

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1028

Chapter 199, Laws of 1991
(partial veto)

52nd Legislature
1991 Regular Session

AIR POLLUTION REDUCTION

EFFECTIVE DATE: 5/15/91 - Except Sections 602 & 603 which become effective on 7/1/92; Sections 202 through 209 which become effective on 1/1/93; & Sections 210 & 505 which become effective on 1/1/92.

Passed by the House March 15, 1991
Yeas Yeas 65 Nays Nays 31

JOE KING
**Speaker of the
House of Representatives**

Passed by the Senate April 19, 1991
Yeas Yeas 31 Nays Nays 15

JOEL PRITCHARD
President of the Senate

Approved May 15, 1991, with
the exception of sections 204
and 507, which are vetoed.

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1028** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 15, 1991 - 2:20 p.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1028

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

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

Read first time March 6, 1991.

1 AN ACT Relating to reducing air contaminant emissions and improving
2 air quality; amending RCW 70.94.011, 70.94.030, 70.120.010, 70.120.020,
3 70.120.070, 70.120.080, 70.120.120, 70.120.150, 70.120.170, 46.16.015,
4 82.44.020, 82.44.110, 82.44.150, 82.44.155, 82.44.180, 82.50.410,
5 82.50.510, 70.94.152, 70.94.155, 70.94.181, 70.94.205, 70.94.211,
6 70.94.430, 70.94.431, 70.94.860, 70.94.875, 70.94.745, 70.94.660,
7 70.94.670, 70.94.690, 70.94.650, 70.94.654, 70.94.775, 70.94.780,
8 70.94.750, 70.94.656, 70.94.457, 70.94.470, 70.94.473, 70.94.483,
9 70.94.041, 70.94.055, 70.94.092, 70.94.100, 70.94.130, 70.94.141,
10 70.94.170, 70.94.231, 70.94.240, 70.94.331, 70.94.332, 70.94.385,
11 70.94.395, 70.94.405, 70.94.410, and 70.94.420; reenacting and amending
12 RCW 70.94.053; adding new sections to chapter 70.120 RCW; adding a new
13 section to chapter 43.19 RCW; adding new sections to chapter 80.28 RCW;
14 adding new sections to chapter 70.94 RCW; adding a new section to
15 chapter 19.112 RCW; adding a new section to chapter 82.50 RCW; creating
16 new sections; repealing RCW 70.120.110, 70.120.140, 70.120.900,
17 70.94.232, 70.94.680, 70.94.740, 70.94.810, 70.94.815, 70.94.825, and

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

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

4 I.

5 PUBLIC POLICY, FINDINGS, AND INTENT

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

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

19 It is the intent of this act that the implementation of programs
20 and regulations to control air pollution shall be the primary
21 responsibility of the department of ecology and local air pollution
22 control authorities.

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

25 It is declared to be the public policy (~~(of the state)~~) to
26 preserve, protect, and enhance the air quality for current and future

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

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

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

29 The legislature recognizes that air pollution control projects may
30 affect other environmental media. In selecting air pollution control

1 strategies state and local agencies shall support those strategies that
2 lessen the negative environmental impact of the project on all
3 environmental media, including air, water, and land.

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

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

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

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

25 In addition, the state is divided into two major areas, each having
26 unique characteristics as to natural climatic and topographic features
27 which may result in the different potentials for the accumulation and
28 buildup of air contaminant concentrations. These two major areas are
29 the area lying west of the Cascade Mountain crest and the area lying
30 east of the Cascade Mountain crest. Within each of these major areas

1 are regions which, because of the climate and topography and present
2 and potential urbanization and industrial development may, through
3 definitive evaluation be classed as regional air pollution areas.))

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

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

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

1 sources whose aggregate emissions constitute a significant contribution
2 to air pollution in a particular region.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ~~(b))~~ a public educational program regarding the health effects of
29 air pollution emitted by motor vehicles; the purpose, operation, and

1 effect of emission control devices and systems; and the effect that
2 proper maintenance of motor vehicle engines has on fuel economy and air
3 pollution emission(~~(+and~~

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

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

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

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

27 (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) Whose vehicle fails a retest, may be issued a certificate of
11 acceptance if (i) the vehicle has been in use for more than five years
12 or fifty thousand miles, and (ii) any component of the vehicle
13 installed by the manufacturer for the purpose of reducing emissions, or
14 its appropriate replacement, is installed and operative.

15 (~~(d)~~) To receive the certificate, the person must document
16 compliance with (b) and (c) of this subsection to the satisfaction of
17 the department.

18 Should any provision of (b) of this subsection be disapproved by
19 the administrator of the United States environmental protection agency,
20 all vehicles shall be required to expend at least four hundred fifty
21 dollars to qualify for a certificate of acceptance.

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:***
30

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.

30 *Sec. 204 was vetoed, see message at end of chapter.

1 **Sec. 205.** RCW 70.120.080 and 1979 ex.s. c 163 s 8 are each amended
2 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 of a licensed
28 vehicle.

29 (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 of a licensed vehicle, for
5 any (~~((year in which the))~~) vehicle that is required to be (~~((tested))~~)
6 inspected under chapter 70.120 RCW, unless the application for issuance
7 or renewal is: (a) Accompanied by a valid certificate of compliance or
8 a valid certificate of acceptance issued pursuant to chapter 70.120
9 RCW; or (b) exempted from this requirement pursuant to subsection (2)
10 of this section. The certificates must have a date of validation which
11 is within (~~((ninety days))~~) six months of the date of application for the
12 vehicle license or license renewal. Certificates for fleet or owner
13 tested diesel vehicles may have a date of validation which is within
14 twelve months of 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 [a dollar amount established under section 203 of this act]
2 for repairs if the vehicle does not meet the vehicle emission standards
3 under this chapter. Unless expressly warranted by the motor vehicle
4 dealer, the dealer is not warranting that this vehicle will pass any
5 emission tests required by 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. In the event that vehicles designed to
12 operate exclusively on clean fuels are not available or would not meet
13 the operational requirements for which a vehicle is to be procured,
14 conventionally powered vehicles may be converted to clean fuel or dual
15 fuel use to meet the requirements of this section.

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

18 (5)(a) Weight classes are established by the following motor
19 vehicle types:

20 (i) Passenger cars;

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

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

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

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

4 NEW SECTION. **Sec. 214.** (1) The state energy office shall
5 convene a school bus compressed natural gas fuel advisory committee.
6 The committee shall be chaired by the director of the state energy
7 office or a designee and the following shall be invited to be members:

8 (a) The superintendent of public instruction or a designee;

9 (b) The director of the department of ecology or a designee;

10 (c) Two members of the house of representatives, one from each
11 caucus, appointed by the speaker of the house;

12 (d) Two members of the senate, one from each caucus, appointed by
13 the president of the senate;

14 (e) Two members representing school districts appointed by the
15 director of the state energy office; and

16 (f) One member representing a natural gas local distribution
17 company.

18 (2) The state energy office shall, with the guidance of the
19 advisory committee, analyze and report on the potential benefits,
20 costs, and safety risks associated with increasing the use of
21 compressed natural gas as fuel for school buses. The report shall
22 address:

23 (a) The anticipated operation and maintenance costs of compressed
24 natural gas school buses in comparison to diesel fuel and gasoline
25 school buses;

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

29 (c) Capital costs, including:

1 (i) The availability and capital cost of retrofitting diesel and
2 gasoline school buses;

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

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

6 (d) Other considerations, including air quality benefits, needed to
7 determine the total costs, problems, and benefits of increasing the use
8 of compressed natural gas as a fuel for school buses. The report shall
9 also evaluate all of the preceding factors as they relate to the use of
10 propane as a fuel for school buses.

11 (3) The state energy office shall submit a report to the
12 appropriations and environmental affairs committees of the house of
13 representatives and the ways and means and environment and natural
14 resources committees of the senate by December 1, 1991. The school bus
15 compressed natural gas fuel advisory committee shall be disbanded when
16 the report is submitted.

17 NEW SECTION. **Sec. 215.** A new section is added to chapter 70.120
18 RCW to read as follows:

19 The department, in cooperation with the departments of general
20 administration and transportation, the utilities and transportation
21 commission, and the state energy office, shall biennially prepare a
22 report to the legislature starting July 1, 1992, on:

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

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

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

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

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

5 The legislature finds that compressed natural gas offers
6 significant potential to reduce vehicle emissions and to significantly
7 decrease dependence on petroleum-based fuels. The legislature also
8 finds that well-developed and convenient refueling systems are
9 imperative if compressed natural gas is to be widely used by the
10 public. The legislature declares that the development of compressed
11 natural gas refueling stations are in the public interest. Nothing in
12 this section and section 217 of this act is intended to alter the
13 regulatory practices of the commission or allow the subsidization of
14 one ratepayer class by another.

15 NEW SECTION. **Sec. 217.** A new section is added to chapter 80.28
16 RCW to read as follows:

17 The commission shall identify barriers to the development of
18 refueling stations for vehicles operating on compressed natural gas,
19 and shall develop policies to remove such barriers. In developing such
20 policies, the commission shall consider providing rate incentives to
21 encourage natural gas companies to invest in the infrastructure
22 required by such refueling stations.

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

25 The department may disburse matching grants from funds provided by
26 the legislature from the air pollution control account, created in
27 section 228 of this act, to units of local government to partially

1 offset the additional cost of purchasing "clean fuel" and/or operating
2 "clean-fuel vehicles" provided that such vehicles are used for public
3 transit. Publicly owned school buses are considered public transit for
4 the purposes of this section. The department may also disburse grants
5 to vocational-technical institutes for the purpose of establishing
6 programs to certify clean-fuel vehicle mechanics. The department may
7 also distribute grants to the state energy office for the purpose of
8 furthering the establishment of clean fuel refueling infrastructure.

9 NEW SECTION. **Sec. 219.** A new section is added to chapter 70.94
10 RCW to read as follows:

11 In areas subject to a state implementation plan, no state agency,
12 metropolitan planning organization, or local government shall approve
13 or fund a transportation plan, program, or project within or that
14 affects a nonattainment area unless a determination has been made that
15 the plan, program, or project conforms with the state implementation
16 plan for air quality as required by the federal clean air act.

17 Conformity determination shall be made by the state or local
18 government or metropolitan planning organization administering or
19 developing the plan, program, or project.

20 No later than eighteen months after the effective date of this
21 section, the director of the department of ecology and the secretary of
22 transportation, in consultation with other state, regional, and local
23 agencies as appropriate, shall adopt by rule criteria and guidance for
24 demonstrating and assuring conformity of plans, programs, and projects
25 that are wholly or partially federally funded.

26 A project with a scope that is limited to preservation or
27 maintenance, or both, shall be exempted from a conformity determination
28 requirement.

1 **Sec. 220.** RCW 82.44.020 and 1990 c 42 s 302 are each amended to
2 read as follows:

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

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

12 (3) Effective with October 1992 motor vehicle registration
13 expirations, a clean air excise tax is imposed in addition to any other
14 tax imposed by this section for the privilege of using in the state any
15 motor vehicle as defined in RCW 82.44.010, except that farm vehicles as
16 defined in RCW 46.04.181 shall not be subject to the tax imposed by
17 this subsection. The annual amount of the additional excise tax shall
18 be two dollars and twenty-five cents. Effective with July 1994 motor
19 vehicle registration expirations, the annual amount of additional
20 excise tax shall be two dollars.

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

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

1 **Sec. 221.** RCW 82.44.110 and 1990 2nd ex.s. c 1 s 801 are each
2 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) The state treasurer shall deposit the excise tax imposed by RCW
10 82.44.020(3) into the air pollution control account created by section
11 228 of this act.

12 **Sec. 222.** RCW 82.44.150 and 1990 c 42 s 308 are each amended to
13 read as follows:

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

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

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

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

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

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

1 the excise tax imposed under RCW 35.58.273, budgeted for any public
2 transportation purpose. Before this deposit, the sum shall be reduced
3 by an amount equal to the amount distributed under (a) of this
4 subsection for each of the municipalities within the counties to which
5 this subsection (2)(b) applies; however, any transfer under this
6 subsection (2)(b) must be greater than zero;

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

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

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

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

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

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

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

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

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

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

22 **Sec. 223.** RCW 82.44.155 and 1990 c 42 s 309 are each amended to
23 read as follows:

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

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

9 **Sec. 224.** RCW 82.44.180 and 1990 c 42 s 312 are each amended to
10 read as follows:

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

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

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

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

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

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

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

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

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

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

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

13 **Sec. 225.** RCW 82.50.410 and 1990 c 42 s 321 are each amended to
14 read as follows:

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

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

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

9 NEW SECTION. **Sec. 226.** A new section is added to chapter 82.50
10 RCW to read as follows:

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

1 shall be deposited in the air pollution control account created by
2 section 228 of this act.

3 **Sec. 227.** RCW 82.50.510 and 1990 c 42 s 322 are each amended to
4 read as follows:

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

19 NEW SECTION. **Sec. 228.** (1) The air pollution control account
20 is established in the state treasury. All receipts from RCW 70.94.650,
21 70.94.660, 82.44.020(3), and section 226 of this act shall be deposited
22 into the account. Moneys in the account may be spent only after
23 appropriation. Expenditures from the account may be used only to
24 develop and implement the provisions of this act and chapters 70.94 and
25 70.120 RCW.

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

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

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

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

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

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

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

23 NEW SECTION. **Sec. 229.** A new section is added to chapter 70.120
24 RCW to read as follows:

25 (1) It is the intent of the legislature that the state take
26 advantage of the best emission control systems available on new motor
27 vehicles. The department shall conduct a study to determine if
28 requiring new vehicles sold in the state to meet California vehicle
29 emission standards will provide a significant benefit to attainment of

1 ambient air quality standards in this state. The department shall
2 report the findings of its study and its recommendations to the
3 appropriate standing committees of the legislature. The department
4 shall not adopt the California vehicle emission standards unless
5 authorized by the legislature.

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

9 NEW SECTION. **Sec. 230.** The department of ecology shall
10 contract with Western Washington University for the biennium ending
11 June 30, 1993, for research and development of alternative fuel and
12 solar powered vehicles. A report on the progress of such research
13 shall be presented to the standing environmental committees and the
14 department by January 1, 1994.

15 NEW SECTION. **Sec. 231.** A new section is added to chapter 19.112
16 RCW to read as follows:

17 The directors of the departments of ecology and agriculture may
18 grant a variance from ASTM motor fuel specifications if necessary to
19 produce lower emission motor fuels.

20 III.

21 INDUSTRIAL AND COMMERCIAL SOURCES

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

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

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

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

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

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

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

15 (b) "Best available control technology" (BACT) means technology
16 that will result in an emission limitation, including a visible
17 emission standard, based on the maximum degree of reduction for each
18 air pollutant subject to this regulation that would be emitted from any
19 proposed new or modified source that the permitting authority, on a
20 case-by-case basis, taking into account energy, environmental, and
21 economic impacts and other costs, determines is achievable for such
22 sources or modification through application of production processes,
23 available methods, systems, and techniques, including fuel cleaning or
24 treatment or innovative fuel combustion techniques for control of such
25 air pollutant. In no event shall application of the best available
26 technology result in emissions of any air pollutant that would exceed
27 the emissions allowed by any applicable standard under 40 C.F.R. Part
28 60 and Part 61. If the reviewing agency determines that technological
29 or economic limitations on the application of measurement methodology
30 to a particular class of sources would make the imposition of an

1 emission standard infeasible, it may instead prescribe a design,
2 equipment, work practice, or operational standard, or combination
3 thereof, to meet the requirement of best available control technology.
4 Such standard shall, to the degree possible, set forth the emission
5 reduction achievable by implementation of such design, equipment, work
6 practice, or operation and shall provide for compliance by means that
7 achieve equivalent results. The term "all known available and
8 reasonable methods of emission control" is interpreted to mean the same
9 as best available control technology.

10 (c) "Reasonably available control technology" (RACT) means the
11 lowest emission limit that a particular source or source category is
12 capable of meeting by the application of control technology that is
13 reasonably available considering technological and economic
14 feasibility. RACT is determined on a case-by-case basis for an
15 individual source or source category taking into account the impact of
16 the source upon air quality, the availability of additional controls,
17 the emission reduction to be achieved by additional controls, the
18 impact of additional controls on air quality, and the capital and
19 operating costs of the additional controls. RACT requirements for any
20 source or source category shall be adopted only after notice and
21 opportunity for comment are afforded.

22 (d) "Source" means all of the emissions units including
23 quantifiable fugitive emissions, that are located on one or more
24 contiguous or adjacent properties, and are under the control of the
25 same person, or persons under common control, whose activities are
26 ancillary to the production of a single product or functionally related
27 group of products.

28 (e) "New source" means (i) the construction or modification of a
29 stationary source that increases the amount of any air contaminant
30 emitted by such source or that results in the emission of any air

1 contaminant not previously emitted, and (ii) any other project that
2 constitutes a new source under the federal clean air act.

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

5 (g) "Modification" means any physical change in, or change in the
6 method of operation of, a stationary source that increases the amount
7 of any air contaminant emitted by such source or that results in the
8 emission of any air contaminant not previously emitted. The term
9 modification shall be construed consistent with the definition of
10 modification in Section 7411, Title 42, United States Code, and with
11 rules implementing that section.

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

17 (3)(a) Rules establishing the elements for a state-wide operating
18 permit program and the process for permit application and renewal
19 consistent with federal requirements shall be established by the
20 department by January 1, 1993. The rules shall provide that every
21 proposed permit must be reviewed prior to issuance by a professional
22 engineer or staff under the direct supervision of a professional
23 engineer in the employ of the permitting authority. The permit program
24 established by these rules shall be administered by the department and
25 delegated local air authorities. Rules developed under this subsection
26 shall not preclude a delegated local air authority from including in a
27 permit its own more stringent emission standards and operating
28 restrictions.

29 (b) The board of any local air pollution control authority may
30 apply to the department of ecology for a delegation order authorizing

1 the local authority to administer the operating permit program for
2 sources under that authority's jurisdiction. The department shall, by
3 order, approve such delegation, if the department finds that the local
4 authority has the technical and financial resources, to discharge the
5 responsibilities of a permitting authority under the federal clean air
6 act. A delegation request shall include adequate information about the
7 local authority's resources to enable the department to make the
8 findings required by this subsection; provided, any delegation order
9 issued under this subsection shall take effect ninety days after the
10 environmental protection agency authorizes the local authority to issue
11 operating permits under the federal clean air act.

12 (c) Except for the authority granted the energy facility site
13 evaluation council to issue permits for the new construction,
14 reconstruction, or enlargement or operation of new energy facilities
15 under chapter 80.50 RCW, the department may exercise the authority, as
16 delegated by the environmental protection agency, to administer Title
17 IV of the federal clean air act as amended and to delegate such
18 administration to local authorities as applicable pursuant to (b) of
19 this subsection.

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

22 Until July 1, 1993, "lowest achievable emission rate" (LAER) is
23 required solely for those sources required by the federal clean air
24 act. By December 1, 1992, the department shall recommend control
25 technology requirements for new sources to the appropriate standing
26 committees of the legislature.

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

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

4 (5) Operating permits shall apply to all sources (a) where required
5 by the federal clean air act, and (b) for any source that may cause or
6 contribute to air pollution in such quantity as to create a threat to
7 the public health or welfare. Subsection (b) of this subsection is not
8 intended to apply to small businesses except when both of the following
9 limitations are satisfied: (i) The source is in an area exceeding or
10 threatening to exceed federal or state air quality standards; and (ii)
11 the department provides a reasonable justification that requiring a
12 source to have a permit is necessary to meet a federal or state air
13 quality standard, or to prevent exceeding a standard in an area
14 threatening to exceed the standard. For purposes of this subsection
15 "areas threatening to exceed air quality standards" shall mean areas
16 projected by the department to exceed such standards within five years.
17 Prior to identifying threatened areas the department shall hold a
18 public hearing or hearings within the proposed areas.

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

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

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

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

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

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

1 (a) The federal clean air act and rules implementing that act,
2 including provision of the approved state implementation plan;

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

4 (c) In permits issued by a local air pollution control authority,
5 the requirements of any order or regulation adopted by that authority.

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

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

17 (14) When issuing operating permits to coal fired electric
18 generating plants, the permitting authority shall give consideration to
19 the federal time lines for the implementation of required control
20 technology.

21 (15)(a) Each source emitting one hundred tons or more per year of
22 a regulated pollutant shall pay an interim assessment of ten dollars
23 per ton multiplied by the annual process-related emissions of each
24 regulated pollutant emitted during calendar years 1990 and 1991.
25 "Regulated pollutant" shall have the same meaning as defined in section
26 502(b) of the federal clean air act amendments of 1990.

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

1 (c) The fees assessed to a source under (a) of this subsection and
2 any fees enacted under subsection (16) of this section shall be limited
3 to the first seven thousand five hundred tons for each regulated
4 pollutant per year.

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

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

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

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

17 (iii) Training;

18 (iv) Data management and quality assurance;

19 (v) Development of state implementation plans;

20 (vi) Emission inventories;

21 (vii) Technical assistance;

22 (viii) Rule making and guidelines; and

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

25 (b) The appropriate division of fees with delegated local air
26 authorities; and

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

29 (17) The department shall determine the persons liable for the fee
30 imposed by subsection (15) of this section, compute the fee, and

1 provide by November 1 of 1991 and 1992, the identity of the fee payer
2 with the computation of the fee to the department of revenue for
3 collection. The department of revenue shall collect the fee computed
4 by the department from the fee payers identified by the department.
5 The administrative, collection, and penalty provisions of chapter 82.32
6 RCW shall apply to the collection of the fee by the department of
7 revenue. The department shall provide technical assistance to the
8 department of revenue for decisions made by the department of revenue
9 pursuant to RCW 82.32.160 and 82.32.170. All fees collected shall be
10 deposited in the air operating permit account.

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

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

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

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

27 (1) The department of ecology or board of any authority may require
28 notice of the ((~~construction, installation, or~~)) establishment of any
29 proposed new ((~~air-contaminant~~)) sources except single family and

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

1 this section, the department of ecology or board determines that the
2 proposed ~~((construction, installation, or establishment))~~ new source
3 will be in accord with this chapter, and the applicable ~~((ordinances,~~
4 ~~resolutions,~~) rules~~((,))~~ and regulations adopted ~~((pursuant thereto~~
5 ~~and will provide all known available and reasonable methods of emission~~
6 ~~control))~~ under this chapter, it shall issue an order of approval
7 ~~((of))~~ for the ~~((construction, installation, and))~~ establishment of the
8 ~~((air contaminant))~~ new source or sources, which order may provide such
9 conditions ~~((of operation))~~ as are reasonably necessary to assure the
10 maintenance of compliance with this chapter and the applicable
11 ~~((ordinances, resolutions,~~) rules~~((,))~~ and regulations adopted
12 ~~((pursuant thereto))~~ under this chapter. Every order of approval under
13 this chapter must be reviewed prior to issuance by a professional
14 engineer or staff under the supervision of a professional engineer in
15 the employ of the department of ecology or board.

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

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

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

6 (~~(4)~~) (5) Any features, machines, and devices constituting parts
7 of or called for by plans, specifications, or other information
8 submitted pursuant to subsection (1) (~~(hereof)~~) of this section shall
9 be maintained and operate in good working order.

10 (~~(5)~~) (6) The absence of an ordinance, resolution, rule, or
11 regulation, or the failure to issue an order pursuant to this section
12 shall not relieve any person from his or her obligation to comply with
13 (~~any~~) applicable emission control requirements or with any other
14 provision of law.

15 (7) Within thirty days of receipt of a notice of construction
16 application the department of ecology or board shall either notify the
17 applicant in writing that the application is complete or notify the
18 applicant in writing of all additional information necessary to
19 complete the application. Within sixty days of receipt of a complete
20 application the department or board shall either (a) issue a final
21 decision on the application, or (b) for those projects subject to
22 public notice, initiate notice and comment on a proposed decision,
23 followed as promptly as possible by a final decision.

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

26 Any person proposing to replace or substantially alter the emission
27 control technology installed on an existing stationary source emission
28 unit shall file a notice of construction application with the
29 jurisdictional permitting authority. For projects not otherwise

1 reviewable under RCW 70.94.152, the permitting authority may (1)
2 require that the owner or operator employ reasonably available control
3 technology for the affected emission unit and (2) may prescribe
4 reasonable operation and maintenance conditions for the control
5 equipment. Within thirty days of receipt of an application for notice
6 of construction under this section the permitting authority shall
7 either notify the applicant in writing that the application is complete
8 or notify the applicant in writing of all additional information
9 necessary to complete the application. Within thirty days of receipt
10 of a complete application the permitting authority shall either issue
11 an order of approval or a proposed RACT determination for the proposed
12 project. Construction shall not commence on a project subject to
13 review under this section until the permitting authority issues a final
14 order of approval. However, any notice of construction application
15 filed under this section shall be deemed to be approved without
16 conditions if the permitting authority takes no action within thirty
17 days of receipt of a complete application for a notice of construction.

18 NEW SECTION. **Sec. 304.** A new section is added to chapter 70.94
19 RCW to read as follows:

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

1 **Sec. 305.** RCW 70.94.155 and 1981 c 224 s 1 are each amended to
2 read as follows:

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

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

23 (3) Wherever requirements necessary for the attainment of air
24 quality standards or, where such standards are not exceeded, for the
25 maintenance of air quality can be achieved through the use of a control
26 program involving the bubble concept, such program may be authorized by
27 a regulatory order or orders or permit issued to the air contaminant
28 source or sources involved. Such order or permit shall only be
29 authorized after the control program involving the bubble concept is
30 accepted by United States environmental protection agency as part of an

1 approved state implementation plan. Any such order or permit provision
2 shall restrict total emissions within the bubble to no more than would
3 otherwise be allowed in the aggregate for all emitting processes
4 covered. The orders or permits provided for by this subsection shall
5 be issued by the department or the authority with jurisdiction. If the
6 bubble involves interjurisdictional approval, concurrence in the total
7 program must be secured from each regulatory entity concerned.

8 **Sec. 306.** RCW 70.94.181 and 1983 c 3 s 176 are each amended to
9 read as follows:

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

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

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

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

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

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

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

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

1 expeditious manner and shall be conditioned on adherence to such
2 timetable.

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

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

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

26 (6) Nothing in this section and no variance or renewal granted
27 pursuant hereto shall be construed to prevent or limit the application
28 of the emergency provisions and procedures of RCW 70.94.710 through
29 70.94.730 to any person or his or her property.

1 (7) An application for a variance, or for the renewal thereof,
2 submitted to the department of ecology or board pursuant to this
3 section shall be approved or disapproved by the department or board
4 within sixty-five days of receipt unless the applicant and the
5 department of ecology or board agree to a continuance.

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

11 **Sec. 307.** RCW 70.94.205 and 1973 1st ex.s. c 193 s 4 are each
12 amended to read as follows:

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

1 available for public inspection during normal business hours at offices
2 of the department of ecology or board.

3 NEW SECTION. **Sec. 308.** A new section is added to chapter 70.94
4 RCW to read as follows:

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

8 (1) Information on air pollution laws, rules, compliance methods,
9 and technologies;

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

12 (3) Assistance in obtaining permits and developing emission
13 reduction plans;

14 (4) Information on the health and environmental effects of air
15 pollution.

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

1 correct the violation. Violations that place any person in imminent
2 danger of death or substantial bodily harm or cause physical damage to
3 the property of another in an amount exceeding one thousand dollars may
4 result in immediate enforcement action by the appropriate enforcement
5 agency.

6 **Sec. 309.** RCW 70.94.211 and 1974 ex.s. c 69 s 4 are each amended
7 to read as follows:

8 ~~((Whenever the board or the control officer has reason to believe
9 that any provision of this chapter or any ordinance, resolution, rule
10 or regulation relating to the control or prevention of air pollution
11 has been violated, such board or control officer may))~~ At least thirty
12 days prior to the commencement of any formal enforcement action under
13 RCW 70.94.430 or 70.94.431 a local air authority shall cause written
14 notice to be served upon the alleged violator or violators. The notice
15 shall specify the provision of this chapter or the ~~((ordinance,
16 resolution,))~~ rule or regulation alleged to be violated, and the facts
17 alleged to constitute a violation thereof, and may include an order
18 directing that necessary corrective action be taken within a reasonable
19 time. In lieu of an order, the board or the control officer may
20 require that the alleged violator or violators appear before the board
21 for a hearing~~((, or in addition to or in place of an order or hearing,
22 the board may initiate action pursuant to RCW 70.94.425, 70.94.430, and
23 70.94.435))~~. Every notice of violation shall offer to the alleged
24 violator an opportunity to meet with the local air authority prior to
25 the commencement of enforcement action.

26 **Sec. 310.** RCW 70.94.430 and 1984 c 255 s 1 are each amended to
27 read as follows:

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

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

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

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

25 (3) Any person who knowingly releases into the ambient air any
26 substance listed by the department of ecology as a hazardous air
27 pollutant, other than in compliance with the terms of an applicable
28 permit or emission limit, and who knows at the time that he or she
29 thereby places another person in imminent danger of death or
30 substantial bodily harm, shall be guilty of a crime and shall, upon

1 conviction, be punished by a fine of not less than fifty thousand
2 dollars, or by imprisonment for not more than five years, or both.

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

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

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

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

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

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

4 (~~(2) Further, the person is subject to a fine of up to five~~
5 ~~thousand dollars to be levied by the director of the department of~~
6 ~~ecology if requested by the board of a local authority or if the~~
7 ~~director determines that the penalty is needed for effective~~
8 ~~enforcement of this chapter. A local board shall not make such a~~
9 ~~request until notice of violation and compliance order procedures have~~
10 ~~been exhausted, if such procedures are applicable. For the purposes of~~
11 ~~this subsection, the maximum daily fine imposed by the department of~~
12 ~~ecology for violations of standards by a specific emissions unit is~~
13 ~~five thousand dollars.))~~

14 (3) Each act of commission or omission which procures, aids or
15 abets in the violation shall be considered a violation under the
16 provisions of this section and subject to the same penalty. The
17 penalties provided in this section shall be imposed pursuant to RCW
18 43.21B.300.

19 (4) All penalties recovered under this section by the department
20 shall be paid into the state treasury and credited to the (~~general~~
21 ~~fund~~) air pollution control account established in section 228 of this
22 act or, if recovered by the authority, shall be paid into the treasury
23 of the authority and credited to its funds. If a prior penalty for the
24 same violation has been paid to a local authority, the penalty imposed
25 by the department under subsection (~~(+2)~~) (1) of this section shall be
26 reduced by the amount of the payment. (~~Notwithstanding any other~~
27 ~~provisions of this chapter, no penalty may be levied for the violation~~
28 ~~of any opacity standard in an amount exceeding four hundred dollars per~~
29 ~~day.))~~

1 (5) To secure the penalty incurred under this section, the state or
2 the authority shall have a lien on any vessel used or operated in
3 violation of this chapter which shall be enforced as provided in RCW
4 60.36.050.

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

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

14 (8) By January 1, 1992, the department shall develop rules for
15 excusing excess emissions from enforcement action if such excess
16 emissions are unavoidable. The rules shall specify the criteria and
17 procedures for the department and local air authorities to determine
18 whether a period of excess emissions is excusable in accordance with
19 the state implementation plan.

20 **Sec. 312.** RCW 70.94.860 and 1984 c 164 s 2 are each amended to
21 read as follows:

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

27 **Sec. 313.** RCW 70.94.875 and 1985 c 456 s 3 are each amended to
28 read as follows:

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

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

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

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

11 NEW SECTION. **Sec. 314.** A new section is added to chapter 70.94
12 RCW to read as follows:

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

19 (2) The board shall:

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

23 (b) Identify, evaluate, and recommend procedures relating to
24 managing the risks associated with exposure to air contaminant
25 emissions.

26 (3) In fulfilling its duties under subsection (2) of this section,
27 the board shall consider all appropriate studies and reports relating
28 to risk assessment or risk management including but not limited to
29 reports authorized by the federal clean air act from the national

1 academy of sciences and the risk assessment and risk management
2 commission.

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

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

7 NEW SECTION. **Sec. 315.** A new section is added to chapter 70.94
8 RCW to read as follows:

9 The department and local air pollution control authorities shall
10 preempt the application of chapter 9 of the uniform building code and
11 article 80 of the uniform fire code by other state agencies and local
12 governments for the purposes of controlling outdoor air pollution from
13 industrial and commercial sources, except where authorized by this act.
14 Actions by other state agencies and local governments under article 80
15 of the uniform fire code to take immediate action in response to an
16 emission that presents a physical hazard or imminent health hazard are
17 not preempted.

18 IV.

19 OUTDOOR BURNING

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

22 It shall be the responsibility and duty of the department of
23 natural resources, department of ecology, department of agriculture,
24 fire districts, and local air pollution control authorities to
25 establish, through regulations, ordinances, or policy, a limited
26 burning program for the people of this state, consisting of a one-
27 permit system, until such time as ((an)) alternate technology or

1 methods of disposing of the organic refuse (~~((described in this chapter~~
2 ~~shall))~~) have been developed (~~((which is))~~) that are reasonably economical
3 and less harmful to the environment. It is the policy of this state to
4 (~~((encourage the fostering and development of such))~~) foster and
5 encourage development of alternate methods or technology for disposing
6 of or reducing the amount of organic refuse.

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

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

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

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

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

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

1 NEW SECTION. **Sec. 403.** A new section is added to chapter 70.94

2 RCW to read as follows:

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

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

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

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

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

20 The plan shall recognize the variations in silvicultural forest
21 burning including, but not limited to, a landowner's responsibility to
22 abate an extreme fire hazard under chapter 76.04 RCW and other
23 objectives of burning, including abating and preventing a fire hazard,
24 geographic region, climate, elevation and slope, proximity to populated
25 areas, and diversity of land ownership. The plan shall establish
26 priorities that the department of natural resources shall use to
27 allocate allowable emissions, including but not limited to,
28 silvicultural burning used to improve or maintain fire dependent
29 ecosystems for rare plants or animals within state, federal, and
30 private natural area preserves, natural resource conservation areas,

1 parks, and other wildlife areas. The plan shall also recognize the
2 real costs of the emissions program and recommend equitable fees to
3 cover the costs of the program.

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

9 The plan shall include a tracking system designed to measure the
10 degree of progress toward the emission reductions goals set in this
11 section. The department of natural resources shall report annually to
12 the department of ecology and the legislature on the status of the
13 plan, emission reductions and progress toward meeting the objectives
14 specified in this section, and the goals of this chapter and chapter
15 76.04 RCW.

16 (3) If the December 31, 1994, emission reductions targets in this
17 section are not met, the department of natural resources, in
18 consultation with the department of ecology, shall use its authority
19 granted in this chapter and chapter 76.04 RCW to immediately limit
20 emissions from such burning to the 1994 target levels and limit
21 silvicultural forest burning in subsequent years to achieve equal
22 annual incremental reductions so as to achieve the December 31, 2000,
23 target level. If, as a result of the program established in this
24 section, the emission reductions are met in 1994, but are not met by
25 December 31, 2000, the department of natural resources in consultation
26 with the department of ecology shall immediately limit silvicultural
27 forest burning to reduce emissions from such burning to the December
28 31, 2000, target level in all subsequent years.

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

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

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

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

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

12 (4)) (d) Any silvicultural operation to improve the forest lands
13 of the state; and

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

18 (2) The department of natural resources shall not retain such
19 authority, but it shall be the responsibility of the appropriate fire
20 protection agency for permitting and regulating outdoor burning on
21 lands where the department of natural resources does not have fire
22 protection responsibility.

23 (3) Permit fees shall be assessed for silvicultural burning under
24 the jurisdiction of the department of natural resources and collected
25 by the department of natural resources as provided for in this section.
26 All fees shall be deposited in the air pollution control account,
27 created in section 228 of this act. The legislature shall appropriate
28 to the department of natural resources funds from the air pollution
29 control account to enforce and administer the program under section 403
30 of this act and RCW 70.94.660, 70.94.670, and 70.94.690. Fees shall be

1 set by rule by the department of natural resources at the level
2 necessary to cover the costs of the program after receiving
3 recommendations on such fees from the public and the forest fire
4 advisory board established by RCW 76.04.145.

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

7 The department of natural resources in granting burning permits for
8 fires for the purposes set forth in RCW 70.94.660 shall condition the
9 issuance and use of such permits to comply with air quality standards
10 established by the department of ecology after full consultation with
11 the department of natural resources. Such burning shall not cause the
12 state air quality standards (~~((for suspended particulate matter))~~) to be
13 exceeded in the ambient air up to two thousand feet above ground level
14 over critical areas designated by the department of ecology, otherwise
15 subject to air pollution from other sources. Air quality standards
16 (~~((for suspended particulate matter))~~) shall be established and published
17 by the department of ecology which shall also establish a procedure for
18 advising the department of natural resources when (~~((the))~~) and where air
19 contaminant levels exceed(~~((s))~~) or threaten(~~((s))~~) to exceed the ambient
20 air standards over such critical areas. The (~~((suspended particulate~~
21 ~~matter))~~) air quality shall be quantitatively measured by the department
22 of ecology or the appropriate local air pollution control authority at
23 established (~~((primary air mass stations or primary ground level))~~)
24 monitoring stations over such designated areas. Further, such
25 permitted burning shall not cause damage to public health or the
26 environment. All permits issued under this section shall be subject to
27 all applicable fees, permitting, penalty, and enforcement provisions of
28 this chapter. The department of natural resources shall set forth
29 smoke dispersal objectives designed consistent with this section to

1 minimize any air pollution (~~((from smoke))~~) from such burning and the
2 procedures necessary to meet those objectives.

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

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

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

21 In the regulation of outdoor burning not included in RCW 70.94.660
22 requiring permits from the department of natural resources, said
23 department and the state, local, or regional air pollution control
24 authorities will cooperate in regulating such burning so as to minimize
25 insofar as possible duplicate inspections and separate permits while
26 still accomplishing the objectives and responsibilities of the
27 respective agencies. The department of natural resources shall include
28 any local authority's burning regulations with permits issued where
29 applicable pursuant to RCW 70.94.740 through 70.94.775. The department

1 shall develop agreements with all local authorities to coordinate
2 regulations.

3 Permits shall be withheld by the department of natural resources
4 when so requested by the department of ecology if a forecast, alert,
5 warning, or emergency condition exists as defined in the episode
6 criteria of the department of ecology.

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

9 Nothing contained in this chapter shall prohibit fires necessary:

10 (1) To promote the regeneration of rare and endangered plants found
11 within natural area preserves as identified under chapter 79.70 RCW;
12 and (2) for Indian ceremonies or for the sending of smoke signals if
13 part of a religious ritual. Permits issued for burning under this
14 section shall be drafted to minimize emissions including denial of
15 permission to burn during periods of adverse meteorological conditions.

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

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

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

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

23 ~~((3) Disease prevention relating to))~~ (c) agricultural activities,
24 shall, prior to carrying out the same, obtain a permit from an air
25 pollution control authority or the department of ecology, as
26 appropriate. Each such authority and the department of ecology shall,
27 by rule or ordinance, establish a permit system to carry out the
28 provisions of this section except as provided in RCW 70.94.660.

1 General criteria of state-wide applicability for ruling on such permits
2 shall be established by the department, by rule (~~or regulation~~),
3 after consultation with the various air pollution control authorities.
4 Permits shall be issued under this section based on seasonal operations
5 or by individual operations, or both(~~(: PROVIDED, That)~~). All permits
6 so issued shall be conditioned to insure that the public interest in
7 air, water, and land pollution and safety to life and property is fully
8 considered. In addition to any other requirements established by the
9 department to protect air quality pursuant to other laws, applicants
10 for permits must show that the setting of fires as requested is the
11 most reasonable procedure to follow in safeguarding life or property
12 under all circumstances or is otherwise reasonably necessary to
13 successfully carry out the enterprise in which the applicant is engaged
14 (in), or both. All burning permits will be designed to minimize air
15 pollution insofar as practical. Nothing in this section shall relieve
16 the applicant from obtaining permits, licenses, or other approvals
17 required by any other law(~~(: PROVIDED FURTHER, That)~~). An application
18 for a permit to set fires in the course of agricultural burning for
19 controlling diseases, insects, (~~and~~) weed abatement or development of
20 physiological conditions conducive to increased crop yield, shall be
21 (~~granted~~) acted upon within (~~fourteen~~) seven days from the date
22 such application is filed(~~(: PROVIDED, That nothing herein shall~~
23 prevent a householder from setting fire in the course of burning
24 leaves, clippings or trash when otherwise permitted locally. Nothing
25 contained herein shall prohibit Indian campfires or the sending of
26 smoke signals if part of a religious ritual)).

27 (2) Except as provided in RCW 70.94.780 permit fees shall be
28 assessed for outdoor burning under this section and shall be collected
29 by the department of ecology or the appropriate local air authority at
30 the time the permit is issued. All fees collected shall be deposited

1 in the air pollution control account created in section 228 of this
2 act. Fees shall be set by rule by the permitting agency at the level
3 determined by the task force created by subsection (4) of this section,
4 but shall not exceed two dollars and fifty cents per acre to be burned.
5 After fees are established by rule, any increases in such fees shall be
6 limited to annual inflation adjustments as determined by the state
7 office of the economic and revenue forecast council.

8 (3) Conservation districts and the Washington State University
9 agricultural extension program in conjunction with the department shall
10 develop public education material for the agricultural community
11 identifying the health and environmental affects of agricultural
12 outdoor burning and providing technical assistance in alternatives to
13 agricultural outdoor burning.

14 (4) An agricultural burning practices and research task force shall
15 be established under the direction of the department. The task force
16 shall be composed of a representative from the department who shall
17 serve as chair; one representative of eastern Washington local air
18 authorities; three representatives of the agricultural community from
19 different agricultural pursuits; one representative of the department
20 of agriculture; two representatives from universities or colleges
21 knowledgeable in agricultural issues; one representative of the public
22 health or medical community; and one representative of the conservation
23 districts. The task force shall identify best management practices for
24 reducing air contaminant emissions from agricultural activities and
25 provide such information to the department and local air authorities.
26 The task force shall determine the level of fees to be assessed by the
27 permitting agency pursuant to subsection (2) of this section, based
28 upon the level necessary to cover the costs of administering and
29 enforcing the permit programs, to provide funds for research into
30 alternative methods to reduce emissions from such burning, and to the

1 extent possible be consistent with fees charged for such burning
2 permits in neighboring states. The fee level shall provide, to the
3 extent possible, for lesser fees for permittees who use best management
4 practices to minimize air contaminant emissions. The task force shall
5 identify research needs related to minimizing emissions from
6 agricultural burning and alternatives to such burning. Further, the
7 task force shall make recommendations to the department on priorities
8 for spending funds provided through this chapter for research into
9 alternative methods to reduce emissions from agricultural burning.

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

12 Whenever the department of ecology shall find that any fire
13 protection agency, county, or conservation district which is outside
14 the jurisdictional boundaries of an activated air pollution control
15 authority is capable of effectively administering the issuance and
16 enforcement of permits for any or all of the kinds of burning
17 identified in RCW 70.94.650 (~~((1) and (3))~~) and desirous of doing so,
18 the department of ecology may delegate (~~(all)~~) powers necessary for the
19 issuance (~~(and)~~) or enforcement, or both, of permits for any or all of
20 the kinds of burning to the fire protection agency, county(~~(: PROVIDED,~~
21 ~~That))~~), or conservation district. Such delegation may be withdrawn by
22 the department of ecology upon ((a)) its finding that the fire
23 protection agency, county, or conservation district is not effectively
24 administering the permit program.

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

27 No person shall cause or allow any outdoor fire:

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

7 (2) During a forecast, alert, warning or emergency condition as
8 defined in RCW 70.94.715(~~(/~~

9 ~~(3) In any area which has been designated by the department of~~
10 ~~ecology or board of an activated authority as an area exceeding or~~
11 ~~threatening to exceed state or federal ambient air quality standards,~~
12 ~~or after July 1, 1976, state ambient air quality goals for~~
13 ~~particulates, except instructional fires permitted by RCW~~
14 ~~70.94.650(2))~~ or impaired air quality condition as defined in RCW
15 70.94.473.

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

18 In addition to any other powers granted to them by law, the fire
19 protection agency (~~((authorized to issue))~~), county, or conservation
20 district issuing burning permits (~~((may))~~) shall regulate or prohibit
21 outdoor burning (~~((in order))~~) as necessary to prevent or abate the
22 nuisances caused by such burning. No fire protection agency, county,
23 or conservation district may issue a burning permit in an area where
24 the department or local board has declared any stage of impaired air
25 quality per RCW 70.94.473 or any stage of an air pollution episode.
26 All burning permits issued shall be subject to all applicable fee,
27 permitting, penalty, and enforcement provisions of this chapter. The
28 permitted burning shall not cause damage to public health or the
29 environment.

1 Any entity issuing a permit under this section may charge a fee at
2 the level necessary to recover the costs of administering and enforcing
3 the permit program.

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

6 The following outdoor fires described in this section may be burned
7 subject to the provisions of ~~((the program established pursuant to RCW~~
8 ~~70.94.755 for any area))~~ this chapter and also subject to city
9 ordinances, county resolutions, ~~((and))~~ rules ~~((and regulations))~~ of
10 fire districts and laws, and rules ~~((and regulations))~~ enforced by the
11 department of natural resources if a permit has been issued by a fire
12 protection agency, county, or conservation district:

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

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

23 **Sec. 413.** RCW 70.94.656 and 1990 c 113 s 1 are each amended to
24 read as follows:

25 It is hereby declared to be the policy of this state that strong
26 efforts should be made to minimize adverse effects on air quality from
27 the open burning of field and turf grasses grown for seed. To such end
28 this section is intended to promote the development of economical and

1 practical alternate agricultural practices to such burning, and to
2 provide for interim regulation of such burning until practical
3 alternates are found.

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

24 The fee collected under this subsection shall constitute the
25 research portion of fees required under RCW 70.94.650 for open burning
26 of grass grown for seed.

27 (2) Whenever on the basis of information available to it, the
28 department after public hearings have been conducted wherein testimony
29 will be received and considered from interested parties wishing to
30 testify shall conclude that any procedure, program, technique, or

1 device constitutes a practical alternate agricultural practice to the
2 open burning of field or turf grasses grown for seed, the department
3 shall, by order, certify approval of such alternate. Thereafter, in
4 any case which any such approved alternate is reasonably available, the
5 open burning of field and turf grasses grown for seed shall be
6 disallowed and no permit shall issue therefor.

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

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

15 V.

16 WOODSTOVES AND FIREPLACES

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

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

21 (1) State-wide emission performance standards for new (~~wood~~
22 ~~stoves~~) solid fuel burning devices. Notwithstanding any other
23 provision of this chapter which allows an authority to adopt more
24 stringent emission standards, no authority shall adopt any emission
25 standard for new (~~wood stoves~~) solid fuel burning devices other than
26 the state-wide standard adopted by the department under this section.

27 (a) (~~For new wood stoves sold after July 1, 1988, the state-wide~~
28 ~~performance standard, by rule, shall be the equivalent of and~~

1 consistent with state wide emission standards in effect in bordering
2 states on or before January 1, 1987. For solid fuel burning devices
3 for which bordering states have not established emission standards, the
4 department may temporarily exempt or establish, by rule, state wide
5 standards including emission levels and test procedures for such
6 devices and such emission levels and test procedures shall be
7 equivalent to emission levels per pound per hour burned for other new
8 wood stoves regulated by this subsection)) After January 1, 1995, no
9 solid fuel burning device shall be offered for sale that does not meet
10 the following particulate air contaminant emission standards under the
11 test methodology of the United States environmental protection agency
12 in effect on January 1, 1991, or an equivalent standard under any test
13 methodology adopted by the United States environmental protection
14 agency subsequent to such date: (i) Two and one-half grams per hour
15 for catalytic wood stoves; and (ii) four and one-half grams per hour
16 for all other solid fuel burning devices. For purposes of this
17 subsection, "equivalent" shall mean the emissions limits specified in
18 this subsection multiplied by a statistically reliable conversion
19 factor determined by the department that compares the difference
20 between the emission test methodology established by the United States
21 environmental protection agency prior to the effective date of this
22 section, with the test methodology adopted subsequently by the agency.
23 Subsection (a) of this subsection does not apply to fireplaces.

24 (b) After January 1, 1997, no fireplace, except masonry fireplaces,
25 shall be offered for sale unless such fireplace meets the 1990 United
26 States environmental protection agency standards for wood stoves or
27 equivalent standard that may be established by the state building code
28 council by rule. Prior to January 1, 1997, the state building code
29 council shall establish by rule a methodology for the testing of
30 factory-built fireplaces. The methodology shall be designed to achieve

1 a particulate air emission standard equivalent to the 1990 United
2 States environmental protection agency standard for wood stoves. In
3 developing the rules, the council shall include on the technical
4 advisory committee at least one representative from the masonry
5 fireplace builders and at least one representative of the factory-built
6 fireplace manufacturers.

7 (c) Prior to January 1, 1997, the state building code council shall
8 establish by rule design standards for the construction of new masonry
9 fireplaces in Washington state. In developing the rules, the council
10 shall include on the technical advisory committee at least one
11 representative from the masonry fireplace builders and at least one
12 representative of the factory-built fireplace manufacturers. It shall
13 be the goal of the council to develop design standards that generally
14 achieve reductions in particulate air contaminant emissions
15 commensurate with the reductions being achieved by factory-built
16 fireplaces at the time the standard is established.

17 (d) Actions of the department and local air pollution control
18 authorities under this section shall preempt actions of other state
19 agencies and local governments for the purposes of controlling air
20 pollution from solid fuel burning devices, except where authorized by
21 this act.

22 (e) Subsection (1)(a) of this section shall not apply to
23 fireplaces.

24 ((~~b~~)) (f) Notwithstanding (a) of this subsection, the department
25 is authorized to adopt, by rule, emission standards adopted by the
26 United States environmental protection agency for new wood stoves sold
27 at retail. For solid fuel burning devices for which the United States
28 environmental protection agency has not established emission standards,
29 the department may ((temporarily)) exempt or establish, by rule, state-
30 wide standards including emission levels and test procedures for such

1 devices and such emission levels and test procedures shall be
2 equivalent to emission levels per pound per hour burned for other new
3 wood stoves and fireplaces regulated under this subsection.

4 (2) A program to:

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

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

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

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

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

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

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

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

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

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

1 (3) Actions of the department and local air pollution control
2 authorities under this section shall preempt actions of other state
3 agencies and local governments for the purposes of controlling air
4 pollution from solid fuel burning devices, except where authorized by
5 this act.

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

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

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

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

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

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

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

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

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

27 (2) ~~((When))~~ If a local air authority exercises the limitation on
28 solid fuel burning devices specified under RCW 70.94.477(2), a single
29 stage of impaired air quality applies in the geographical area defined
30 by the authority in accordance with RCW 70.94.477(2) and is reached

1 when particulates ten microns and smaller in diameter are at an ambient
2 level of ninety micrograms per cubic meter measured on a twenty-four
3 hour average or when carbon monoxide is at an ambient level of eight
4 parts of contaminant per million parts of air by volume measured on an
5 eight-hour average.

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

11 (3) Actions of the department and local air pollution control
12 authorities under this section shall preempt actions of other state
13 agencies and local governments for the purposes of controlling air
14 pollution from solid fuel burning devices, except where authorized by
15 this act.

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

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

25 (2) The department of ecology, with the advice of the advisory
26 committee, shall set a flat fee(~~(, not to exceed fifteen)~~) of thirty
27 dollars, on the retail sale, as defined in RCW 82.04.050, of each solid
28 fuel burning device(~~(, excepting masonry fireplaces,)~~) after January 1,
29 (~~(1988)~~) 1992. The fee shall be imposed upon the consumer and shall

1 not be subject to the retail sales tax provisions of chapters 82.08 and
2 82.12 RCW. The fee may be adjusted annually above ~~((fifteen))~~ thirty
3 dollars ~~((according to changes in the consumer price index after~~
4 ~~January 1, 1989))~~ to account for inflation as determined by the state
5 office of the economic and revenue forecast council. The fee shall be
6 collected by the department of revenue in conjunction with the retail
7 sales tax under chapter 82.08 RCW. If the seller fails to collect the
8 fee herein imposed or fails to remit the fee to the department of
9 revenue in the manner prescribed in chapter 82.08 RCW, the seller shall
10 be personally liable to the state for the amount of the fee. The
11 collection provisions of chapter 82.32 RCW shall apply. The department
12 of revenue shall deposit fees collected under this section in the wood
13 stove education and enforcement account.

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

16 Except as otherwise provided in this section, any building or
17 structure listed on the national register of historic sites,
18 structures, or buildings established pursuant to 80 Stat. 915, 16
19 U.S.C. Sec. 470a, or on the state register established pursuant to RCW
20 ~~((43.51A.080))~~ 27.34.220, shall be permitted to burn wood as it would
21 have when it was a functioning facility as an authorized exception to
22 the provisions of this chapter. Such burning of wood shall not be
23 exempted from the provisions of RCW 70.94.710 through 70.94.730.

24 ***NEW SECTION.** **Sec. 507.** *A new section is added to chapter 70.94*
25 *RCW to read as follows:*

26 *(1) A task force is established for the purposes of recommending*
27 *programs to:*
28

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

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

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

10 (a) Two members from the house of representatives committee on
11 environmental affairs;

12 (b) Two members from the senate committee on environment and
13 natural resources;

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

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

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

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

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

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

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

1 would otherwise be released into the atmosphere. This subsection does
2 not apply to off-road commercial equipment.

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

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

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

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

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

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

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

1 The department shall adopt rules to implement sections 602 and 603
2 of this act. Rules shall include but not be limited to minimum
3 performance specifications for refrigerant extraction equipment, as
4 well as procedures for enforcing sections 602 and 603 of this act.
5 Enforcement provisions adopted by the department shall not include
6 penalties or fines in areas where equipment to collect or recycle
7 regulated refrigerants is not readily available.

8 VII.

9 MISCELLANEOUS SECTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (2) In the case of an authority comprised of one county the board
29 shall be comprised of two appointees of the city selection committee

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

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

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

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

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

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

1 personnel, and shall determine their salaries, and pay same, together
2 with any other proper indebtedness, from authority funds.

3 **Sec. 706.** RCW 70.94.141 and 1970 ex.s. c 62 s 56 are each amended
4 to read as follows:

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

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

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

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

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

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

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

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

12 (8) Encourage and conduct studies, investigation and research
13 relating to air pollution and its causes, effects, prevention,
14 abatement and control.

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

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

22 (11) Consult, upon request, with any person proposing to construct,
23 install, or otherwise acquire an air contaminant source or device or
24 system for the control thereof, concerning the efficacy of such device
25 or system, or the air pollution problems which may be related to the
26 source, device or system. Nothing in any such consultation shall be
27 construed to relieve any person from compliance with this chapter,
28 ordinances, resolutions, rules and regulations in force pursuant
29 thereto, or any other provision of law.

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

5 **Sec. 707.** RCW 70.94.170 and 1969 ex.s. c 168 s 21 are each amended
6 to read as follows:

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

14 **Sec. 708.** RCW 70.94.231 and 1969 ex.s. c 168 s 29 are each amended
15 to read as follows:

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

26 **Sec. 709.** RCW 70.94.240 and 1969 ex.s. c 168 s 30 are each amended
27 to read as follows:

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

17 **Sec. 710.** RCW 70.94.331 and 1988 c 106 s 1 are each amended to
18 read as follows:

19 (1) The department shall have all the powers as provided in RCW
20 70.94.141.

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

24 (a) Adopt rules (~~and regulations~~) establishing air quality
25 objectives and air quality standards;

26 (b) Adopt emission standards which shall constitute minimum
27 emission standards throughout the state. An authority may enact more
28 stringent emission standards, except for emission performance standards
29 for new wood stoves and opacity levels for residential solid fuel

1 burning devices which shall be state-wide, but in no event may less
2 stringent standards be enacted by an authority without the prior
3 approval of the department after public hearing and due notice to
4 interested parties;

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

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

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

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

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

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

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

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

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

20 **Sec. 711.** RCW 70.94.332 and 1987 c 109 s 18 are each amended to
21 read as follows:

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

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

12 **Sec. 712.** RCW 70.94.385 and 1987 c 109 s 41 are each amended to
13 read as follows:

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

1 direct result of a reduction in the available federal funds for air
2 pollution control programs.

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

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

18 **Sec. 713.** RCW 70.94.395 and 1987 c 109 s 43 are each amended to
19 read as follows:

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

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

20 **Sec. 714.** RCW 70.94.405 and 1987 c 109 s 45 are each amended to
21 read as follows:

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

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

9 **Sec. 715.** RCW 70.94.410 and 1987 c 109 s 46 are each amended to
10 read as follows:

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

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

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

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

23 **Sec. 716.** RCW 70.94.420 and 1987 c 109 s 47 are each amended to
24 read as follows:

25 ((~~1~~)) It is declared to be the intent of the legislature of the
26 state of Washington that any state department or agency having
27 jurisdiction over any building, installation, ((~~or~~)) other property, or
28 other activity creating or likely to create significant air pollution
29 shall cooperate with the department and with air pollution control

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

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

28 NEW SECTION. Sec. 717. Sections 602 and 603 of this act shall
29 take effect July 1, 1992. Sections 202 through 209 of this act shall

1 take effect January 1, 1993. Sections 210 and 505 of this act shall
2 take effect January 1, 1992.

3 The remainder of this act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.

7 NEW SECTION. **Sec. 718.** The following acts or parts of acts are
8 each repealed:

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

20 NEW SECTION. **Sec. 719.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 720.** Captions and headings as used in this
25 act constitute no part of the law.

1 NEW SECTION. **Sec. 721.** A new section is added to chapter 70.94

2 RCW to read as follows:

3 This chapter shall be known and may be cited as the clean air
4 Washington act.

 Passed the House March 15, 1991.

 Passed the Senate April 19, 1991.

 Approved by the Governor May 15, 1991, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 15, 1991.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 204
3 and 507, Engrossed Substitute House Bill No. 1028 entitled:

4 "AN ACT Relating to reducing air contaminant emissions and
5 improving air quality."

6 Section 204 of this bill establishes a task force to recommend a
7 program to assist persons with vehicles failing to comply with emission
8 standards. The task force will be appointed by the Speaker of the
9 House and the President of the Senate; it will consist of members from
10 each House and will report to the appropriate standing committees of
11 the Legislature.

12 Section 507 establishes a task force to encourage the removal of
13 wood stoves which do not meet current emission standards and replace
14 such stoves with a less polluting, certified wood stove or other source
15 of heat. This task force will also consist of members from each House
16 and report back to the appropriate committees of the Legislature.

17 While these studies may provide useful information, the Legislature
18 does not need statutory authorization to study these issues or
19 authorization to report back to itself. For this reason I am vetoing
20 sections 204 and 507 of the bill.

21 With the exception of sections 204 and 507, Engrossed Substitute
22 House Bill No. 1028 is approved."