) of this act, and to assist counties, cities, and towns
13 implementing commute trip reduction plans. Funds shall be provided to
14 the counties in proportion to the number of major employers and major
15 worksites in each county. The counties shall provide funds to cities
16 and towns within the county which are implementing commute trip
17 reduction plans in proportion to the number of major employers and
18 major worksites within the city or town."

19 "NEW SECTION. Sec. 228. LEGISLATIVE INTENT--STATE LEADERSHIP.
20 The legislature hereby recognizes the state's crucial leadership role
21 in establishing and implementing effective commute trip reduction
22 programs. Therefore, it is the policy of the state that the department
23 of general administration and other state agencies shall aggressively
24 develop substantive programs to reduce commute trips by state
25 employees. Implementation of these programs will reduce energy
26 consumption, congestion in urban areas, and air and water pollution
27 associated with automobile travel."

1 "NEW SECTION. Sec. 229. GENERAL ADMINISTRATION. (1) The director
2 of general administration, with the concurrence of an interagency task
3 force established for the purposes of this section, shall coordinate a
4 commute trip reduction plan for state agencies which are phase 1 major
5 employers by January 1, 1993. The task force shall include
6 representatives of the state energy office, the departments of
7 transportation and ecology and such other departments as the director
8 of general administration determines to be necessary to be generally
9 representative of state agencies. The state agency plan shall be
10 consistent with the requirements of sections 222 and 223 of this act
11 and shall be developed in consultation with state employees, local and
12 regional governments, local transit agencies, the business community,
13 and other interested groups. The plan shall consider and recommend
14 policies applicable to all state agencies including but not limited to
15 policies regarding parking and parking charges, employee incentives for
16 commuting by other than single-occupant automobiles, flexible and
17 alternative work schedules, alternative worksites, and the use of
18 state-owned vehicles for car and van pools. The plan shall also
19 consider the costs and benefits to state agencies of achieving commute
20 trip reductions and consider mechanisms for funding state agency
21 commute trip reduction programs. The department shall, within thirty
22 days, submit a summary of its plan along with certification of adoption
23 to the commute trip reduction task force established under section 225
24 of this act.

25 (2) Not more than three months after the adoption of the commute
26 trip reduction plan, each state agency shall, for each facility which
27 is a major employer, develop a commute trip reduction program. The
28 program shall be designed to meet the goals of the commute trip
29 reduction plan of the county, city, or town or, if there is no local
30 commute trip reduction plan, the state. The program shall be

1 consistent with the policies of the state commute trip reduction plan
2 and section 223 of this act. The agency shall submit a description of
3 that program to the local jurisdiction implementing a commute trip
4 reduction plan or, if there is no local commute trip reduction plan, to
5 the department of general administration. The program shall be
6 implemented not more than three months after submission to the
7 department. Annual reports required in section 223(2)(c) of this act
8 shall be submitted to the local jurisdiction implementing a commute
9 trip reduction plan and to the department of general administration.
10 An agency which is not meeting the applicable commute trip reduction
11 goals shall, to the extent possible, modify its program to comply with
12 the recommendations of the local jurisdiction or the department of
13 general administration.

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

18 (4) The department of general administration in consultation with
19 the state technical assistance team shall review the initial commute
20 trip reduction program of each state agency subject to the commute trip
21 reduction plan for state agencies to determine if the program is likely
22 to meet the applicable commute trip reduction goals and notify the
23 agency of any deficiencies. If it is found that the program is not
24 likely to meet the applicable commute trip reduction goals, the team
25 will work with the agency to modify the program as necessary.

26 (5) For each agency subject to the state agency commute trip
27 reduction plan, the department of general administration in
28 consultation with the technical assistance team shall annually review
29 progress toward meeting the applicable commute trip reduction goals.
30 If it appears an agency is not meeting or is not likely to meet the

1 applicable commute trip reduction goals, the team shall work with the
2 agency to make modifications to the commute trip reduction program.

3 (6) The department of general administration shall submit an annual
4 progress report for state agencies subject to the state agency commute
5 trip reduction plan to the commute trip reduction task force
6 established under section 225 of this act. The report shall be due
7 April 1, 1993, and each April 1 through 2000. The report shall report
8 progress in attaining the applicable commute trip reduction goals for
9 each commute trip reduction zone and shall highlight any problems being
10 encountered in achieving the goals. The information shall be reported
11 in a form established by the commute trip reduction task force."

12 "NEW SECTION. Sec. 230. CODIFICATION. Sections 220 through 229
13 of this act shall constitute a new chapter in Title 81 RCW."

14 **"Sec. 231.** RCW 82.44.020 and 1990 c 42 s 302 are each amended to
15 read as follows:

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

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

25 (3) Effective with October 1992 motor vehicle registration
26 expirations, a clean air excise tax is imposed in addition to any other
27 tax imposed by this section for the privilege of using in the state any
28 motor vehicle as defined in RCW 82.44.010, except that the following

1 shall not be subject to the tax imposed by this subsection: (a)
2 Trailers as defined in RCW 46.04.620; (b) semitrailers as defined in
3 RCW 46.04.530; and (c) farm vehicles as defined in RCW 46.04.181. The
4 annual amount of the additional excise tax shall be two dollars and
5 twenty-five cents. Effective with July 1994 motor vehicle registration
6 expirations, the annual amount of additional excise tax shall be two
7 dollars.

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

10 ((4)) (5) Washington residents, as defined in RCW 46.16.028, who
11 license motor vehicles in another state or foreign country and avoid
12 Washington motor vehicle excise taxes are liable for such unpaid excise
13 taxes. The department of revenue may assess and collect the unpaid
14 excise taxes under chapter 82.32 RCW, including the penalties and
15 interest provided therein."

16 "Sec. 232. RCW 82.44.110 and 1990 2nd ex.s. c 1 s 801 are each
17 amended to read as follows:

18 The county auditor shall regularly, when remitting license fee
19 receipts, pay over and account to the director of licensing for the
20 excise taxes collected under the provisions of this chapter. The
21 director shall forthwith transmit the excise taxes to the state
22 treasurer.

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

25 ((1)) (a) 1.60 percent into the motor vehicle fund to defray
26 administrative and other expenses incurred by the department in the
27 collection of the excise tax.

28 ((2)) (b) 8.15 percent into the Puget Sound capital construction
29 account in the motor vehicle fund.

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

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

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

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

9 (~~(7)~~) (g) 62.6440 percent into the general fund through June 30,
10 1993, 57.6440 percent into the general fund beginning July 1, 1993, and
11 66 percent into the general fund beginning January 1, 1994.

12 (~~(8)~~) (h) 5 percent into the transportation fund created in RCW
13 82.44.180 beginning July 1, 1993.

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

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

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

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

24 (3) The state treasurer shall deposit the excise tax imposed by RCW
25 82.44.020(3) into the air pollution control account created by section
26 239 of this act."

27 "**Sec. 233.** RCW 82.44.150 and 1990 c 42 s 308 are each amended to
28 read as follows:

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

10 The total amount of motor vehicle excise taxes remitted to the
11 department, except those payable under RCW 82.44.020(3) and 82.44.030,
12 from each county shall be multiplied by a fraction, the numerator of
13 which is the population of the municipality residing in such county,
14 and the denominator of which is the total population of the county in
15 which such municipality or portion thereof is located. The product of
16 this computation shall be the amount of excise taxes from motor vehicle
17 owners residing within such municipality or portion thereof. Where the
18 municipality levying a tax under RCW 35.58.273 is located in more than
19 one county, the above computation shall be made by county, and the
20 combined products shall provide the total amount of motor vehicle
21 excise taxes from motor vehicle owners residing in the municipality as
22 a whole. Population figures required for these computations shall be
23 supplied to the director by the office of financial management, who
24 shall adjust the fraction annually.

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

1 (a) To the high capacity transportation account created in RCW
2 47.78.010, a sum equal to four and five-tenths percent of the special
3 excise tax levied under RCW 35.58.273 by those municipalities
4 authorized to levy a special excise tax within a class AA county, or
5 within a class A county contiguous to a class AA county, or within a
6 second class county contiguous to a class A county that is contiguous
7 to a class AA county;

8 (b) To the central Puget Sound public transportation account
9 created in RCW 82.44.180, for revenues distributed after December 31,
10 1992, within a class AA county or within a class A county contiguous to
11 a class AA county, a sum equal to the difference between (i) the
12 special excise tax levied and collected under RCW 35.58.273 by those
13 municipalities authorized to levy and collect a special excise tax
14 subject to the requirements of subsections (3) and (4) of this section
15 and (ii) the special excise tax that the municipality would otherwise
16 have been eligible to levy and collect at a tax rate of .815 percent
17 and been able to match with locally generated tax revenues, other than
18 the excise tax imposed under RCW 35.58.273, budgeted for any public
19 transportation purpose. Before this deposit, the sum shall be reduced
20 by an amount equal to the amount distributed under (a) of this
21 subsection for each of the municipalities within the counties to which
22 this subsection (2)(b) applies; however, any transfer under this
23 subsection (2)(b) must be greater than zero;

24 (c) To the public transportation systems account created in RCW
25 82.44.180, for revenues distributed after December 31, 1992, within
26 counties not described in (b) of this subsection, a sum equal to the
27 difference between (i) the special excise tax levied and collected
28 under RCW 35.58.273 by those municipalities authorized to levy and
29 collect a special excise tax subject to the requirements of subsections
30 (3) and (4) of this section and (ii) the special excise tax that the

1 municipality would otherwise have been eligible to levy and collect at
2 a tax rate of .815 percent and been able to match with locally
3 generated tax revenues, other than the excise tax imposed under RCW
4 35.58.273, budgeted for any public transportation purpose. Before this
5 deposit, the sum shall be reduced by an amount equal to the amount
6 distributed under (a) of this subsection for each of the municipalities
7 within the counties to which this subsection (2)(c) applies; however,
8 any transfer under this subsection (2)(c) must be greater than zero;
9 and

10 (d) To the transportation fund created in RCW 82.44.180, for
11 revenues distributed after June 30, 1991, a sum equal to the difference
12 between (i) the special excise tax levied and collected under RCW
13 35.58.273 by those municipalities authorized to levy and collect a
14 special excise tax subject to the requirements of subsections (3) and
15 (4) of this section and (ii) the special excise tax that the
16 municipality would otherwise have been eligible to levy and collect at
17 a tax rate of .815 percent notwithstanding the requirements set forth
18 in subsections (3) through (6) of this section, reduced by an amount
19 equal to distributions made under (a), (b), and (c) of this subsection.

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

24 (a) The amount required to be remitted by the state treasurer to
25 the treasurer of any municipality levying the tax shall not exceed in
26 any calendar year the amount of locally-generated tax revenues,
27 excluding the excise tax imposed under RCW 35.58.273 for the purposes
28 of this section, which shall have been budgeted by the municipality to
29 be collected in such calendar year for any public transportation
30 purposes including but not limited to operating costs, capital costs,

1 and debt service on general obligation or revenue bonds issued for
2 these purposes; and

3 (b) In no event may the amount remitted in a single calendar
4 quarter exceed the amount collected on behalf of the municipality under
5 RCW 35.58.273 during the calendar quarter next preceding the
6 immediately preceding quarter.

7 (4) At the close of each calendar year accounting period, but not
8 later than April 1, each municipality that has received motor vehicle
9 excise taxes under subsection (3) of this section shall transmit to the
10 director of licensing and the state auditor a written report showing by
11 source the previous year's budgeted tax revenues for public
12 transportation purposes as compared to actual collections. Any
13 municipality that has not submitted the report by April 1 shall cease
14 to be eligible to receive motor vehicle excise taxes under subsection
15 (3) of this section until the report is received by the director of
16 licensing. If a municipality has received more or less money under
17 subsection (3) of this section for the period covered by the report
18 than it is entitled to receive by reason of its locally-generated
19 collected tax revenues, the director of licensing shall, during the
20 next ensuing quarter that the municipality is eligible to receive motor
21 vehicle excise tax funds, increase or decrease the amount to be
22 remitted in an amount equal to the difference between the locally-
23 generated budgeted tax revenues and the locally-generated collected tax
24 revenues. In no event may the amount remitted for a calendar year
25 exceed the amount collected on behalf of the municipality under RCW
26 35.58.273 during that same calendar year. At the time of the next
27 fiscal audit of each municipality, the state auditor shall verify the
28 accuracy of the report submitted and notify the director of licensing
29 of any discrepancies.

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

4 (6) Any municipality levying and collecting a tax under RCW
5 35.58.273 which does not have an operating, public transit system or a
6 contract for public transportation services in effect within one year
7 from the initial effective date of the tax shall return to the state
8 treasurer all motor vehicle excise taxes received under subsection (3)
9 of this section."

10 "Sec. 234. RCW 82.44.155 and 1990 c 42 s 309 are each amended to
11 read as follows:

12 When distributions are made under RCW 82.44.150, the state
13 treasurer shall apportion and distribute the motor vehicle excise taxes
14 deposited into the general fund under RCW 82.44.110(4) to the cities
15 and towns ratably on the basis of population as last determined by the
16 office of financial management. When so apportioned, the amount
17 payable to each such city and town shall be transmitted to the city
18 treasurer thereof, and shall be used by the city or town for the
19 purposes of police and fire protection and the preservation of the
20 public health in the city or town, and not otherwise. If it is
21 adjudged that revenue derived from the excise (~~(tax)~~) taxes imposed by
22 (~~(this chapter)~~) RCW 82.44.020 (1) and (2) cannot lawfully be
23 apportioned or distributed to cities or towns, all moneys directed by
24 this section to be apportioned and distributed to cities and towns
25 shall be credited and transferred to the state general fund."

26 "Sec. 235. RCW 82.44.180 and 1990 c 42 s 312 are each amended to
27 read as follows:

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

5 Moneys in the fund may be spent only after appropriation.
6 Expenditures from the fund may be used only for transportation
7 purposes.

8 (2) There is hereby created the central Puget Sound public
9 transportation account within the transportation fund. Moneys
10 deposited into the account under RCW 82.44.150(2)(b) shall be expended
11 within the three county region from which the funds are derived, solely
12 for:

13 (a) Development of high capacity transportation systems as defined
14 in RCW 81.104.010;

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

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

19 (3) There is hereby created the public transportation systems
20 account within the transportation fund. Moneys deposited into the
21 account under RCW 82.44.150(2)(c) shall be available to the public
22 transportation system from which the funds are derived, solely 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;

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

29 (d) Public transportation system contributions required to fund
30 projects approved by the transportation improvement board."

1 **"Sec. 236.** RCW 82.50.410 and 1990 c 42 s 321 are each amended to
2 read as follows:

3 The rate and measure of tax imposed by (~~this chapter~~) RCW
4 82.50.400 for each registration year shall be one percent, and a
5 surcharge of one-tenth of one percent, of the value of the travel
6 trailer or camper, as determined in the manner provided in this
7 chapter: PROVIDED, That the excise tax upon a travel trailer or camper
8 licensed for the first time in this state after the last day of any
9 registration month may only be levied for the remaining months of the
10 registration year including the month in which the travel trailer or
11 camper is first licensed: PROVIDED FURTHER, That the minimum amount of
12 tax payable shall be two dollars: PROVIDED FURTHER, That every dealer
13 in mobile homes or travel trailers, for the privilege of using any
14 mobile home or travel trailer eligible to be used under a dealer's
15 license plate, shall pay an excise tax of two dollars, and such tax
16 shall be collected upon the issuance of each original dealer's license
17 plate, and also a similar tax shall be collected upon the issuance of
18 each dealer's duplicate license plate, which taxes shall be in addition
19 to any tax otherwise payable under this chapter.

20 A travel trailer or camper shall be deemed licensed for the first
21 time in this state when such vehicle was not previously licensed by
22 this state for the registration year or any part thereof immediately
23 preceding the registration year in which application for license is
24 made or when it has been registered in another jurisdiction subsequent
25 to any prior registration in this state."

26 "NEW SECTION. **Sec. 237.** A new section is added to chapter 82.50
27 RCW to read as follows:

28 Effective with October 1992 motor vehicle registration expirations,
29 an additional annual clean air and water excise tax of four dollars and

1 twenty-five cents is imposed on the owner of any travel trailer or
2 camper for the privilege of using such travel trailer or camper in this
3 state. Effective with July 1994 motor vehicle registration
4 expirations, the annual amount of additional excise tax shall be four
5 dollars. The excise tax hereby imposed shall be due and payable to the
6 department of licensing or its agents at the time of registration of a
7 travel trailer or camper. Whenever an application is made to the
8 department of licensing or its agents for a license for a travel
9 trailer or camper there shall be collected, in addition to the amount
10 of the license fee or renewal license fee, the amount of the excise tax
11 imposed by this chapter, and no license or license plates for a travel
12 trailer or camper may be issued unless such tax is paid in full. No
13 additional tax shall be imposed under this chapter upon any travel
14 trailer or camper upon the transfer of ownership thereof, if the tax
15 imposed by this chapter with respect to such travel trailer or camper
16 has already been paid for the registration year or fractional part
17 thereof in which such transfer occurs. Receipts from the tax levied in
18 this section shall be deposited in the air pollution control account
19 created by section 239 of this act."

20 "Sec. 238. RCW 82.50.510 and 1990 c 42 s 322 are each amended to
21 read as follows:

22 The county auditor shall regularly, when remitting motor vehicle
23 excise taxes, pay to the state treasurer the excise taxes ((collected
24 ~~under this chapter~~) imposed by RCW 82.50.400). The treasurer shall
25 then distribute such funds quarterly on the first day of the month of
26 January, April, July and October of each year in the following amount:
27 (1) For the one percent tax imposed under RCW 82.50.410, fifteen
28 percent to cities and towns for the use thereof apportioned ratably
29 among such cities and towns on the basis of population; fifteen percent

1 to counties for the use thereof to be apportioned ratably among such
2 counties on the basis of moneys collected in such counties from the
3 excise taxes imposed under this chapter; and seventy percent for
4 schools to be deposited in the state general fund; and (2) for the one-
5 tenth of one percent surcharge imposed under RCW 82.50.410, one hundred
6 percent to the transportation fund created in RCW 82.44.180."

7 "NEW SECTION. **Sec. 239.** (1) The air pollution control account is
8 established in the state treasury. All receipts from RCW 70.94.650,
9 70.94.660, 82.44.020(3), and section 237 of this act shall be deposited
10 into the account. Moneys in the account may be spent only after
11 appropriation. Expenditures from the account may be used only to
12 develop and implement the provisions of this act and chapters 70.94 and
13 70.120 RCW.

14 (2) The amounts collected and allocated in accordance with this
15 section shall be expended upon appropriation except as otherwise
16 provided in this section and in accordance with the following
17 limitations:

18 Portions of moneys received by the department of ecology from the
19 air pollution control account shall be distributed by the department to
20 local authorities based on:

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

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

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

28 (3) The air operating permit account is created in the custody of
29 the state treasurer. All receipts paid to the department of revenue

1 under section 301 of this act shall be deposited into the account.
2 Expenditures from the account may be used only for the direct and
3 indirect costs of implementing the air operating permit program under
4 section 301 of this act. Only the director of the department of
5 ecology or the director's designee may authorize expenditures from the
6 account. The account is subject to the allotment procedures under
7 chapter 43.88 RCW, but no appropriation is required for such
8 expenditures."

9 "NEW SECTION. Sec. 240. A new section is added to chapter 70.120
10 RCW to read as follows:

11 (1) It is the intent of the legislature that the state take
12 advantage of the best emission control systems available on new motor
13 vehicles. The department shall conduct a study to determine if
14 requiring new vehicles sold in the state to meet California vehicle
15 emission standards will provide a significant benefit to attainment of
16 ambient air quality standards in this state. The department shall
17 report the findings of its study and its recommendations to the
18 appropriate standing committees of the legislature. The department
19 shall not adopt the California vehicle emission standards unless
20 authorized by the legislature.

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

24 "NEW SECTION. Sec. 241. The department of ecology shall contract
25 with Western Washington University for the biennium ending June 30,
26 1993, for research and development of alternative fuel and solar
27 powered vehicles. A report on the progress of such research shall be

1 presented to the standing environmental committees and the department
2 by January 1, 1994."

3 "NEW SECTION. Sec. 242. A new section is added to chapter 19.112
4 RCW to read as follows:

5 The directors of the departments of ecology and agriculture may
6 grant a variance from ASTM motor fuel specifications if necessary to
7 produce lower emission motor fuels."

8 "III.
9 INDUSTRIAL AND COMMERCIAL SOURCES"

10 "NEW SECTION. Sec. 301. A new section is added to chapter 70.94
11 RCW to read as follows:

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

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

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

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

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

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

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

29 (c) "Reasonably available control technology" (RACT) means the
30 lowest emission limit that a particular source or source category is

1 capable of meeting by the application of control technology that is
2 reasonably available considering technological and economic
3 feasibility. RACT is determined on a case-by-case basis for an
4 individual source or source category taking into account the impact of
5 the source upon air quality, the availability of additional controls,
6 the emission reduction to be achieved by additional controls, the
7 impact of additional controls on air quality, and the capital and
8 operating costs of the additional controls. RACT requirements for any
9 source or source category shall be adopted only after notice and
10 opportunity for comment are afforded.

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

17 (e) "New source" means (i) the construction or modification of a
18 stationary source that increases the amount of any air contaminant
19 emitted by such source or that results in the emission of any air
20 contaminant not previously emitted, and (ii) any other project that
21 constitutes a new source under the federal clean air act.

22 (f) "Stationary source" means any building, structure, facility, or
23 installation that emits or may emit any air contaminant.

24 (g) "Modification" means any physical change in, or change in the
25 method of operation of, a stationary source that increases the amount
26 of any air contaminant emitted by such source or that results in the
27 emission of any air contaminant not previously emitted. The term
28 modification shall be construed consistent with the definition of
29 modification in Section 7411, Title 42, United States Code, and with
30 rules implementing that section.

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 a delegated local air authority from including in a
16 permit its own more stringent emission standards and operating
17 restrictions.

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

1 (c) Except for the authority granted the energy facility site
2 evaluation council to issue permits for the new construction,
3 reconstruction, or enlargement or operation of new energy facilities
4 under chapter 80.50 RCW, the department may exercise the authority, as
5 delegated by the environmental protection agency, to administer Title
6 IV of the federal clean air act as amended and to delegate such
7 administration to local authorities as applicable pursuant to (b) of
8 this subsection.

9 (4) "Best available control technology" (BACT) is required for new
10 sources except where LAER is required.

11 "Lowest achievable emission rate" (LAER) is required for those
12 sources required by the federal clean air act.

13 Except as otherwise provided in RCW 70.94.331(9), "reasonably
14 available control technology" (RACT) is required for existing sources.

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

18 (5) Operating permits shall apply to all sources (a) where required
19 by the federal clean air act, and (b) for any source that may cause or
20 contribute to air pollution in such quantity as can reasonably be
21 demonstrated by the department or board of any authority to create a
22 threat to the public health or welfare. Subsection (5)(b) of this
23 section applies only to stationary sources in an area which are
24 emitting a significant portion of substances for which the area is
25 exceeding or threatening to exceed federal or state air quality
26 standards. For purposes of this section areas threatening to exceed
27 air quality standards shall mean areas projected by the department to
28 exceed such standards within five years. Prior to identifying
29 threatened areas the department shall hold a public hearing or hearings
30 within the proposed areas. The intent of this subsection is not to

1 require common small businesses to obtain a permit unless the
2 department can present clear and convincing evidence that requiring
3 small businesses to have a permit under this subsection is essential to
4 meeting federal air quality standards.

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

7 (7) By October 1, 1993, or ninety days after the United States
8 environmental protection agency approves the state operating permit
9 program, whichever is later, any person required to have a permit shall
10 submit to the permitting agency a compliance plan and permit
11 application, signed by a responsible official, certifying the accuracy
12 of the information submitted. Until permits are issued, existing
13 sources shall be allowed to operate under presently applicable
14 standards and conditions provided that such sources submit complete and
15 timely permit applications.

16 (8) All proposed permits shall be subject to public notice and
17 comment. The rules adopted pursuant to subsection (3) of this section
18 shall specify procedures for public notice and comment. Such
19 procedures shall provide the permitting agency with an opportunity to
20 respond to comments received from interested parties prior to the time
21 that the proposed permit is submitted to the environmental protection
22 agency for review pursuant to section 505(a) of the federal clean air
23 act. In the event that the environmental protection agency objects to
24 a proposed permit pursuant to section 505(b) of the federal clean air
25 act, the permitting authority shall not issue the permit, unless the
26 permittee consents to the changes required by the environmental
27 protection agency.

28 (9) The procedures contained in chapter 43.21B RCW shall apply to
29 permit appeals. The pollution control hearings board may stay the
30 effectiveness of any permit issued under this section during the

1 pendency of an appeal filed by the permittee, if the permittee
2 demonstrates that compliance with the permit during the pendency of the
3 appeal would require significant expenditures that would not be
4 necessary in the event that the permittee prevailed on the merits of
5 the appeal.

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

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

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

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

19 (c) In permits issued by a local air pollution control authority or
20 any order or regulation adopted by that authority.

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

25 (13) Permitted sources within the territorial jurisdiction of an
26 authority delegated the operating permit program shall file their
27 permit applications with that authority, except that permit
28 applications for sources regulated on a state-wide basis pursuant to
29 RCW 70.94.395 shall be filed with the department. Permitted sources

1 outside the territorial jurisdiction of a delegated authority shall
2 file their applications with the department.

3 (14) When issuing operating permits to coal fired electric
4 generating plants, the permitting authority shall give consideration to
5 the federal time lines for the implementation of required control
6 technology.

7 (15)(a) Each source emitting one hundred tons or more per year of
8 a regulated pollutant shall pay an interim assessment of ten dollars
9 per ton multiplied by the annual process-related emissions of each
10 regulated pollutant emitted during calendar years 1990 and 1991.
11 "Regulated pollutant" shall have the same meaning as defined in section
12 502(b) of the federal clean air act amendments of 1990.

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

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

19 (16) On or before November 1, 1992, the department, in consultation
20 with the department of revenue, shall report to the appropriate
21 standing committees of the legislature recommendations on air operating
22 permit fees. The department shall recommend a level of fees to cover
23 the direct and indirect costs of implementing the operating permit
24 program required under the 1990 federal clean air act. In making such
25 recommendations, the department shall address:

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

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

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

1 (iii) Training;
2 (iv) Data management and quality assurance;
3 (v) Development of state implementation plans;
4 (vi) Emission inventories;
5 (vii) Technical assistance;
6 (viii) Rule making and guidelines; and
7 (ix) Any other activities, consistent with the federal clean air
8 act, that may be identified by the department;

9 (b) The appropriate division of fees with delegated local air
10 authorities;

11 (c) A methodology for tracking revenues and expenditures from fees
12 paid under this chapter; and

13 (d) Assess the methods of collection and accountability for fees.

14 (17) The department shall determine the persons liable for the fee
15 imposed by subsection (15) of this section, compute the fee, and
16 provide by November 1 of 1991 and 1992, the identity of the fee payer
17 with the computation of the fee to the department of revenue for
18 collection. The department of revenue shall collect the fee computed
19 by the department from the fee payers identified by the department.
20 The administrative, collection, and penalty provisions of chapter 82.32
21 RCW shall apply to the collection of the fee by the department of
22 revenue. The department shall provide technical assistance to the
23 department of revenue for decisions made by the department of revenue
24 pursuant to RCW 82.32.160 and 82.32.170. All fees collected shall be
25 deposited in the air operating permit account.

26 All fees identified in this section shall be due and payable on
27 March 1 of 1992 and 1993.

28 (18) For sources or source categories not required to obtain
29 permits under subsection (5) of this section, the department or local
30 authority may establish by rule control technology requirements. If

1 control technology rule revisions are made by the department or local
2 authority under this subsection, the department or local authority
3 shall consider the remaining useful life of control equipment
4 previously installed on existing sources before requiring technology
5 changes. The department or any local air authority may issue a general
6 permit, as authorized under the federal clean air act, for such
7 sources.

8 (19) RCW 70.94.151 shall not apply to any source for which a permit
9 under this section has been issued."

10 "Sec. 302. RCW 70.94.152 and 1973 1st ex.s. c 193 s 2 are each
11 amended to read as follows:

12 (1) The department of ecology or board of any authority may require
13 notice of the ~~((construction, installation, or))~~ establishment of any
14 proposed new ~~((air contaminant))~~ sources except single family and
15 duplex dwellings. The department of ecology or board may require such
16 notice to be accompanied by a fee and determine the amount of such fee:
17 PROVIDED, That the amount of the fee may not exceed the cost of
18 reviewing the plans, specifications, and other information and
19 administering such notice: PROVIDED FURTHER, That any such notice
20 given or notice of construction application submitted to either the
21 board or to the department of ecology shall preclude a further
22 ~~((notice))~~ submittal of a duplicate application to ~~((be given to))~~ any
23 ~~((other))~~ board or to the department of ecology. Within thirty days of
24 ~~((its))~~ receipt of ~~((such notice))~~ a notice of construction
25 application, the department of ecology or board may require, as a
26 condition precedent to the ~~((construction, installation, or))~~
27 establishment of the ~~((air contaminant))~~ new source or sources covered
28 thereby, the submission of plans, specifications, and such other
29 information as it deems necessary ~~((in order))~~ to determine whether the

1 proposed (~~(construction, installation, or establishment)~~) new source
2 will be in accord with applicable rules and regulations in force
3 (~~(pursuant to)~~) under this chapter(~~(, and will provide all known~~
4 ~~available and reasonable methods of emission control)~~). If on the
5 basis of plans, specifications, or other information required
6 (~~(pursuant to)~~) under this section the department of ecology or board
7 determines that the proposed (~~(construction, installation, or~~
8 ~~establishment)~~) new source will not be in accord with this chapter or
9 the applicable ordinances, resolutions, rules, and regulations adopted
10 (~~(pursuant thereto, or will not provide all known available and~~
11 ~~reasonable means of emission control)~~) under this chapter, it shall
12 issue an order (~~(for the prevention of the construction, installation,~~
13 ~~or establishment of the air contaminant source or sources)~~) denying
14 permission to establish the new source. If on the basis of plans,
15 specifications, or other information required (~~(pursuant to)~~) under
16 this section, the department of ecology or board determines that the
17 proposed (~~(construction, installation, or establishment)~~) new source
18 will be in accord with this chapter, and the applicable (~~(ordinances,~~
19 ~~resolutions,~~) rules(~~(,)~~) and regulations adopted (~~(pursuant thereto~~
20 ~~and will provide all known available and reasonable methods of emission~~
21 ~~control)~~) under this chapter, it shall issue an order of approval
22 (~~(of)~~) for the (~~(construction, installation, and)~~) establishment of the
23 (~~(air contaminant)~~) new source or sources, which order may provide such
24 conditions (~~(of operation)~~) as are reasonably necessary to assure the
25 maintenance of compliance with this chapter and the applicable
26 (~~(ordinances, resolutions,~~) rules(~~(,)~~) and regulations adopted
27 (~~(pursuant thereto)~~) under this chapter. Every order of approval under
28 this chapter must be reviewed prior to issuance by a professional
29 engineer or staff under the supervision of a professional engineer in
30 the employ of the department of ecology or board.

1 ~~((For the purposes of this chapter, addition to or enlargement~~
2 ~~or replacement of an air contaminant source, or any major alteration~~
3 ~~therein, shall be construed as construction or installation or~~
4 ~~establishment of a new air contaminant source.))~~ The
5 ~~determination((7))~~ required under subsection (1) of this section(~~(7~~~~-of~~
6 ~~whether a proposed construction, installation, or establishment will be~~
7 ~~in accord with this chapter and the applicable ordinances, resolutions,~~
8 ~~rules, and regulations adopted pursuant thereto))~~ shall include a
9 determination of whether the operation of the new air contaminant
10 source at the location proposed will cause any ambient air quality
11 standard to be exceeded.

12 (3) New source review of a modification shall be limited to the
13 emission unit or units proposed to be modified and the air contaminants
14 whose emissions would increase as a result of the modification.

15 (4) Nothing in this section shall be construed to authorize the
16 department of ecology or board to require the use of emission control
17 equipment or other equipment, machinery, or devices of any particular
18 type, from any particular supplier, or produced by any particular
19 manufacturer.

20 ~~((4))~~ (5) Any features, machines, and devices constituting parts
21 of or called for by plans, specifications, or other information
22 submitted pursuant to subsection (1) (~~hereof~~) of this section shall
23 be maintained and operate in good working order.

24 ~~((5))~~ (6) The absence of an ordinance, resolution, rule, or
25 regulation, or the failure to issue an order pursuant to this section
26 shall not relieve any person from his or her obligation to comply with
27 ~~(any)~~ applicable emission control requirements or with any other
28 provision of law.

29 (7) Within thirty days of receipt of a notice of construction
30 application the department of ecology or board shall either notify the

1 applicant in writing that the application is complete or notify the
2 applicant in writing of all additional information necessary to
3 complete the application. Within sixty days of receipt of a complete
4 application the department or board shall either (a) issue a final
5 decision on the application, or (b) for those projects subject to
6 public notice, initiate notice and comment on a proposed decision,
7 followed as promptly as possible by a final decision."

8 "NEW SECTION. **Sec. 303.** A new section is added to chapter 70.94
9 RCW to read as follows:

10 Any person proposing to replace or substantially alter the emission
11 control technology installed on an existing stationary source emission
12 unit shall file a notice of construction application with the
13 jurisdictional permitting authority. For projects not otherwise
14 reviewable under RCW 70.94.152, the permitting authority may (1)
15 require that the owner or operator employ reasonably available control
16 technology for the affected emission unit and (2) may prescribe
17 reasonable operation and maintenance conditions for the control
18 equipment. Within thirty days of receipt of an application for notice
19 of construction under this section the permitting authority shall
20 either notify the applicant in writing that the application is complete
21 or notify the applicant in writing of all additional information
22 necessary to complete the application. Within thirty days of receipt
23 of a complete application the permitting authority shall either issue
24 an order of approval or a proposed RACT determination for the proposed
25 project. Construction shall not commence on a project subject to
26 review under this section until the permitting authority issues a final
27 order of approval. However, any notice of construction application
28 filed under this section shall be deemed to be approved without
29 conditions if the permitting authority takes no action within thirty

1 days of receipt of a complete application for a notice of
2 construction."

3 "NEW SECTION. Sec. 304. A new section is added to chapter 70.94
4 RCW to read as follows:

5 The department shall prepare recommendations to reduce air
6 emissions for source categories not generally required to have a permit
7 under section 301 of this act. Such recommendations shall not require
8 any action by the owner or operator of a source and shall be consistent
9 with rules adopted under chapter 70.95C RCW. The recommendations shall
10 include but not be limited to: Process changes, product substitution,
11 equipment modifications, hazardous substance use reduction, recycling,
12 and energy efficiency."

13 "Sec. 305. RCW 70.94.155 and 1981 c 224 s 1 are each amended to
14 read as follows:

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

22 (2) Whenever any regulation relating to emission standards or other
23 requirements for the control of emissions is adopted which provides for
24 compliance with such standards or requirements no later than a
25 specified time after the date of adoption of the regulation, the
26 appropriate activated air pollution control authority or, if there be
27 none, the department of ecology shall, by permit or regulatory order,
28 issue to air contaminant sources subject to the standards or

1 requirements, schedules of compliance setting forth timetables for the
2 achievement of compliance as expeditiously as practicable, but in no
3 case later than the time specified in the regulation. Interim dates in
4 such schedules for the completion of steps of progress toward
5 compliance shall be as enforceable as the final date for full
6 compliance therein.

7 (3) Wherever requirements necessary for the attainment of air
8 quality standards or, where such standards are not exceeded, for the
9 maintenance of air quality can be achieved through the use of a control
10 program involving the bubble concept, such program may be authorized by
11 a regulatory order or orders or permit issued to the air contaminant
12 source or sources involved. Such order or permit shall only be
13 authorized after the control program involving the bubble concept is
14 accepted by United States environmental protection agency as part of an
15 approved state implementation plan. Any such order or permit provision
16 shall restrict total emissions within the bubble to no more than would
17 otherwise be allowed in the aggregate for all emitting processes
18 covered. The orders or permits provided for by this subsection shall
19 be issued by the department or the authority with jurisdiction. If the
20 bubble involves interjurisdictional approval, concurrence in the total
21 program must be secured from each regulatory entity concerned."

22 "Sec. 306. RCW 70.94.181 and 1983 c 3 s 176 are each amended to
23 read as follows:

24 (1) Any person who owns or is in control of any plant, building,
25 structure, establishment, process or equipment may apply to the
26 department of ecology (~~where it has regulatory authority under RCW~~
27 ~~70.94.390, 70.94.395, 70.94.410, and 70.94.420,~~) or appropriate local
28 authority board for a variance from rules or regulations governing the
29 quality, nature, duration or extent of discharges of air contaminants.

1 The application shall be accompanied by such information and data as
2 the department of ecology or board may require. The department of
3 ecology or board may grant such variance, provided that variances to
4 state rules shall require the department's approval prior to being
5 issued by a local authority board. The total time period for a
6 variance and renewal of such variance shall not exceed one year.
7 Variances may be issued by either the department or a local board but
8 only after public hearing or due notice, if ~~((it))~~ the department or
9 board finds that:

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

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

15 (2) No variance shall be granted pursuant to this section until the
16 department of ecology or board has considered the relative interests of
17 the applicant, other owners of property likely to be affected by the
18 discharges, and the general public.

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

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

29 (b) ~~((If the application for variance shows that there is no
30 automobile fragmentizer within a reasonable distance of the wrecking~~

1 yard for which the variance is sought, a variance will be granted for
2 a period not to exceed three years for commercial burning of automobile
3 hulks, subject to such conditions as the department of ecology may
4 impose as to climatic conditions and hours during which burning of such
5 hulks may be carried out: PROVIDED, HOWEVER, That any variance granted
6 hereunder shall be of no force and effect after July 1, 1970.

7 (e)) If the variance is granted on the ground that compliance with
8 the particular requirement or requirements from which variance is
9 sought will require the taking of measures which, because of their
10 extent or cost, must be spread over a considerable period of time, it
11 shall be for a period not to exceed such reasonable time as, in the
12 view of the department of ecology or board is requisite for the taking
13 of the necessary measures. A variance granted on the ground specified
14 herein shall contain a timetable for the taking of action in an
15 expeditious manner and shall be conditioned on adherence to such
16 timetable.

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

21 (4) Any variance granted pursuant to this section may be renewed on
22 terms and conditions and for periods which would be appropriate on
23 initial granting of a variance. If complaint is made to the department
24 of ecology or board on account of the variance, no renewal thereof
25 shall be granted unless following a public hearing on the complaint on
26 due notice the ((state board)) department or board finds that renewal
27 is justified. No renewal shall be granted except on application
28 therefor. Any such application shall be made at least sixty days prior
29 to the expiration of the variance. Immediately upon receipt of an
30 application for renewal, the department of ecology or board shall give

1 public notice of such application in accordance with rules ((and
2 regulations)) of the department of ecology or board.

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

10 (6) Nothing in this section and no variance or renewal granted
11 pursuant hereto shall be construed to prevent or limit the application
12 of the emergency provisions and procedures of RCW 70.94.710 through
13 70.94.730 to any person or his or her property.

14 (7) An application for a variance, or for the renewal thereof,
15 submitted to the department of ecology or board pursuant to this
16 section shall be approved or disapproved by the department or board
17 within sixty-five days of receipt unless the applicant and the
18 department of ecology or board agree to a continuance.

19 (8) Variances approved under this section shall not be included in
20 orders or permits provided for in section 301 of this act or RCW
21 70.94.152 until such time as the variance has been accepted by the
22 United States environmental protection agency as part of an approved
23 state implementation plan."

24 "Sec. 307. RCW 70.94.205 and 1973 1st ex.s. c 193 s 4 are each
25 amended to read as follows:

26 Whenever any records or other information, other than ambient air
27 quality data or emission data, furnished to or obtained by the
28 department of ecology or the board of any authority ((pursuant to any
29 sections in chapter 70.94 RCW)) under this chapter, relate to processes

1 or production unique to the owner or operator, or is likely to affect
2 adversely the competitive position of such owner or operator if
3 released to the public or to a competitor, and the owner or operator of
4 such processes or production so certifies, such records or information
5 shall be only for the confidential use of the department of ecology or
6 board. Nothing herein shall be construed to prevent the use of records
7 or information by the department of ecology or board in compiling or
8 publishing analyses or summaries relating to the general condition of
9 the outdoor atmosphere: PROVIDED, That such analyses or summaries do
10 not reveal any information otherwise confidential under the provisions
11 of this section: PROVIDED FURTHER, That emission data furnished to or
12 obtained by the department of ecology or board shall be correlated with
13 applicable emission limitations and other control measures and shall be
14 available for public inspection during normal business hours at offices
15 of the department of ecology or board."

16 "NEW SECTION. Sec. 308. A new section is added to chapter 70.94
17 RCW to read as follows:

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

21 (1) Information on air pollution laws, rules, compliance methods,
22 and technologies;

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

25 (3) Assistance in obtaining permits and developing emission
26 reduction plans;

27 (4) Information on the health and environmental effects of air
28 pollution.

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

20 "Sec. 309. RCW 70.94.211 and 1974 ex.s. c 69 s 4 are each amended
21 to read as follows:

22 (~~Whenever the board or the control officer has reason to believe~~
23 ~~that any provision of this chapter or any ordinance, resolution, rule~~
24 ~~or regulation relating to the control or prevention of air pollution~~
25 ~~has been violated, such board or control officer may)) At least thirty
26 days prior to the commencement of any formal enforcement action under
27 RCW 70.94.430 or 70.94.431 a local air authority shall cause written
28 notice to be served upon the alleged violator or violators. The notice
29 shall specify the provision of this chapter or the ordinance,~~

1 resolution, rule or regulation alleged to be violated, and the facts
2 alleged to constitute a violation thereof, and may include an order
3 directing that necessary corrective action be taken within a reasonable
4 time. In lieu of an order, the board or the control officer may
5 require that the alleged violator or violators appear before the board
6 for a hearing(~~(, or in addition to or in place of an order or hearing,~~
7 ~~the board may initiate action pursuant to RCW 70.94.425, 70.94.430, and~~
8 ~~70.94.435))~~. Every notice of violation shall offer to the alleged
9 violator an opportunity to meet with the board prior to the
10 commencement of enforcement action."

11 "Sec. 310. RCW 70.94.430 and 1984 c 255 s 1 are each amended to
12 read as follows:

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

20 (~~Any person who wilfully violates any of the provisions of this~~
21 ~~chapter or any ordinance, resolution, rule or regulation in force~~
22 ~~pursuant thereto shall be guilty of a gross misdemeanor. Upon~~
23 ~~conviction the offender shall be punished by a fine of not less than~~
24 ~~one hundred dollars for each offense or by imprisonment for a term of~~
25 ~~not more than one year or by both fine and imprisonment.~~

26 In case of a continuing violation, whether or not wilfully
27 committed, each day's continuance shall be a separate and distinct
28 violation.)

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

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

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

21 **"Sec. 311.** RCW 70.94.431 and 1990 c 157 s 1 are each amended to
22 read as follows:

23 (1) In addition to or as an alternate to any other penalty provided
24 by law, any person who violates any of the provisions of chapter 70.94
25 RCW, chapter 70.120 RCW, or any of the rules ((and regulations of the
26 department or the board shall)) in force under such chapters may incur
27 a civil penalty in an amount not to exceed ((one)) ten thousand dollars
28 ((per day)) for each day of violation. Each such violation shall be a
29 separate and distinct offense, and in case of a continuing violation,

1 each day's continuance shall be a separate and distinct violation.
2 (~~For the purposes of this subsection, the maximum daily fine imposed~~
3 ~~by a local board for violations of standards by a specific emissions~~
4 ~~unit is one thousand dollars.~~)

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

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

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

17 (~~(2) Further, the person is subject to a fine of up to five~~
18 ~~thousand dollars to be levied by the director of the department of~~
19 ~~ecology if requested by the board of a local authority or if the~~
20 ~~director determines that the penalty is needed for effective~~
21 ~~enforcement of this chapter. A local board shall not make such a~~
22 ~~request until notice of violation and compliance order procedures have~~
23 ~~been exhausted, if such procedures are applicable. For the purposes of~~
24 ~~this subsection, the maximum daily fine imposed by the department of~~
25 ~~ecology for violations of standards by a specific emissions unit is~~
26 ~~five thousand dollars.~~)

27 (3) Each act of commission or omission which procures, aids or
28 abets in the violation shall be considered a violation under the
29 provisions of this section and subject to the same penalty. The

1 penalties provided in this section shall be imposed pursuant to RCW
2 43.21B.300.

3 (4) All penalties recovered under this section by the department
4 shall be paid into the state treasury and credited to the ~~((general~~
5 ~~fund))~~ air pollution control account established in section 239 of this
6 act or, if recovered by the authority, shall be paid into the treasury
7 of the authority and credited to its funds. If a prior penalty for the
8 same violation has been paid to a local authority, the penalty imposed
9 by the department under subsection ~~((+2))~~ (1) of this section shall be
10 reduced by the amount of the payment. ~~((Notwithstanding any other~~
11 ~~provisions of this chapter, no penalty may be levied for the violation~~
12 ~~of any opacity standard in an amount exceeding four hundred dollars per~~
13 ~~day.))~~

14 (5) To secure the penalty incurred under this section, the state or
15 the authority shall have a lien on any vessel used or operated in
16 violation of this chapter which shall be enforced as provided in RCW
17 60.36.050.

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

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

27 (8) An exceedance of an emission limit resulting from an upset,
28 malfunction, or Act of God is not a violation of this chapter, provided
29 that the operator of the source took all reasonable measures to prevent
30 the exceedance and to minimize its duration and severity, and that the

1 exceedance did not cause a violation of an ambient air quality
2 standard. In any enforcement proceeding the person seeking to
3 establish the occurrence of an upset, malfunction, or Act of God has
4 the burden of proof as to all elements of the defense."

5 "Sec. 312. RCW 70.94.860 and 1984 c 164 s 2 are each amended to
6 read as follows:

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

12 "Sec. 313. RCW 70.94.875 and 1985 c 456 s 3 are each amended to
13 read as follows:

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

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

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

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

24 "NEW SECTION. Sec. 314. A new section is added to chapter 70.94
25 RCW to read as follows:

26 (1) The science advisory board is hereby created to advise the
27 department on procedures for assessing and managing the risks

1 associated with air contaminant emissions. The board shall consist of
2 five members knowledgeable in the fields of risk assessment or risk
3 management. Members shall be appointed by the director of the
4 department. The board shall be staffed by the department.

5 (2) The board shall:

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

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

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

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

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

22 "NEW SECTION. Sec. 315. A new section is added to chapter 70.94
23 RCW to read as follows:

24 Nothing in this chapter shall be construed to authorize the
25 department or local air authority to adopt or enforce emission control
26 requirements for gasoline vapor control except as required pursuant to
27 section 182 (b) through (e) of the federal clean air act as amended."

28 "IV.

OUTDOOR BURNING"

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

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

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

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

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

(b) Outdoor burning shall not be allowed in any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production

1 of organic refuse are reasonably available. In no event shall such
2 burning be allowed after December 31, 2000.

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

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

10 "NEW SECTION. Sec. 403. A new section is added to chapter 70.94
11 RCW to read as follows:

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

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

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

19 Reductions shall be calculated from the average annual emissions
20 level from calendar years 1985 to 1989, using the same methodology for
21 both reduction and base year calculations.

22 (2) The department of natural resources, within twelve months after
23 the effective date of this section, shall develop a plan, based upon
24 the existing smoke management agreement to carry out the programs as
25 described in this section in the most efficient, cost-effective manner
26 possible. The plan shall be developed in consultation with the
27 department of ecology, public and private landowners engaged in
28 silvicultural forest burning, and representatives of the public.

1 The plan shall recognize the variations in silvicultural forest
2 burning including, but not limited to, a landowner's responsibility to
3 abate an extreme fire hazard under chapter 76.04 RCW and other
4 objectives of burning, including abating and preventing a fire hazard,
5 geographic region, climate, elevation and slope, proximity to populated
6 areas, and diversity of land ownership. The plan shall establish
7 priorities that the department of natural resources shall use to
8 allocate allowable emissions, including but not limited to,
9 silvicultural burning used to improve or maintain fire dependent
10 ecosystems for rare plants or animals within state, federal, and
11 private natural area preserves, natural resource conservation areas,
12 parks, and other wildlife areas. The plan shall also recognize the
13 real costs of the emissions program and recommend equitable fees to
14 cover the costs of the program.

15 The emission reductions in this section are to apply to all forest
16 lands including those owned and managed by the United States. If the
17 United States does not participate in implementing the plan, the
18 departments of natural resources and ecology shall use all appropriate
19 and available methods or enforcement powers to ensure participation.

20 The plan shall include a tracking system designed to measure the
21 degree of progress toward the emission reductions goals set in this
22 section. The department of natural resources shall report annually to
23 the department of ecology and the legislature on the status of the
24 plan, emission reductions and progress toward meeting the objectives
25 specified in this section, and the goals of this chapter and chapter
26 76.04 RCW.

27 (3) If the December 31, 1994, emission reductions targets in this
28 section are not met, the department of natural resources, in
29 consultation with the department of ecology, shall use its authority
30 granted in this chapter and chapter 76.04 RCW to immediately limit

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

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

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

17 ~~((1))~~ (a) Abating a forest fire hazard;

18 ~~((2))~~ (b) Prevention of a fire hazard;

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

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

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

27 (2) The department of natural resources shall not retain such
28 authority, but it shall be the responsibility of the appropriate fire
29 protection agency for permitting and regulating outdoor burning on

1 lands where the department of natural resources does not have fire
2 protection responsibility.

3 (3) Permit fees shall be assessed for silvicultural burning under
4 the jurisdiction of the department of natural resources and collected
5 by the department of natural resources as provided for in this section.
6 All fees shall be deposited in the air pollution control account,
7 created in section 239 of this act. The legislature shall appropriate
8 to the department of natural resources funds from the air pollution
9 control account to enforce and administer the program under section 403
10 of this act and RCW 70.94.660, 70.94.670, and 70.94.690. Fees shall be
11 set by rule by the department of natural resources at the level
12 necessary to cover the costs of the program after receiving
13 recommendations on such fees from the forest fire advisory board
14 established by RCW 76.04.145."

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

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

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

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

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

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

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

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

18 "NEW SECTION. **Sec. 407.** A new section is added to chapter 70.94
19 RCW to read as follows:

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

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

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

5 ~~((1))~~ (a) weed abatement,

6 ~~((2))~~ (b) instruction in methods of fire fighting (except forest
7 fires), or

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

1 for a permit to set fires in the course of agricultural burning for
2 controlling diseases, insects, ~~((and))~~ weed abatement or development of
3 physiological conditions conducive to increased crop yield, shall be
4 ~~((granted))~~ acted upon within ~~((fourteen))~~ seven days from the date
5 such application is filed~~((: PROVIDED, That nothing herein shall~~
6 ~~prevent a householder from setting fire in the course of burning~~
7 ~~leaves, clippings or trash when otherwise permitted locally. Nothing~~
8 ~~contained herein shall prohibit Indian campfires or the sending of~~
9 ~~smoke signals if part of a religious ritual))~~.

10 (2) Except as provided in RCW 70.94.780 permit fees shall be
11 assessed for outdoor burning under this section and shall be collected
12 by the department of ecology or the appropriate local air authority at
13 the time the permit is issued. All fees collected shall be deposited
14 in the air pollution control account created in section 239 of this
15 act. Fees shall be set by rule by the permitting agency at the level
16 determined by the task force created by subsection (4) of this section,
17 but shall not exceed two dollars and fifty cents per acre to be burned.
18 After fees are established by rule, any increases in such fees shall be
19 limited to annual inflation adjustments as determined by the state
20 office of the economic and revenue forecast council.

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

27 (4) An agricultural burning practices and research task force shall
28 be established under the direction of the department. The task force
29 shall be composed of a representative from the department who shall
30 serve as chair; one representative of eastern Washington local air

1 authorities; three representatives of the agricultural community from
2 different agricultural pursuits; one representative of the department
3 of agriculture; two representatives from universities or colleges
4 knowledgeable in agricultural issues; one representative of the public
5 health or medical community; and one representative of the conservation
6 districts. The task force shall identify best management practices for
7 reducing air contaminant emissions from agricultural activities and
8 provide such information to the department and local air authorities.
9 The task force shall determine the level of fees to be assessed by the
10 permitting agency pursuant to subsection (2) of this section, based
11 upon the level necessary to cover the costs of administering and
12 enforcing the permit programs, to provide funds for research into
13 alternative methods to reduce emissions from such burning, and to the
14 extent possible be consistent with fees charged for such burning
15 permits in neighboring states. The fee level shall provide, to the
16 extent possible, for lesser fees for permittees who use best management
17 practices to minimize air contaminant emissions. The task force shall
18 identify research needs related to minimizing emissions from
19 agricultural burning and alternatives to such burning. Further, the
20 task force shall make recommendations to the department on priorities
21 for spending funds provided through this chapter for research into
22 alternative methods to reduce emissions from agricultural burning."

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

25 Whenever the department of ecology shall find that any fire
26 protection agency, county, or conservation district which is outside
27 the jurisdictional boundaries of an activated air pollution control
28 authority is capable of effectively administering the issuance and
29 enforcement of permits for any or all of the kinds of burning

1 identified in RCW 70.94.650 (~~((1) and (3))~~) and desirous of doing so,
2 the department of ecology may delegate (~~(all)~~) powers necessary for the
3 issuance (~~(and)~~) or enforcement, or both, of permits for any or all of
4 the kinds of burning to the fire protection agency, county(~~(: PROVIDED,~~
5 ~~That))~~), or conservation district. Such delegation may be withdrawn by
6 the department of ecology upon ((a)) its finding that the fire
7 protection agency, county, or conservation district is not effectively
8 administering the permit program."

9 "Sec. 410. RCW 70.94.775 and 1974 ex.s. c 164 s 1 are each amended
10 to read as follows:

11 No person shall cause or allow any outdoor fire:

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

18 (2) During a forecast, alert, warning or emergency condition as
19 defined in RCW 70.94.715 or impaired air quality condition as defined
20 in RCW 70.94.473;

21 (3) In any area which has been designated by the department of
22 ecology or board of an activated authority as an area exceeding or
23 threatening to exceed state or federal ambient air quality standards(~~(~~
24 ~~or after July 1, 1976, state ambient air quality goals for~~
25 particulates)), except instructional fires permitted by RCW
26 70.94.650(2)."

27 "Sec. 411. RCW 70.94.780 and 1973 1st ex.s. c 193 s 10 are each
28 amended to read as follows:

1 In addition to any other powers granted to them by law, the fire
2 protection agency (~~authorized to issue~~), county, or conservation
3 district issuing burning permits (~~may~~) shall regulate or prohibit
4 outdoor burning (~~in order~~) as necessary to prevent or abate the
5 nuisances caused by such burning. No fire protection agency, county,
6 or conservation district may issue a burning permit in an area where
7 the department or local board has declared any stage of impaired air
8 quality per RCW 70.94.473 or any stage of an air pollution episode.
9 All burning permits issued shall be subject to all applicable fee,
10 permitting, penalty, and enforcement provisions of this chapter. The
11 permitted burning shall not cause damage to public health or the
12 environment.

13 Any entity issuing a permit under this section may charge a fee at
14 the level necessary to recover the costs of administering and enforcing
15 the permit program."

16 "Sec. 412. RCW 70.94.750 and 1972 ex.s. c 136 s 3 are each amended
17 to read as follows:

18 The following outdoor fires described in this section may be burned
19 subject to the provisions of (~~the program established pursuant to RCW~~
20 ~~70.94.755 for any area~~) this chapter and also subject to city
21 ordinances, county resolutions, (~~and~~) rules (~~and regulations~~) of
22 fire districts and laws, and rules (~~and regulations~~) enforced by the
23 department of natural resources if a permit has been issued by a fire
24 protection agency, county, or conservation district:

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

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

7 "V.

8 WOODSTOVES AND FIREPLACES"

9 "Sec. 501. RCW 70.94.457 and 1987 c 405 s 4 are each amended to
10 read as follows:

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

13 (1) State-wide emission performance standards for new (~~wood~~
14 ~~stoves~~) solid fuel burning devices. Notwithstanding any other
15 provision of this chapter which allows an authority to adopt more
16 stringent emission standards, no authority shall adopt any emission
17 standard for new (~~wood stoves~~) solid fuel burning devices other than
18 the state-wide standard adopted by the department under this section.

19 (a) (~~For new wood stoves sold after July 1, 1988, the state-wide~~
20 ~~performance standard, by rule, shall be the equivalent of and~~
21 ~~consistent with state-wide emission standards in effect in bordering~~
22 ~~states on or before January 1, 1987. For solid fuel burning devices~~
23 ~~for which bordering states have not established emission standards, the~~
24 ~~department may temporarily exempt or establish, by rule, state-wide~~
25 ~~standards including emission levels and test procedures for such~~
26 ~~devices and such emission levels and test procedures shall be~~
27 ~~equivalent to emission levels per pound per hour burned for other new~~
28 ~~wood stoves regulated by this subsection)) After January 1, 1995, no~~

1 solid fuel burning device shall be offered for sale that has
2 particulate air contaminant emissions exceeding four and one-half grams
3 per hour, except that catalytic wood stoves shall not have contaminant
4 emissions exceeding two and one-half grams per hour. The appropriate
5 standing committees of the legislature shall review the standard under
6 this subsection (a) during the regular session beginning in January
7 1998.

8 (b) If the United States environmental protection agency adopts
9 emission standards for solid fuel burning devices after January 1,
10 1991, then the department shall adopt, by rule, emission limits
11 equivalent to those provided by (a) of this subsection by using the
12 same testing methodology adopted after January 1, 1991, by the United
13 States environmental protection agency for new solid fuel burning
14 devices. The emission limits adopted by the department shall not
15 exceed the emission limits adopted after January 1, 1991, by the United
16 States environmental protection agency. For purposes of this
17 subsection, "equivalent" shall mean the emissions limits specified in
18 (a) of this subsection multiplied by a statistically reliable
19 conversion factor determined by the department which compares the
20 difference between the emission test methodology established by the
21 United States environmental protection agency prior to January 1, 1991,
22 with the test methodology established by the agency after January 1,
23 1991.

24 (c) After January 1, 1997, no fireplace, except masonry fireplaces
25 and factory-built fireplaces, shall be offered for sale unless such
26 fireplace meets the 1990 United States environmental protection agency
27 standards for wood stoves or equivalent standard which may be
28 established by the legislature pursuant to recommendations by the
29 fireplace advisory committee.

1 (d) Subsection (1)(a) of this section shall not apply to
2 fireplaces.

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

13 (2) A program to:

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

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

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

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

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

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

28 ~~(c) After July 1, 1990, a)~~ (a) a state-wide opacity level of
29 twenty percent for residential solid fuel burning devices for the

1 purpose of enforcement on a complaint basis and (b) a state-wide
2 opacity of ten percent for purposes of public education.

3 (2) Notwithstanding any other provision of this chapter which may
4 allow an authority to adopt a more stringent opacity level, no
5 authority shall adopt or enforce an opacity level((:

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

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

9 "NEW SECTION. Sec. 503. A new section is added to chapter 70.94
10 RCW to read as follows:

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

17 (1) By July 1, 1992, the state building code council shall adopt
18 rules requiring an adequate source of heat other than woodstoves in all
19 new and substantially remodeled residential and commercial
20 construction. This rule shall apply (a) to areas designated by a
21 county to be an urban growth area under chapter 36.70A RCW; and (b) to
22 areas designated by the environmental protection agency as being in
23 nonattainment for particulate matter.

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

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

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

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

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

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

1 phase II, the United States environmental protection agency, or
2 certified by the department under RCW 70.94.457, or a pellet stove
3 either certified or issued an exemption by the United States
4 environmental protection agency in accordance with Title 40, Part 60 of
5 the code of federal regulations if such wood stoves are operated in the
6 unincorporated area of a county that has not been designated as an
7 urban growth area under chapter 36.70A RCW.

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

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

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

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

1 under RCW 70.94.480 and for enforcement of the wood stove program, and
2 shall be subject to legislative appropriation.

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

21 "NEW SECTION. Sec. 506. A new section is added to chapter 70.94
22 RCW to read as follows:

23 (1) A fireplace advisory committee is established for the purposes
24 of:

25 (a) Recommending fireplace emission standards either equivalent or
26 more stringent than federal standards;

27 (b) Educating the public on proper installation and maintenance of
28 zero-clearance and masonry fireplaces;

1 (c) Developing public information activities on how to reduce
2 emissions through proper use of fireplaces.

3 (2) The advisory committee shall include the following
4 representatives:

5 (a) One representative from the house of representatives
6 environmental affairs committee appointed by the speaker of the house
7 of representatives and one representative from the senate environment
8 and natural resources committee to be appointed by the president of the
9 senate;

10 (b) One representative each from the following state agencies
11 appointed by their directors: The departments of ecology and health
12 and the state energy office;

13 (c) A representative from a local air pollution control authority;

14 (d) One representative each from the masonry fireplace builders and
15 the zero-clearance fireplace manufacturers; and

16 (e) One representative each from an environmental organization and
17 public health interest organizations.

18 (3) Advisory committee representatives from subsection (2) (c),
19 (d), and (e) of this section shall be appointed by the director of the
20 department of ecology.

21 (4) The advisory committee shall be administered by the department
22 of ecology. The committee shall submit a report to the appropriate
23 committees of the legislature on or before January 1, 1994.

24 (5) This section shall expire January 1, 1994."

25 "**Sec. 507.** RCW 70.94.041 and 1983 c 3 s 175 are each amended to
26 read as follows:

27 Except as otherwise provided in this section, any building or
28 structure listed on the national register of historic sites,
29 structures, or buildings established pursuant to 80 Stat. 915, 16

1 U.S.C. Sec. 470a, or on the state register established pursuant to RCW
2 ((~~43.51A.080~~)) 27.34.220, shall be permitted to burn wood as it would
3 have when it was a functioning facility as an authorized exception to
4 the provisions of this chapter. Such burning of wood shall not be
5 exempted from the provisions of RCW 70.94.710 through 70.94.730."

6 "Sec. 508. RCW 70.94.656 and 1990 c 113 s 1 are each amended to
7 read as follows:

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

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

1 That whenever the department of ecology shall conclude that sufficient
2 reasonably available alternates to open burning have been developed,
3 and at such time as all costs of any studies have been paid, the grass
4 seed burning research account shall be dissolved, and any money
5 remaining therein shall revert to the general fund.

6 The fee collected under this subsection shall constitute the
7 research portion of fees required under RCW 70.94.650 for open burning
8 of grass grown for seed.

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

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

23 (4) Permits issued for burning of field and turf grasses may be
24 conditioned to minimize emissions insofar as practical, including
25 denial of permission to burn during periods of adverse meteorological
26 conditions."

27 "NEW SECTION. Sec. 509. A new section is added to chapter 70.94
28 RCW to read as follows:

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

3 (a) Encourage persons with wood stoves not meeting the requirements
4 of RCW 70.94.457 or United States environmental protection agency
5 certificate requirements to remove such wood stoves and install a less
6 polluting certified wood stove or other source of heat; and

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

9 (2) The task force shall be appointed by the speaker of the house
10 of representatives and the president of the senate and shall consist
11 of:

12 (a) Two members from the house of representatives committee on
13 environmental affairs;

14 (b) Two members from the senate committee on environment and
15 natural resources;

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

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

19 (3) In developing recommendations, the task force shall consult
20 with representatives from the department of ecology, local air
21 authorities, wood stove dealers, wood stove manufacturers, public and
22 investor owned utilities, citizen organizations, environmental
23 organizations, and public health organizations.

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

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

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

1 (c) Prevent fraud or abuse of the programs developed under this
2 section; and

3 (d) Develop emissions' data collection and monitoring systems.

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

6 "VI.

7 GLOBAL WARMING AND OZONE DEPLETION"

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

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

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

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

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

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

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

25 (2) A person who services or repairs or disposes of a motor vehicle
26 air conditioning system; commercial or industrial air conditioning,
27 heating, or refrigeration system; or consumer appliance shall use

1 refrigerant extraction equipment to recover regulated refrigerant that
2 would otherwise be released into the atmosphere. This subsection does
3 not apply to off-road commercial equipment.

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

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

9 "NEW SECTION. Sec. 603. A new section is added to chapter 70.94
10 RCW to read as follows:

11 No person may sell, offer for sale, or purchase any of the
12 following:

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

21 (2) Nonessential consumer products that contain chlorofluorocarbons
22 or other ozone-depleting chemicals, and for which substitutes are
23 readily available. Products affected under this subsection shall
24 include, but are not limited to, party streamers, tire inflators, air
25 horns, noise makers, and chlorofluorocarbon-containing cleaning sprays
26 designed for noncommercial or nonindustrial cleaning of electronic or
27 photographic equipment."

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

3 (4) The boards of those authorities designated as activated
4 authorities by this chapter shall be comprised of such appointees
5 and/or county commissioners or other officers as is provided in RCW
6 70.94.100. ~~((The first meeting of the boards of those authorities
7 designated as activated authorities by this chapter shall be on or
8 before sixty days after June 8, 1967.~~

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

12 ~~(a) The natural climatic and topographic features affecting the
13 potential for buildup of air contaminant concentrations.~~

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

16 ~~(c) The county boundaries as related to the air pollution regions
17 and the practicality of administering air pollution control
18 programs.))"~~

19 "NEW SECTION. Sec. 702. A new section is added to chapter 70.94
20 RCW to read as follows:

21 (1) Any county of the first class in which seventy-five percent or
22 more of its boundary lies on water and not land, and that is a part of
23 a multicounty authority pursuant to RCW 70.94.053, shall be subject to
24 the requirements of this section. After January 1, 1992, any such
25 county shall operate an individual county air pollution control
26 authority under this chapter, unless prior to such date, the
27 legislative authority of such county determines to take one of the
28 following actions:

1 (a) To continue its participation in an existing multicounty
2 authority;

3 (b) To join another existing multicounty authority by consent of
4 the governing board of such authority; or

5 (c) To join with one or more contiguous counties to operate as a
6 new multicounty authority, pursuant to the procedures of RCW 70.94.057.

7 (2) Prior to making a determination under subsection (1) of this
8 section the county shall obtain public comment through hearings and
9 written comments.

10 (3) Where a county subject to the requirements of this section does
11 not elect to participate in a multicounty authority after January 1,
12 1992, the rules adopted by a multicounty authority in effect within
13 such county shall remain in effect until superseded by the adoption of
14 rules, resolutions, or ordinances by the county acting as an individual
15 county authority under this chapter, but in no event shall such rules
16 remain in effect after July 1, 1992."

17 "Sec. 703. RCW 70.94.055 and 1967 c 238 s 5 are each amended to
18 read as follows:

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

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

26 (2) The city or town ordinances, or county resolutions, or their
27 enforcement, are inadequate to prevent or control air pollution, they
28 (~~shall~~) may by resolution activate an air pollution control authority

1 or combine with a contiguous county or counties to form a multicounty
2 air pollution control authority."

3 "Sec. 704. RCW 70.94.092 and 1975 1st ex.s. c 106 s 1 are each
4 amended to read as follows:

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

26 "Sec. 705. RCW 70.94.100 and 1989 c 150 s 1 are each amended to
27 read as follows:

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

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

28 (3) If the board of an authority otherwise would consist of an even
29 number, the members selected as above provided shall agree upon and
30 elect an additional member who shall be either a member of the

1 governing body of one of the towns, cities or counties comprising the
2 authority, or a private citizen residing in the authority. (~~All board~~
3 ~~members shall hold office at the pleasure of the appointing body.~~)

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

5 (5) Wherever a member of a board has a potential conflict of
6 interest in an action before the board, the member shall declare to the
7 board the nature of the potential conflict prior to participating in
8 the action review. The board shall, if the potential conflict of
9 interest, in the judgment of a majority of the board, may prevent the
10 member from a fair and objective review of the case, remove the member
11 from participation in the action."

12 "Sec. 706. RCW 70.94.130 and 1969 ex.s. c 168 s 15 are each
13 amended to read as follows:

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

1 duties under this chapter, plus the actual and necessary expenses
2 incurred by ((him)) the member in such performance. The board may
3 appoint ((~~an executive director~~)) a control officer, and any other
4 personnel, and shall determine their salaries, and pay same, together
5 with any other proper indebtedness, from authority funds."

6 "Sec. 707. RCW 70.94.141 and 1970 ex.s. c 62 s 56 are each amended
7 to read as follows:

8 The board of any activated authority in addition to any other
9 powers vested in them by law, shall have power to:

10 (1) Adopt, amend and repeal its own ((~~ordinances, resolutions, or~~))
11 rules and regulations, ((~~as the case may be,~~)) implementing this
12 chapter and consistent with it, after consideration at a public hearing
13 held in accordance with chapter ((~~42.32~~)) 42.30 RCW. Rules and
14 regulations shall also be adopted in accordance with the notice and
15 adoption procedures set forth in RCW 34.05.320, those provisions of RCW
16 34.05.325 that are not in conflict with chapter 42.30 RCW, and with the
17 procedures of RCW 34.05.340, 34.05.355 through 34.05.380, and with
18 chapter 34.08 RCW, except that rules shall not be published in the
19 Washington Administrative Code. Judicial review of rules adopted by an
20 authority shall be in accordance with Part V of chapter 34.05 RCW. An
21 air pollution control authority shall not be deemed to be a state
22 agency.

23 (2) Hold hearings relating to any aspect of or matter in the
24 administration of this chapter not prohibited by the provisions of
25 chapter 62, Laws of 1970 ex. sess. and in connection therewith issue
26 subpoenas to compel the attendance of witnesses and the production of
27 evidence, administer oaths and take the testimony of any person under
28 oath.

1 (3) Issue such orders as may be necessary to effectuate the
2 purposes of this chapter and enforce the same by all appropriate
3 administrative and judicial proceedings subject to the rights of appeal
4 as provided in chapter 62, Laws of 1970 ex. sess.

5 (4) Require access to records, books, files and other information
6 specific to the control, recovery or release of air contaminants into
7 the atmosphere.

8 (5) Secure necessary scientific, technical, administrative and
9 operational services, including laboratory facilities, by contract or
10 otherwise.

11 (6) Prepare and develop a comprehensive plan or plans for the
12 prevention, abatement and control of air pollution within its
13 jurisdiction.

14 (7) Encourage voluntary cooperation by persons or affected groups
15 to achieve the purposes of this chapter.

16 (8) Encourage and conduct studies, investigation and research
17 relating to air pollution and its causes, effects, prevention,
18 abatement and control.

19 (9) Collect and disseminate information and conduct educational and
20 training programs relating to air pollution.

21 (10) Advise, consult, cooperate and contract with agencies and
22 departments and the educational institutions of the state, other
23 political subdivisions, industries, other states, interstate or
24 interlocal agencies, and the United States government, and with
25 interested persons or groups.

26 (11) Consult, upon request, with any person proposing to construct,
27 install, or otherwise acquire an air contaminant source or device or
28 system for the control thereof, concerning the efficacy of such device
29 or system, or the air pollution problems which may be related to the
30 source, device or system. Nothing in any such consultation shall be

1 construed to relieve any person from compliance with this chapter,
2 ordinances, resolutions, rules and regulations in force pursuant
3 thereto, or any other provision of law.

4 (12) Accept, receive, disburse and administer grants or other funds
5 or gifts from any source, including public and private agencies and the
6 United States government for the purpose of carrying out any of the
7 functions of this chapter."

8 "Sec. 708. RCW 70.94.170 and 1969 ex.s. c 168 s 21 are each
9 amended to read as follows:

10 Any activated authority which has adopted an ordinance, resolution,
11 or valid rules and regulations as provided herein for the control and
12 prevention of air pollution shall appoint a full time control officer,
13 ((who)) whose sole responsibility shall be to observe and enforce the
14 provisions of this chapter and all orders, ordinances, resolutions, or
15 rules and regulations of such activated authority pertaining to the
16 control and prevention of air pollution."

17 "Sec. 709. RCW 70.94.231 and 1969 ex.s. c 168 s 29 are each
18 amended to read as follows:

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

1 **"Sec. 710.** RCW 70.94.240 and 1969 ex.s. c 168 s 30 are each
2 amended to read as follows:

3 The board of any authority (~~shall~~) may appoint an air pollution
4 control advisory council to advise and consult with such board, and the
5 control officer in effectuating the purposes of this chapter. The
6 council shall consist of at least five appointed members who are
7 residents of the authority and who are preferably skilled and
8 experienced in the field of air pollution control, (~~two~~) chemistry,
9 meteorology, public health, or a related field, at least one of whom
10 shall serve as a representative(~~s~~) of industry and one of whom shall
11 serve as a representative of the environmental community. The
12 (~~chairman~~) chair of the board of any such authority shall serve as ex
13 officio member of the council and be its (~~chairman~~) chair. Each
14 member of the council shall receive from the authority per diem and
15 travel expenses in an amount not to exceed that provided for the state
16 board in this chapter (but not to exceed one thousand dollars per year)
17 for each full day spent in the performance of his or her duties under
18 this chapter."

19 **"Sec. 711.** RCW 70.94.331 and 1988 c 106 s 1 are each amended to
20 read as follows:

21 (1) The department shall have all the powers as provided in RCW
22 70.94.141.

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

26 (a) Adopt rules (~~and regulations~~) establishing air quality
27 objectives and air quality standards;

28 (b) Adopt emission standards which shall constitute minimum
29 emission standards throughout the state. An authority may enact more

1 stringent emission standards, except for emission performance standards
2 for new wood stoves and opacity levels for residential solid fuel
3 burning devices which shall be state-wide, but in no event may less
4 stringent standards be enacted by an authority without the prior
5 approval of the department after public hearing and due notice to
6 interested parties;

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

1 the acceptability of the alternate opacity standard, including testing,
2 oversight and review of data.

3 (3) The air quality standards and emission standards may be for the
4 state as a whole or may vary from area to area or source to source,
5 except that emission performance standards for new wood stoves and
6 opacity levels for residential solid fuel burning devices shall be
7 state-wide, as may be appropriate to facilitate the accomplishment of
8 the objectives of this chapter and to take necessary or desirable
9 account of varying local conditions of population concentration, the
10 existence of actual or ((reasonable)) reasonably foreseeable air
11 pollution, topographic and meteorologic conditions and other pertinent
12 variables.

13 (4) The department is directed to cooperate with the appropriate
14 agencies of the United States or other states or any interstate
15 agencies or international agencies with respect to the control of air
16 pollution and air contamination, or for the formulation for the
17 submission to the legislature of interstate air pollution control
18 compacts or agreements.

19 (5) The department is directed to conduct or cause to be conducted
20 a continuous surveillance program to monitor the quality of the ambient
21 atmosphere as to concentrations and movements of air contaminants and
22 conduct or cause to be conducted a program to determine the quantity of
23 emissions to the atmosphere.

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

28 (7) The department shall encourage local units of government to
29 handle air pollution problems within their respective jurisdictions;

1 and, on a cooperative basis provide technical and consultative
2 assistance therefor.

3 (8) The department shall have the power to require the addition to
4 or deletion of a county or counties from an existing authority in order
5 to carry out the purposes of this chapter(~~(:—PROVIDED, HOWEVER,~~
6 ~~That))~~). No such addition or deletion shall be made without the
7 concurrence of any existing authority involved. Such action shall only
8 be taken after a public hearing held pursuant to the provisions of
9 chapter 34.05 RCW.

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

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

22 "Sec. 712. RCW 70.94.332 and 1987 c 109 s 18 are each amended to
23 read as follows:

24 (~~Whenever the department of ecology has reason to believe that any~~
25 ~~provision of this chapter or any rule or regulation adopted by it or~~
26 ~~being enforced by it under RCW 70.94.410 relating to the control or~~
27 ~~prevention of air pollution has been violated, it may)) At least thirty
28 days prior to the commencement of any formal enforcement action under
29 RCW 70.94.430 and 70.94.431, the department of ecology shall cause~~

1 written notice to be served upon the alleged violator or violators.
2 The notice shall specify the provision of this chapter or the rule or
3 regulation alleged to be violated, and the facts alleged to constitute
4 a violation thereof, and may include an order that necessary corrective
5 action be taken within a reasonable time. In lieu of an order, the
6 department may require that the alleged violator or violators appear
7 before it for the purpose of providing the department information
8 pertaining to the violation or the charges complained of. (~~In~~
9 ~~addition to or in place of an order or hearing, the department may~~
10 ~~initiate action pursuant to RCW 70.94.425, 70.94.430, and 70.94.435))
11 Every notice of violation shall offer to the alleged violator an
12 opportunity to meet with the department prior to the commencement of
13 enforcement action."~~

14 "Sec. 713. RCW 70.94.385 and 1987 c 109 s 41 are each amended to
15 read as follows:

16 (1) Any authority may apply to the department for state financial
17 aid. The department shall (~~by rule and regulation~~) annually
18 establish the (~~ratio~~) amount of state funds (~~to~~) available for the
19 local (~~funds~~) authorities taking into consideration available federal
20 and state funds. The establishment of funding amounts shall be
21 consistent with federal requirements and local maintenance of effort
22 necessary to carry out the provisions of this chapter. Any such aid
23 shall be expended from the general fund or from (~~such~~) other
24 appropriations as the legislature may provide for this purpose:
25 PROVIDED, That federal funds shall be utilized to the maximum unless
26 otherwise approved by the department: PROVIDED FURTHER, That the
27 (~~ratio~~) amount of state funds provided to local (~~funds of~~)
28 authorities during the previous year shall not be (~~changed~~) reduced
29 without a public notice or public hearing held by the department if

1 requested by the affected local authority, unless such changes are the
2 direct result of a reduction in the available federal funds for air
3 pollution control programs.

4 (2) Before any such application is approved and financial aid is
5 given or approved by the department, the authority shall demonstrate to
6 the satisfaction of the department that it is fulfilling the
7 requirements of ~~((RCW 70.94.380, or,))~~ this chapter. If the department
8 has not adopted ambient air quality standards and objectives as
9 permitted by RCW 70.94.331, the authority shall demonstrate to the
10 satisfaction of the department that it is acting in good faith and
11 doing all that is possible and reasonable to control and prevent air
12 pollution within its jurisdictional boundaries and to carry out the
13 purposes of this chapter.

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

19 "Sec. 714. RCW 70.94.395 and 1987 c 109 s 43 are each amended to
20 read as follows:

21 If the department finds, after public hearing upon due notice to
22 all interested parties, that the emissions from a particular type or
23 class of air contaminant source should be regulated on a state-wide
24 basis in the public interest and for the protection of the welfare of
25 the citizens of the state, it may adopt and enforce rules ~~((and~~
26 ~~regulations))~~ to control and/or prevent the emission of air
27 contaminants from such source~~((:—PROVIDED, That))~~. An authority may,
28 after public hearing and a finding by the board of a need for more
29 stringent rules ~~((and regulations))~~ than those adopted by the

1 department under this section, propose the adoption of such rules ((and
2 ~~regulations~~)) by the department for the control of emissions from the
3 particular type or class ((or)) of air contaminant source within the
4 geographical area of the authority. The department shall hold a public
5 hearing and shall adopt the proposed rules ((and ~~regulations~~)) within
6 the area of the requesting authority, unless it finds that the proposed
7 rules ((and ~~regulations~~)) are inconsistent with the rules ((and
8 ~~regulations~~)) adopted by the department under this section((:
9 ~~PROVIDED, FURTHER, That~~)). When such standards are adopted by the
10 department it shall delegate solely to the requesting authority all
11 powers necessary for their enforcement at the request of the
12 authority((:
13 ~~PROVIDED, That the department may delegate the~~
14 ~~responsibility for the enforcement of such rules and regulations to any~~
15 ~~authority which it deems capable of enforcing such regulations:~~
16 ~~PROVIDED FURTHER, That~~)). If after public hearing the department finds
17 that the regulation on a state-wide basis of a particular type ((or))
18 or class of air contaminant source is no longer required for the public
19 interest and the protection of the welfare of the citizens of the
20 state, the department may relinquish exclusive jurisdiction over such
source."

21 "Sec. 715. RCW 70.94.405 and 1987 c 109 s 45 are each amended to
22 read as follows:

23 At any time after an authority has been activated for no less than
24 one year, the department may, on its own motion, conduct a hearing held
25 in accordance with chapters 42.30 ((RCW)) and ((chapter)) 34.05 RCW,
26 ((as now or hereafter amended)) to determine whether or not the air
27 pollution prevention and control program of such authority is being
28 carried out in good faith and is as effective as possible ((under the
29 circumstances)). If at such hearing the department finds that such

1 authority is not carrying out its air pollution control or prevention
2 program in good faith, ~~((or))~~ is not doing all that is possible and
3 reasonable to control and/or prevent air pollution within the
4 geographical area over which it has jurisdiction, or is not carrying
5 out the provisions of this chapter, it shall set forth in a report or
6 order to the appropriate authority: (1) Its recommendations as to how
7 air pollution prevention and/or control might be more effectively
8 accomplished; and (2) guidelines which will assist the authority in
9 carrying out the recommendations of the department."

10 "Sec. 716. RCW 70.94.410 and 1987 c 109 s 46 are each amended to
11 read as follows:

12 (1) If, after thirty days from the time that the department issues
13 a report or order to an authority under RCW 70.94.400 and 70.94.405,
14 such authority has not taken ~~((any))~~ action which indicates that it is
15 attempting in good faith to implement the recommendations or actions of
16 the department as set forth in the report or order, the department may,
17 by order, declare as null and void any or all ordinances, resolutions,
18 rules or regulations of such authority relating to the control and/or
19 prevention of air pollution, and at such time the department shall
20 become the sole body with authority to make and enforce rules and
21 regulations for the control and/or prevention of air pollution within
22 the geographical area of such authority. ~~((In))~~ If this ~~((connection))~~
23 occurs, the department may assume all those powers which are given to
24 it by law to effectuate the purposes of this chapter. The department
25 may, by order, continue in effect and enforce ~~((those))~~ provisions of
26 the ordinances, resolutions, or rules ~~((and regulations))~~ of such
27 authority which are not less stringent than those requirements which
28 the department may have found applicable to the area under RCW
29 70.94.331, until such time as the department adopts its own rules ~~((and~~

1 ~~regulations~~)). Any rules ~~((and regulations))~~ promulgated by the
2 department shall be subject to the provisions of chapter 34.05 RCW ~~((as
3 it now appears or may hereinafter be amended))~~. Any enforcement actions
4 shall be subject to RCW 43.21B.300 or 43.21B.310.

5 (2) No provision of this chapter is intended to prohibit any
6 authority from reestablishing its air pollution control program which
7 meets with the approval of the department and which complies with the
8 purposes of this chapter and with applicable rules ~~((and regulations))~~
9 and orders of the department.

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

24 "Sec. 717. RCW 70.94.420 and 1987 c 109 s 47 are each amended to
25 read as follows:

26 ~~((1))~~ It is declared to be the intent of the legislature of the
27 state of Washington that any state department or agency having
28 jurisdiction over any building, installation, ~~((or))~~ other property, or
29 other activity creating or likely to create significant air pollution

1 shall cooperate with the department and with air pollution control
2 agencies in preventing and/or controlling the pollution of the air in
3 any area insofar as the discharge of ~~((the matter))~~ air contaminants
4 from or by such building, installation, ~~((or))~~ other property, or
5 activity may cause or contribute to pollution of the air in such area.
6 Such state department or agency shall comply with the provisions of
7 this chapter and with any ordinance, resolution, rule or regulation
8 issued hereunder in the same manner as any other person subject to such
9 laws~~((7))~~ or rules ~~((or regulations))~~.

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

1 "NEW SECTION. **Sec. 718.** A new section is added to chapter 90.48
2 RCW to read as follows:

3 (1) The legislature finds that scientifically valid and technically
4 achievable effluent limitations on the pulp and paper industry are
5 necessary for the protection of the waters of the state of Washington.
6 The legislature also finds that the United States environmental
7 protection agency is in the process of developing national effluent
8 guidelines for pulp and paper mills limiting discharge of chlorinated
9 organics. In order to conserve limited economic resources, the
10 legislature finds that the department of ecology should not duplicate
11 ongoing federal efforts.

12 (2) The department shall issue no permit establishing limits for
13 the discharge of chlorinated organic compounds by pulp mills and paper
14 mills under RCW 90.48.160 or 90.48.260 until the United States
15 environmental protection agency issues final effluent guidelines; then
16 the department may issue permits containing chlorinated organics
17 discharge limitations consistent with the national guidelines.

18 (3) Nothing in this section shall apply to dioxin compounds."

19 "NEW SECTION. **Sec. 719.** Sections 602 and 603 of this act shall
20 take effect July 1, 1992. Sections 202 through 209 of this act shall
21 take effect January 1, 1993. Section 210 of this act shall take
22 effect January 1, 1992.

23 The remainder of this act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and shall take
26 effect immediately."

27 "NEW SECTION. **Sec. 720.** The following acts or parts of acts are
28 each repealed:

- 1 (1) RCW 70.120.110 and 1989 c 240 s 7, 1985 c 7 s 131, & 1979 ex.s.
2 c 163 s 12;
- 3 (2) RCW 70.120.140 and 1987 c 505 s 62 & 1980 c 176 s 5;
- 4 (3) RCW 70.120.900 and 1989 c 240 s 9;
- 5 (4) RCW 70.94.232 and 1983 c 3 s 177 & 1967 c 238 s 40;
- 6 (5) RCW 70.94.680 and 1971 ex.s. c 232 s 4;
- 7 (6) RCW 70.94.740 and 1972 ex.s. c 136 s 1;
- 8 (7) RCW 70.94.810 and 1984 c 277 s 3;
- 9 (8) RCW 70.94.815 and 1984 c 277 s 5;
- 10 (9) RCW 70.94.825 and 1984 c 277 s 7; and
- 11 (10) RCW 70.94.870 and 1984 c 164 s 3."

12 "NEW SECTION. **Sec. 721.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected."

16 "NEW SECTION. **Sec. 722.** Captions and headings as used in this act
17 constitute no part of the law."

18 "NEW SECTION. **Sec. 723.** TRANSPORTATION DEMAND MANAGEMENT--NULL
19 AND VOID. If funding for the purposes of sections 220 through 229 of
20 this act is not provided by June 30, 1991, sections 220 through 229 of
21 this act shall be null and void."

22 "NEW SECTION. **Sec. 724.** A new section is added to chapter 70.94
23 RCW to read as follows:

24 This chapter shall be known and may be cited as the clean air
25 Washington act."

1 **ESHB 1028** - S COMM AMD
2 By Committee on Ways & Means

3

4 On page 1, line 2 of the title, after "quality;" strike the
5 remainder of the title and insert "amending RCW 70.94.011, 70.94.030,
6 70.120.010, 70.120.020, 70.120.070, 70.120.080, 70.120.120, 70.120.150,
7 70.120.170, 46.16.015, 82.44.020, 82.44.110, 82.44.150, 82.44.155,
8 82.44.180, 82.50.410, 82.50.510, 70.94.152, 70.94.155, 70.94.181,
9 70.94.205, 70.94.211, 70.94.430, 70.94.431, 70.94.860, 70.94.875,
10 70.94.745, 70.94.660, 70.94.670, 70.94.690, 70.94.650, 70.94.654,
11 70.94.775, 70.94.780, 70.94.750, 70.94.457, 70.94.470, 70.94.473,
12 70.94.483, 70.94.041, 70.94.656, 70.94.055, 70.94.092, 70.94.100,
13 70.94.130, 70.94.141, 70.94.170, 70.94.231, 70.94.240, 70.94.331,
14 70.94.332, 70.94.385, 70.94.395, 70.94.405, 70.94.410, and 70.94.420;
15 reenacting and amending RCW 70.94.053; adding new sections to chapter
16 70.120 RCW; adding a new section to chapter 43.19 RCW; adding new
17 sections to chapter 80.28 RCW; adding new sections to chapter 70.94
18 RCW; adding a new section to chapter 19.112 RCW; adding a new section
19 to chapter 90.48 RCW; adding a new section to chapter 82.50 RCW; adding
20 a new chapter to Title 81 RCW; creating new sections; repealing RCW
21 70.120.110, 70.120.140, 70.120.900, 70.94.232, 70.94.680, 70.94.740,
22 70.94.810, 70.94.815, 70.94.825, and 70.94.870; prescribing penalties;
23 providing effective dates; and declaring an emergency."