
**ENGROSSED SUBSTITUTE HOUSE BILL 1028
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State of Washington

52nd Legislature

1991 Regular Session

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

Read first time March 6, 1991.

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

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

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

4 I.

5 PUBLIC POLICY, FINDINGS, AND INTENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (1) Any person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 The director:

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

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

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

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

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

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

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

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

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

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

17 (2) The director shall:

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

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

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

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

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

9 (a) Auditing;

10 (b) Contractor evaluation;

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

13 (d) Public information and education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (i) Passenger cars;

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

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

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

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

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

23 The report shall address:

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

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

29 (3) Capital costs, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) Plans and programs conform if:

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

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

4 (3) A project conforms if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (iv) Provision of subsidies for transit fares;

6 (v) Provision of vans for van pools;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 III.

13 INDUSTRIAL AND COMMERCIAL SOURCES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (iii) Training;

20 (iv) Data management and quality assurance;

21 (v) Development of state implementation plans;

22 (vi) Emission inventories;

23 (vii) Technical assistance;

24 (viii) Rule making and guidelines; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) The board shall:

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

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

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

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

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

24 IV.

25 OUTDOOR BURNING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 No person shall cause or allow any outdoor fire:

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

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

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

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

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

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

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

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

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

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

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

1

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

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

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

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

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

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

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

16 (2) A program to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 VI.

2 GLOBAL WARMING AND OZONE DEPLETION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 VII.

5 MISCELLANEOUS SECTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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