

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 91-1388A
PRINCIPLES ASSOCIATED WITH DEQ'S)
COMPREHENSIVE EMISSIONS FEE) Introduced by David Knowles,
PROPOSAL) Chair, Joint Policy Advisory
) Committee on Transportation

WHEREAS, The Portland metropolitan area is in violation
of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor to
this air quality problem; and

WHEREAS, Significant growth of population, vehicle travel
and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach to
reduce emissions through fees on polluters at the rate of \$25.00
per ton; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District
adopts the following principles:

1! Motor vehicles are a significant source of air
pollution statewide and should shoulder their share of the burden
of meeting air quality standards.

2. A market-sensitive statewide approach to addressing
this problem is appropriate.

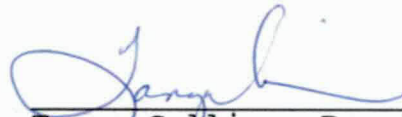
3. Programs and fees proposed to control automobile
emissions should be consistent with state, regional and local land
use objectives and assist in implementing a multi-modal approach to
meeting air quality objectives.

4. The Metro Council, JPACT, TPAC and Bi-State Policy Advisory Committee should be further involved in the development of program details.

5. An added approach should be pursued to meeting air quality problems in the Portland metropolitan area; TPAC should work with the Department of Environmental Quality to recommend to JPACT, Bi-State Policy Advisory Committee and the Metro Council specific language to be incorporated into HB 2175 calling for the development and implementation of the added approach in the Portland metropolitan area.

6. This resolution does not endorse any specific proposal to implement these principles.

ADOPTED by the Council of the Metropolitan Service District this 14th day of March, 1991.



Tanya Collier, Presiding Officer

TRANSPORTATION and PLANNING COMMITTEE REPORT

RESOLUTION NO. 91-1388A, ENDORSING PRINCIPLES ASSOCIATED WITH D.E.Q.'S COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: February 27, 1991

Presented by: Councilor Bauer

COMMITTEE RECOMMENDATION: At its February 26, 1991 meeting, the Transportation and Planning Committee voted 4-1 (Councilors Bauer, Devlin, Gardner, and McLain in favor, Councilor Van Bergen opposed) to recommend Council adopt Resolution No. 91-1388A, with four amendments:

- 1 add the phrase "Bi-State Policy Advisory Committee" following the term "JPACT" in RESOLVED #4 (Bauer);
- 2 add the phrase "Bi-State Policy Advisory Committee" following the term "JPACT" in RESOLVED #5 (Bauer); and
- 3 add a RESOLVED #6 as follows:
"Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed." (Gardner)
- 4 renumber the existing RESOLVED #6 as RESOLVED #7. (Gardner)

The history of Resolution No. 91-1388A is outlined in the Transportation and Planning Committee's staff report. The Governmental Affairs Committee has recommended its adoption.

- COMMITTEE DISCUSSION: John Kowalczyk of DEQ explained that
- o HB 2175 extends the \$25/ton industrial emission fee of the Clean Air Act to other sources of air pollution, including motor vehicles. This is appropriate and fair, and may be necessary, because Oregon could find its federal highway money impounded if it fails to implement the Act.
 - o The Portland metropolitan area needs time beyond the Legislative session to use the JPACT process to develop and implement an added market-sensitive air quality strategy.

Councilor Bauer noted that the Bi-State Commission endorsed the comprehensive emissions fee prior to Resolution No. 91-1388A and supports a statewide fee on new vehicle sales, which may be included in HB 2175. The Committee unanimously approved his amendment to keep the Commission in the metropolitan area "loop" to develop and implement an area air quality strategy.

Councilor Gardner noted Metro's past Legislative support for changing the Constitutional limits on the use of vehicle fees. He moved to add a provision to that effect from the original draft of Resolution No. 91-1388. The amendment passed, over the opposition of Councilors Devlin and Van Bergen who said that it was a separate issue (which is the subject of HB 1984) and would be unnecessary for emissions fees currently being proposed.

Implementing the fee concept concerned Councilor Van Bergen.

COUNCIL STAFF REPORT

RESOLUTION NO. 91-1388A, ENDORSING PRINCIPLES ASSOCIATED WITH DEQ'S COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: February 19, 1991

By: Martin Winch

BACKGROUND

On September 27, 1990, the Air Quality Subcommittee of the Bi-State Policy Advisory Committee recommended expanding the emission fee concept to "all major sources of air pollution," stating that these sources "are potentially more effectively controlled through a non-regulatory, market-based approach which should include establishing an air quality improvement fund from the fees to support public and private projects that would cost-effectively reduce emissions." (see Exhibit A) On October 26, 1990, the Bi-State Policy Advisory Committee accepted and endorsed this recommendation and urged Metro and IGR to forward it to their respective state legislatures. (see Exhibit A)

On November 13, 1990, the Intergovernmental Relations Committee unanimously recommended Council approval of Resolution No. 90-1352, Approving the Recommendations of the Bi-State Policy Advisory Committee Regarding Air Pollution Measures, which Council did adopt on November 29, 1990. (Exhibit A)

On January 4, 1991, the Transportation Policy Alternatives Committee (TPAC) reviewed and discussed the November 26, 1990 Legislative draft of the Comprehensive Emission Fee bill. Questions were raised about the feasibility, cost, legal complications and fairness of various fees and fee collection mechanisms. Resolution No. 91-1388 was crafted as a motion, with the intent of reciting basic principles relating to transportation and air quality which were the foundation of the draft legislation. A motion to table for a month narrowly failed. Over several dissenting votes and abstentions, TPAC passed the recital of principles which became Resolution No. 91-1388. (Exhibit B)

The Governmental Affairs Committee considered Resolution No. 91-1388 on January 17, 1991. The Committee tabled the Resolution with the purpose of monitoring it.

The Transportation and Planning Committee considered Resolution No. 91-1388 on January 22, 1991. The Committee deferred action on the Resolution until after consideration by the Bi-State Policy Advisory Committee and JPACT review.

JPACT first considered Resolution No. 91-1388 on January 17, 1991. JPACT decided to defer the Resolution to its February meeting, on account of concern over questions inherent in the comprehensiveness of the proposed legislation and its implementation measures, the parking fee in particular.

TPAC again considered Resolution No. 91-1388 on February 8, 1991. TPAC had before it two draft modifications of the Resolution, labelled

(A) (Exhibit C) and (B) (Exhibit D). TPAC, however, drafted another version, which is now Resolution No. 91-1388A.

JPACT considered Resolution No. 91-1388A at its February 14, 1991 meeting. The Resolution passed, with the Washington County cities' representative dissenting.

COMPARING RESOLUTIONS NO. 91-1388 AND 91-1388A

The recitals are identical in both versions.

Three of the "Resolved's" are substantially the same:

Resolution No.	91-1388	91-1388A	comment
Resolved #1	"its"	"their"	grammatical
Resolved #2		add, "market-sensitive"	
Resolved	#7	#4	renumbered

Two of the "Resolved's" in 91-1388, were deleted entirely in 91-1388A:

#5 (fee revenue from the metro area should be linked to transportation improvements in the metro area, particularly to implementing transit expansion called for in the R.T.P.); and

#6 (change the Constitutional restrictions on the use of vehicle fees).

Two of the "Resolved's" in 91-1388 were significantly changed in 91-1388A:

#3 in 91-1388 ("Significant air quality problems in the Portland region warrant implementation of a special approach for this airshed.") has become #5 in 1388A ("An added approach should be pursued to meeting air quality problems in the Portland metropolitan area; TPAC should work with DEQ to recommend to JPACT and the Metro Council specific language to be incorporated into HB 2175 calling for the development and implementation of the added approach in the Portland metropolitan area.")

#4 in 1388 ("Programs proposed to control automobile emissions should be consistent with state, regional and local land use objectives") has become #3 in 1388A ("Programs and fees proposed to control automobile emissions should be consistent with state, regional and local land use objectives and assist in implementing a multi-modal approach to meeting air quality objectives.")

Finally, #6 in 91-1388A is added: "This resolution does not endorse any specific proposal to implement these principles."

After JPACT approved Resolution No. 91-1388A, members orally instructed Metro's Transportation Department to use the JPACT/TPAC process to gain regional consensus on HB 2175 as a whole, not limited to the metro-area language of new "Resolved" #5.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

EXHIBIT "A"
(T & P 2/26/91)

FOR THE PURPOSE OF APPROVING THE)	RESOLUTION NO. 90-1352
RECOMMENDATIONS OF THE BI-STATE)	
POLICY ADVISORY COMMITTEE)	INTRODUCED BY COUNCILOR
REGARDING AIR QUALITY)	LAWRENCE BAUER, CO-CHAIR
PROTECTION MEASURES)	BI-STATE POLICY ADVISORY
)	COMMITTEE

WHEREAS, the Metro Council and the Intergovernmental Resource Center of Clark County established the Bi-State Policy Advisory Committee (Bi-State) by joint resolution on September 24, 1981; and

WHEREAS, Metro's charge to Bi-State includes the direction, "to develop recommendations for consideration by the Metro Council;" and

WHEREAS, Bi-State has identified air quality as one of the seven issues for its investigation, in recognition of the importance of the local air quality problem and the need for a regional approach to address it; and

WHEREAS, Bi-State has established an Air Quality Subcommittee to investigate air quality issues in the Portland-Vancouver metropolitan area; and

WHEREAS, Bi-State's Air Quality Subcommittee has developed recommendations in support of standardized air quality protection measures for the Portland-Vancouver airshed; and

WHEREAS, Bi-State adopted Resolution 10-01-1990 on October 26, 1990 (attached as Exhibit A), which "accepts and endorses the recommendations of the Air Quality Subcommittee and encourages Metropolitan Service District and Intergovernmental Resource Center to forward these recommendations to their respective state legislatures;" and

WHEREAS, the recommendations of the Air Quality Subcommittee and the full Bi-State committee (attached as Exhibit B) include calls to standardize and enhance an expanded motor vehicle inspection/maintenance program, standardize regulations and enforcement procedures on stationary sources of air pollution on both sides of the Columbia River, establish and enforce a standardized system of stationary source emissions fees, expand the Emission Fee concept to all major area sources of air pollution, and preserve local control of air-quality policy in order to coordinate policy implementation; and

WHEREAS, it is in the public interest that standardized air quality protection measures be based on the higher of the two states' standards; now, therefore,

BE IT RESOLVED,

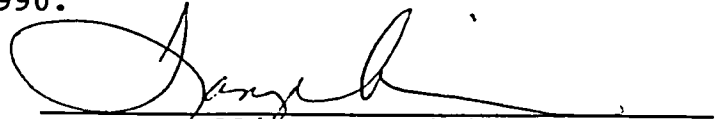
That the Council of the Metropolitan Service District accepts and endorses the recommendations of the Bi-State Policy Advisory Committee regarding air quality protection, and further recommends that the more stringent of the Oregon and Washington regulations form the basis for establishing air quality standards for the Portland-Vancouver airshed; and

BE IT FURTHER RESOLVED,

That the Council directs that copies of this Resolution, with Exhibits A and B attached, shall be sent to the Governor and Governor-Elect of Oregon; members of Metro's legislative delegation; members of the Joint Committee on Environment, Energy and Hazardous Materials; and members of relevant House and Senate Committees, including the House Environment and Energy Committee and Senate Agriculture and Natural Resources Committee.

ADOPTED by the Council of the Metropolitan Service District this

29th day of November, 1990.



Tanya Collier, Presiding Officer

cs:bisairq.res

RECEIVED OCT 31 1990

BI-STATE POLICY ADVISORY COMMITTEE
RESOLUTION 10-01-1990

Exhibit "A"

For the purpose of recommending that Metropolitan Service District and Intergovernmental Resource Center forward recommendations to their respective state legislatures concerning consistent and uniform approaches to air quality regulations affecting the Portland-Vancouver metropolitan area.

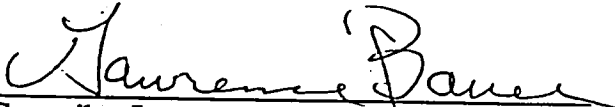
WHEREAS, the Bi-State Policy Advisory Committee established a subcommittee to investigate air quality issues in the Portland-Vancouver metropolitan area; and

WHEREAS, the Air Quality Subcommittee met on two occasions during the months of August and September of 1990 to formulate recommendations regarding air quality regulations applied to the metropolitan area; and


WHEREAS, the September 27, 1990 meeting of the Air Quality Subcommittee culminated in policy recommendations to the Bi-State Policy Advisory Committee as expressed in an October 12, 1990 letter from Stuart Clark, Air Program Manger with the Washington State Department of Ecology, and John Kowalczyk, Air Quality Planning and Development Manager with Oregon State Department of Environmental Quality, to Councilor Larry Bauer and Commissioner John Magnano, a copy of which is appended to this Resolution.

NOW THEREFORE BE IT RESOLVED that the Bi-State Policy Advisory Committee accepts and endorses the recommendations of the Air Quality Subcommittee and encourages Metropolitan Service District and Intergovernmental Resource Center to forward these recommendations to their respective state legislatures.

Adopted this 26th day of October, 1990, by the Bi-State Policy advisory Committee.



Councilor Lawrence Bauer
Co-Chair



Commissioner John Magnano
Co-Chair

October 12, 1990

Councilor Lawrence Bauer, Co-Chair
Commissioner John Magnano, Co-Chair
Bi-State Policy Advisory Committee
1351 Officers' Row
Vancouver, WA 98661

RE: Recommendations on Air-Quality Issues

Dear Councilor Bauer and Commissioner Magnano:

The States of Washington and Oregon share a mutual concern for maintaining the unique quality of life enjoyed by residents in the Portland-Vancouver metropolitan area. This concern has formed the agenda of the Bi-State Policy Advisory Committee. Through this intergovernmental mandate, the committee has identified the airshed shared by the two states as a common resource impacted by the inevitable and rapid growth of urban areas on both sides of the Columbia River. In establishing the Bi-State Air Quality Subcommittee, the Advisory Committee has acknowledged both the importance of the local air quality problem and the need for a regional approach to addressing it.

We of the Air Quality Subcommittee believe there is a need for understanding the ways in which different emissions affect the environment in order to formulate policies which are consistent and equitable, a "leveling of the playing field" that ensures that both the public and private industry are paying costs proportionate to their respective levels of pollutants, for example.

As the time for new legislative sessions approaches in Salem and Olympia, we urge that the Advisory Committee put forward recommendations to Governors Gardner and Goldschmidt which we believe will result in constructive new legislation of benefit to both states. Our recommendations are as follows:

Councilor Lawrence Bauer
Commissioner John Magnano
October 12, 1990
Page 2

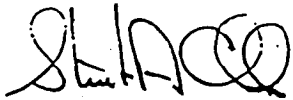
1. *The Bi-State Air Quality Subcommittee supports a more consistent and uniform approach by the governments of Washington and Oregon regarding air quality issues affecting the Portland-Vancouver metropolitan area. With respect to proposed legislation, such an approach would seek to adopt regulations which would be largely standardized between the states and which would not place disproportionate costs on any group or area. We recommend the following policy actions:*
 - a. *Standardize and enhance an expanded motor vehicle emission inspection and maintenance (I/M) program to cover major urban areas on both sides of the Columbia River. The EPA has determined that I/M programs are among the most cost-effective for controlling urban air pollution. We recommend that projections of urban growth's impact on local travel be used to determine the boundaries of the I/M program.*
 - b. *Standardize regulations and enforcement procedures on stationary sources of air pollution on both sides of the Columbia River. These sources, also called point sources, are monitored and regulated differently in the two states, resulting in inconsistent control of industrial emissions within the region.*
 - c. *Establish and enforce a standardized system of stationary source emissions fees within the framework of the new Clean - Air Act requirements to further limit air pollution from major industrial and commercial sources.*
 - d. *Expand the Emission Fee concept to all major area sources of air pollution. These sources are potentially more effectively controlled through a nonregulatory, market-based approach which should include establishing an air quality improvement fund from the fees to support public and private projects that would cost-effectively reduce emissions.*
 - e. *Preserve local control of air-quality policy, with the objective being coordination--not centralization--of policy implementation.*

We are in the process of formulating additional and more specific recommendations to the Advisory Committee in the coming weeks, realizing that time is growing short for submission of formal recommendations to the state legislatures. We are also aware of a need for educating the public in Portland, Vancouver, and particularly the surrounding small communities and rural areas on the significance and implications of air-quality issues. We will be considering ways to inform residents of the metro area on why the varying impacts of different categories of emissions require a range of approaches to control.

Councilor Lawrence Bauer
Commissioner John Magnano
October 12, 1990
Page 3

On behalf of the subcommittee members, we invite your questions and comments in response to these recommendations, which should be directed to subcommittee coordinator Dave Anderson.

Sincerely,



Stuart Clark, Air Program Analyst
Washington State Department of Ecology
Member, Bi-State Air Quality Subcommittee



John Kowalczyk, Manager, Air Quality Planning & Development
Oregon State Department of Environmental Quality
Member, Bi-State Air Quality Subcommittee

Other Subcommittee members listed below:

John Magnano, Clark County Commissioner
Richard Brandman, Transportation Planning Manager,
Metropolitan Service District of Portland
Dick Serdoz, Director, SW Washington Air Pollution Control
Authority
Elsa Coleman, Parking Manager, City of Portland

a:\da\bauerfin

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

(T & P 2/26/91)

FOR THE PURPOSE OF ENDORSING)
PRINCIPLES ASSOCIATED WITH)
DEQ'S COMPREHENSIVE EMISSIONS))
FEE PROPOSAL)

RESOLUTION NO. 91-1388

Introduced by
George Van Bergen, Chair
Joint Policy Advisory Committee
on Transportation

WHEREAS, The Portland metropolitan area is in violation of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor to this air quality problem; and

WHEREAS, Significant growth of population, vehicle travel and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; now, therefore

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following principles:

1. Motor vehicles are a significant source of air pollution statewide and should shoulder its share of the burden of meeting air quality standards.

2. A statewide approach to addressing this problem is appropriate.

3. Significant air quality problems in the Portland region warrant implementation of a special approach for this airshed.

4. Programs proposed to control automobile emissions

should be consistent with state, regional and local land use objectives.

5. Revenues from fees imposed on transportation sources in this area should be linked to transportation improvements in this area, particularly to assist in implementing the transit expansion aspects of the Regional Transportation Plan.

6. Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed.

7. The Metro Council, JPACT and TPAC should be further involved in the development of program details.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

ACC:lmk
91-1388.RES
1-7-91

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

(T & P 2/26/91)

FOR THE PURPOSE OF ENDORSING)	RESOLUTION NO. 91-1388 (A)
PRINCIPLES ASSOCIATED WITH DEQ'S)	
COMPREHENSIVE EMISSIONS FEE)	Introduced by David Knowles,
PROPOSAL)	Chair, Joint Policy Advisory
)	Committee on Transportation

WHEREAS, The Portland metropolitan area is in violation of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor to this air quality problem; and

WHEREAS, Significant growth of population, vehicle travel and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following principles:

1. Motor vehicles are a significant source of air pollution statewide and should shoulder their share of the burden of meeting air quality standards.

2. A ~~market-sensitive~~ statewide approach to addressing this problem is appropriate.

3. Significant air quality problems in the Portland region warrant ~~implementation~~ ~~consideration and further study~~ of a special approach for this airshed.

4. Programs proposed to control automobile emissions should be consistent with state, regional and local land use objectives.

5. Revenues from any special fees which may be imposed on considered for transportation sources in this the Portland area should be linked to dedicated for transportation improvements in this area, particularly to assist in implementing the transit expansion aspects of the Regional Transportation Plan.

6. Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed.

7. The Metro Council, JPACT and TPAC should be further involved in the development of program details.

8. This resolution does not endorse any specific proposal to implement these principles.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

MH:mk
91-1388.REA
02-07-91

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

(T & P 2/26/91)

FOR THE PURPOSE OF ENDORSING)	RESOLUTION NO. 91-1388 (B)
PRINCIPLES ASSOCIATED WITH DEQ'S)	
COMPREHENSIVE EMISSIONS FEE)	Introduced by David Knowles,
PROPOSAL)	Chair, Joint Policy Advisory
)	Committee on Transportation

WHEREAS, The Portland metropolitan area is in violation of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are the largest source of air pollution emissions in the state; and

WHEREAS, Motor vehicles are a significant contributor to this air quality problem major contributor to violations of air quality standards in several areas of the state, particularly in the Portland metropolitan area; and

WHEREAS, Significant expected growth of in population, vehicle travel and congestion threaten to exacerbate this problem; and

WHEREAS, Being in violation of air quality standards significantly impedes growth in all sectors of the economy; and

WHEREAS, Attaining air quality standards and providing airshed capacity is critical for encouraging orderly economic growth and development; and

WHEREAS, Some means of further reducing air pollution emissions, particularly from motor vehicles, will be necessary in the future; and

WHEREAS, DEQ has proposed a market-sensitive based approach to reduce emissions through fees on all major sources of pollution at the rate of \$25.00 per ton; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following principles:

1. Motor vehicles are a significant source of air pollution statewide and should shoulder their share of the burden of meeting air quality standards.

2. A ~~market-based~~ statewide approach to addressing this problem is appropriate.

43. ~~Market-based~~ programs proposed to ~~control~~ ~~address~~ automobile ~~motor vehicle~~ emissions should be consistent with state, regional and local land use objectives.

4. ~~Market-based programs proposed to address motor vehicle emissions should be designed to the greatest extent possible to avoid disadvantaging any sector within the economy, and avoid disadvantaging the state as a whole.~~

5. ~~Market-based programs proposed to address motor vehicle emissions should be designed to provide incentives to reduce emissions and raise revenue available for non-highway transportation improvements while minimizing administration and fee collection costs.~~

56. Revenues from ~~statewide~~ fees imposed on transportation sources in this area ~~motor vehicles~~ should be linked to ~~used for transportation improvements in this area, projects and programs to reduce vehicle emissions, and~~ particularly to assist in implementing the transit expansion aspects of the Regional Transportation Plan.

37. Significant air quality problems in the Portland region warrant implementation consideration of a special supplemental approach for this airshed with any funds from a supplemental vehicle emission fee which might be established for the region being dedicated for mitigating motor vehicle emissions in the region.

68. Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed.

79. The Metro Council, JPACT and TPAC should be further involved in the development of program details and specific amendments to H.B. 2175 to implement these principles.

10. This resolution does not endorse any specific proposal to implement these principles.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

MH:mk
91-1388.REB
02-07-91

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1388 FOR THE PURPOSE OF ENDORISING PRINCIPLES ASSOCIATED WITH DEQ'S COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: January 7, 1991

Presented by: Andrew C. Cotugno

FACTUAL BACKGROUND AND ANALYSIS

PROPOSED ACTION

Adopt Resolution No. 91-1388 endorsing principles regarding DEQ's proposed emissions fee program proposed for consideration by the 1991 Oregon Legislature.

BACKGROUND

The Joint Interim Committee on Energy, Environment and Hazardous Materials with the assistance of DEQ have developed a proposal for a comprehensive emissions fee program. Under this program, consistent with recently adopted federal requirements on industry, a \$25.00 per ton fee is proposed on polluters. Included is a proposed emission fee on automobiles statewide and a parking fee program proposed for the Portland metropolitan area. An overview of the proposal is described in Attachments A and B from DEQ.

The aspects of the program affecting transportation include a fee on all automobiles statewide to be collected through annual vehicle registrations, new car sales or tire sales. Because of the significance of the air quality problem in the Portland region, an additional program designed to reduce vehicle miles of travel involves a fee on parkers for work trips to encourage use of alternative forms of transportation. Numerous details remain to be defined and are not reflected in the legislative proposal. These could be established through amendments considered by the Oregon Legislature or at a later date through DEQ Administrative Rule. Because of the lack of specificity, it is not recommended to specifically endorse the proposed bill. However, a number of objectives that the bill are intended to accomplish merit endorsement and therefore the proposed resolution endorsing a series of principles is recommended for adoption.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1388.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING)
PRINCIPLES ASSOCIATED WITH)
DEQ'S COMPREHENSIVE EMISSIONS)
FEE PROPOSAL)

RESOLUTION NO. 91-1388

Introduced by
George Van Bergen, Chair
Joint Policy Advisory Committee
on Transportation

WHEREAS, The Portland metropolitan area is in violation
of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor
to this air quality problem; and

WHEREAS, Significant growth of population, vehicle
travel and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach
to reduce emissions through fees on polluters at the rate of
\$25.00 per ton; now, therefore

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adopts the following principles:

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pollution statewide and should shoulder its share of the burden
of meeting air quality standards.

2. A statewide approach to addressing this problem is
appropriate.

3. Significant air quality problems in the Portland
region warrant implementation of a special approach for this
airshed.

4. Programs proposed to control automobile emissions

should be consistent with state, regional and local land use objectives.

5. Revenues from fees imposed on transportation sources in this area should be linked to transportation improvements in this area, particularly to assist in implementing the transit expansion aspects of the Regional Transportation Plan.

6. Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed.

7. The Metro Council, JPACT and TPAC should be further involved in the development of program details.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

ACC:lmk
91-1388.RES
1-7-91

Table B-1

CLASSIFICATION OF AREAS

	CLASS	LEVEL - PPM	ATTAINMENT DATE
Ozone	Marginal	.121 to .138	3 years
	Moderate	.138 to .160	6 years
	Serious	.160 to .180	9 years
	Severe 1	.180 to .190	15 years
	Severe 2	.190 to .280	17 years
	Extreme	.280 and above	20 years

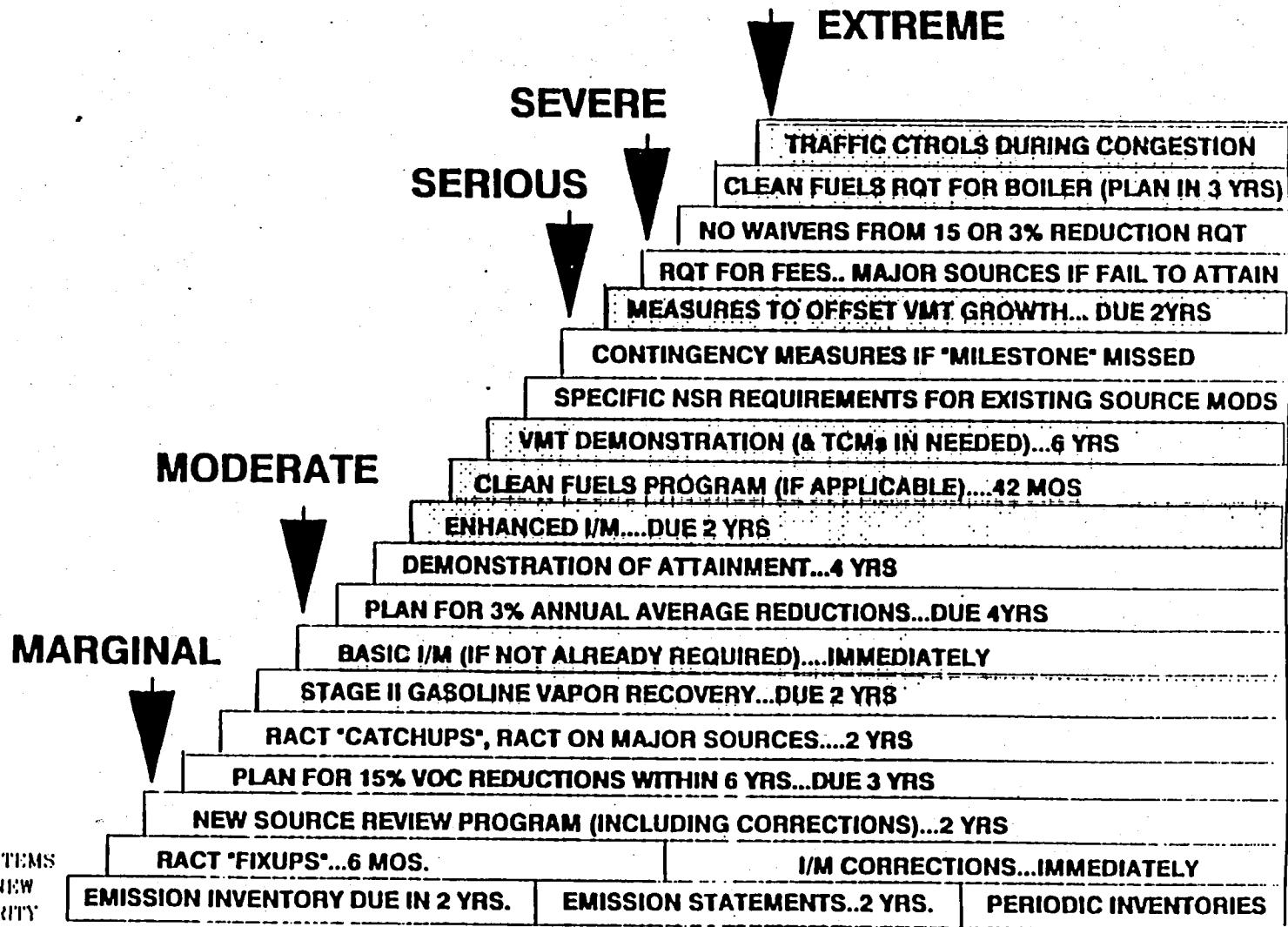
Carbon Monoxide	Moderate	9.1 to 16.4	12/31/95
	Serious	16.5 and up	12/31/00

For ozone and CO: Adjustment Possible Based On 5% Rule; EPA May Grant Two One-Year Extensions of Attainment Date

PM-10	Moderate	N/A	12/31/94 6 years for future areas
	Serious	N/A	12/31/01 10 years for future areas

Possible Extension of Attainment Date Up to Five Years for Serious Areas

REQUIREMENTS FOR OZONE PLANS

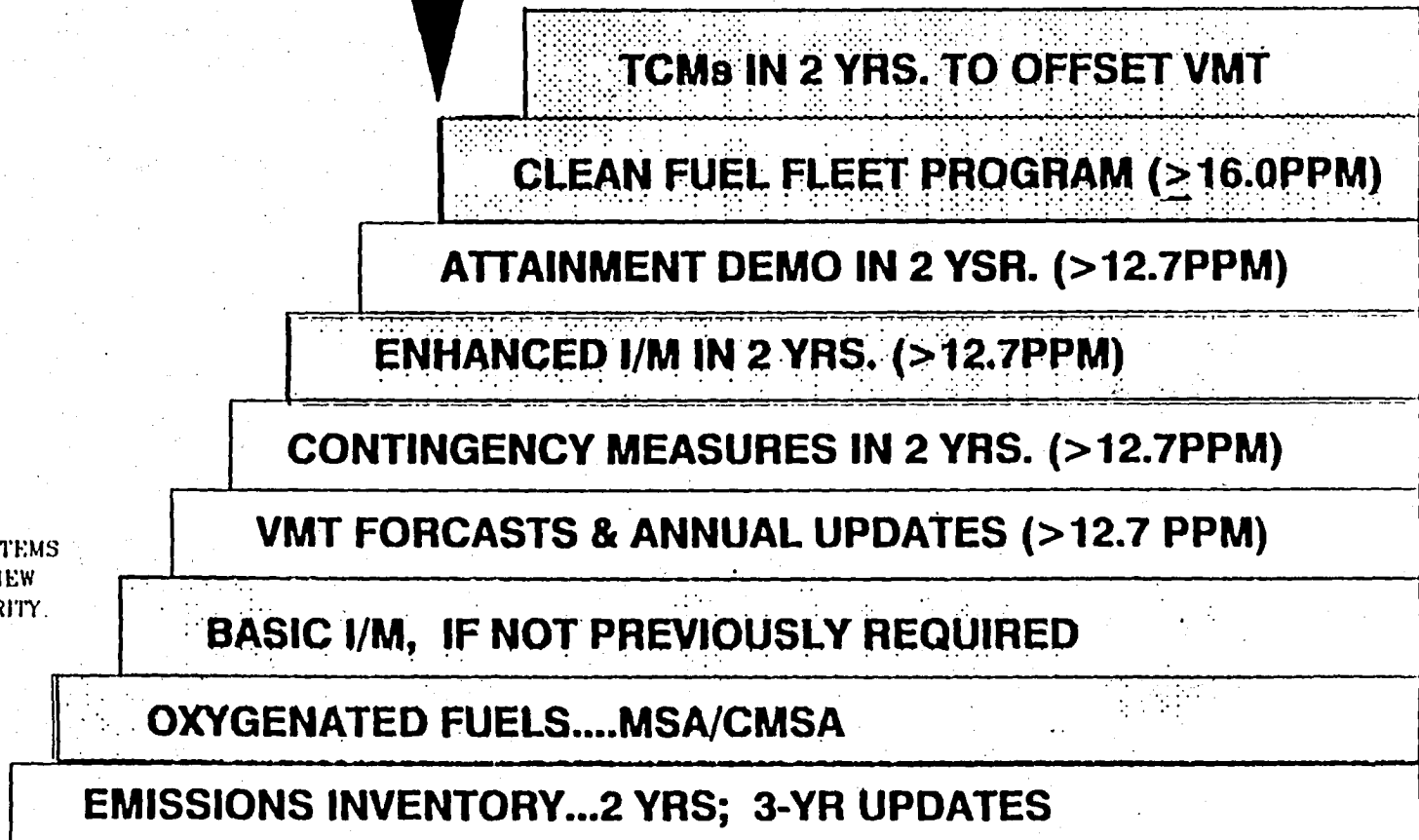


B-4

Figure B - 4

REQUIREMENTS FOR CO PLANS

MODERATE SERIOUS



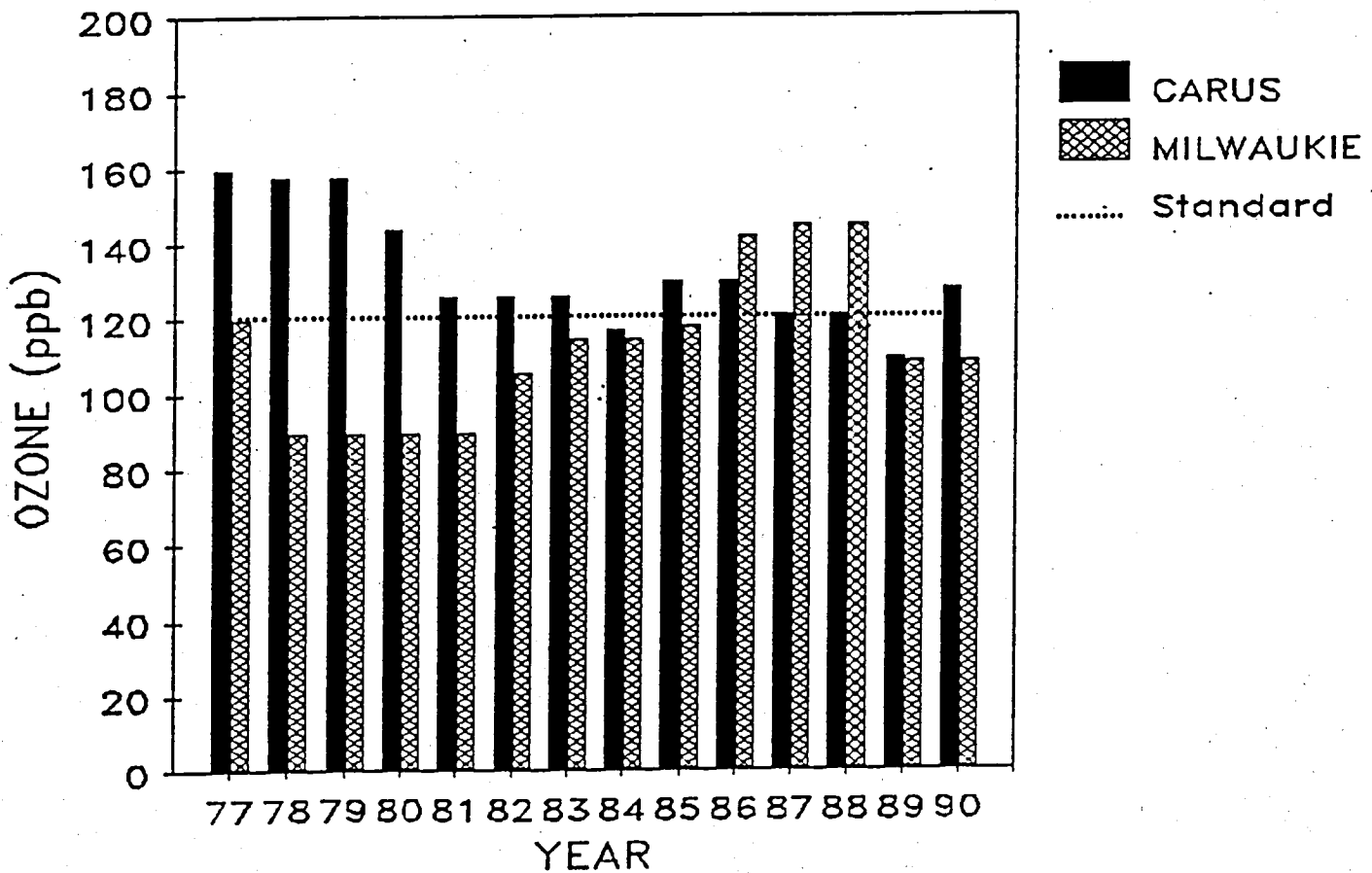
SHADING INDICATES ITEMS THAT MAY REQUIRE NEW STATE LEGAL AUTHORITY.

OVERVIEW OF OZONE STATUS IN THE PORTLAND-VANCOUVER AREA

Oregon Department of Environmental Quality
Air Quality Division
February 1991

PORTLAND AREA OZONE TRENDS

4th Highest Day in 3-Year Period



Note: Each observation is a 3-year average ending with the year indicated.

PAST: Elements of the 1982 ozone control strategies.

- o RACT control technology on existing industries
- o Lowest achievable emission rate (LAER) on new industries
- o Offsets for new or expanded industries
- o Growth cushion for new or expanded industries

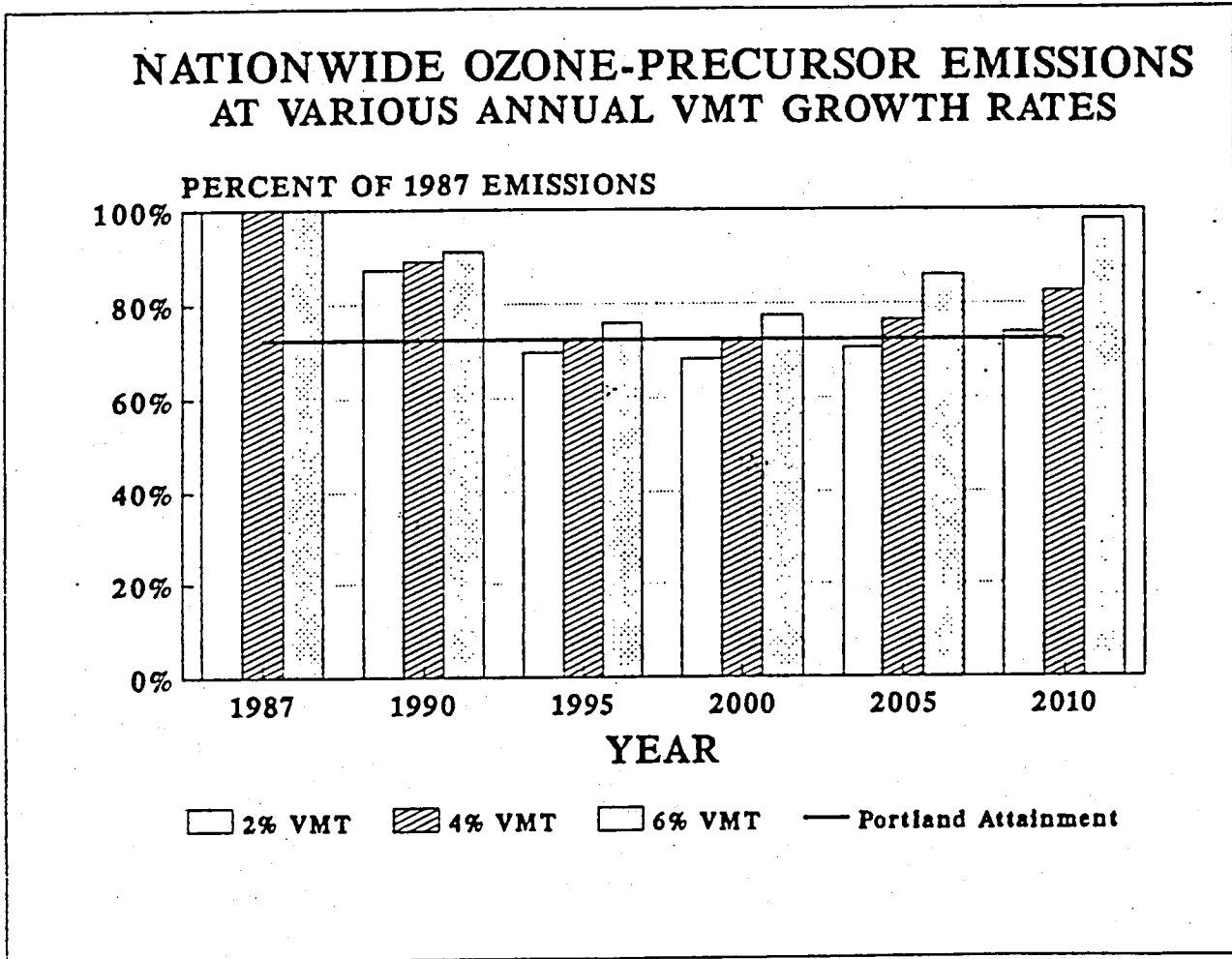
- o Federal motor vehicle emission control program
- o Motor vehicle testing (I/M) program
- o Motor vehicle anti-tampering program
- o Public transit improvements
- o Park-and-ride lots
- o Traffic flow improvements

PRESENT: Recent commitments/proposals to further reduce ozone.

- o Review and tightening of RACT requirements on industries

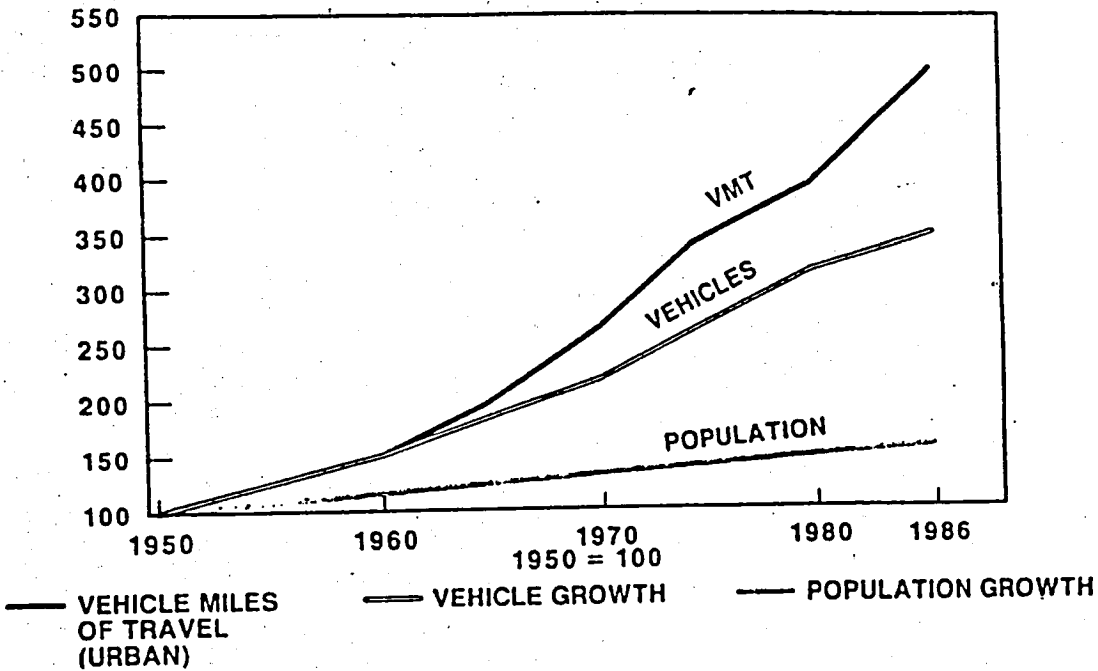
- o Summertime gasoline volatility limits
- o Stage II vapor recovery on gasoline stations
- o Tighter federal motor vehicle exhaust limits

GENERAL EMISSION PATTERN AT VARIOUS VMT GROWTH RATES



NATIONAL TRENDS IN TRAFFIC GROWTH (VEHICLE-MILES-TRAVELED. VMT)

POPULATION & VEHICLES & VMT



DAILY VMT INCREASES: 1982-87
 FREEWAYS AND PRINCIPAL ARTERIALS

<u>URBAN AREA</u>	<u>AVERAGE ANNUAL INCREASE (%)</u>
BUFFALO	2.7%
MIAMI	2.9
HOUSTON	3.6
PORTLAND	6.3
SACRAMENTO	7.6
WASHINGTON, D.C.	8.8
SAN DIEGO	9.6
ATLANTA	11.0

SOURCE: TTI REPORT 431-IF

FUTURE:

Potential new regulatory strategies.

- o Further tightening of industry requirements (BACT/LAER)
 - o Expanded or tightened motor vehicle testing programs
 - o Require more expensive reformulated gasolines
 - o Mandatory employer programs to increase vehicle occupancy
 - o Restrict new parking construction, add suburban parking lots
 - o Mandatory mitigation in air permits for new highways and shopping center parking lots
-

Proposed market-based strategies.

- o HB2175 (Comprehensive Emission Fee Bill)
 - o Emission fees to provide incentives to reduce pollution
 - o Funds for projects like transit, vanpools, alternative fueled vehicles and supply stations
-

Sanctions.

- o More stringent prescriptive controls
 - o Increased offset ratio (up to 2:1) for industrial sources
 - o Restrictions on federal highway funds (unless safety-related)
 - o Federal implementation plan to meet ozone standard
-

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 91-1388A
PRINCIPLES ASSOCIATED WITH DEQ'S)
COMPREHENSIVE EMISSIONS FEE) Introduced by David Knowles,
PROPOSAL) Chair, Joint Policy Advisory
) Committee on Transportation

WHEREAS, The Portland metropolitan area is in violation of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor to this air quality problem; and

WHEREAS, Significant growth of population, vehicle travel and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following principles:

1. Motor vehicles are a significant source of air pollution statewide and should shoulder their share of the burden of meeting air quality standards.

2. A market-sensitive statewide approach to addressing this problem is appropriate.

3. Programs and fees proposed to control automobile emissions should be consistent with state, regional and local land use objectives and assist in implementing a multi-modal approach to meeting air quality objectives.

4. The Metro Council, JPACT, and TPAC and Bi-State Committee should be further involved in the development of program details.

5. An added approach should be pursued to meeting air quality problems in the Portland metropolitan area; TPAC should work with the Department of Environmental Quality to recommend to JPACT, Bi-State Committee and the Metro Council specific language to be incorporated into HB 2175 calling for the development and implementation of the added approach in the Portland metropolitan area.

7-6. Limitations on the use of motor vehicle fee alternatives due to restrictions of the Oregon Constitution should be changed.

7. This resolution does not endorse any specific proposal to implement these principles.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

MH:mk
91-1388A.RES
02-27-91

House Bill 2175

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Department of Environmental Quality).

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes air pollution emission fee program. Imposes fee for emissions of air contaminants from industrial, residential wood heating, motor vehicles, forest prescribed burning and agricultural field burning sources and activities. Establishes Air Quality Improvement Fund and specifies programs and projects eligible to receive moneys from fund. Appropriates moneys.

A BILL FOR AN ACT

1
2 Relating to air pollution; creating new provisions; amending ORS 468.065, 468.290, 468.325 and
3 468.480 and section 8, chapter 920, Oregon Laws 1989; and appropriating money.

4 Whereas air pollution continues to present a threat to the public health and welfare of the state
5 despite enactment and implementation of long-standing regulatory programs at the federal, state and
6 local levels;

7 Whereas providing the purity of the air expected by citizens of the state, particularly in light
8 of anticipated growth, requires new and innovative approaches;

9 Whereas tightening of traditional regulatory programs has not met with widespread support in
10 recent times, particularly for nonindustrial sources, while the use of a market driven approach has
11 gained increasing support as a method of motivating and providing assistance to public and industry
12 efforts to prevent and control air pollution; and

13 Whereas an emission fee-based program offers the opportunity to reduce total statewide air
14 contaminant emissions by up to 40 percent within a 5 to 10-year period.

15 **Be It Enacted by the People of the State of Oregon:**

16 **SECTION 1.** As used in ORS 468.480, section 8, chapter 920, Oregon Laws 1989, and sections
17 1 to 4, 7 to 9, 11 and 13 to 24 of this 1991 Act:

18 (1) "Agricultural field burning" means the burning of any perennial or annual grass seed or
19 cereal grain crop, or associated residue, including but not limited to open burning, stack burning
20 and propane flaming.

21 (2) "Consumer price index" means the average of the Consumer Price Index for All Urban
22 Consumers of the Portland, Oregon, Standard Metropolitan Statistical Area or the revision that is
23 most consistent with the Consumer Price Index for the calendar year 1989, published by the United
24 States Department of Labor, Bureau of Labor Statistics, as of the close of the 24-month period end-
25 ing on July 31 of each biennium.

26 (3) "Federal permit program" means the permit program submitted to the United States Envi-
27 ronmental Protection Agency in accordance with section 502 (d) of the Clean Air Act Amendments
28 of 1990 (P.L. 101-549).

29 (4) "Nonattainment area" means an area of the state that exceeds, on or after January 1, 1990,
30 the air quality standard for an air contaminant as established by the Environmental Quality Com-

1 mission pursuant to ORS 468.295.

2 SECTION 2. The Legislative Assembly declares the purpose of this 1991 Act is to:

3 (1) Authorize the imposition of air contaminant emission fees on industrial sources as required
4 by the Clean Air Act Amendments of 1990.

5 (2) Provide an economic incentive to reduce air contamination from all major source categories
6 of air contaminants in the state.

7 (3) Establish a fund for financing public and private sector programs and projects in all areas
8 of the state that substantially improve air quality.

9 (4) Enhance the air quality of the state while conserving energy and encouraging orderly growth
10 and economic development.

11 (5) Develop an awareness that the air resources of the state are not a free dumping ground for
12 air contaminants and that emissions of air contaminants may have a negative environmental or
13 economic effect on a neighbor, a local airshed or the state as a whole or even on a global basis.

14 SECTION 3. (1) An emission fee is imposed on activities or sources that result directly or in-
15 directly in the discharge of air contaminants into the outdoor atmosphere of this state. The amount
16 of the fee shall be based on an average base rate of \$25 per ton of emissions. The specific amount
17 of the fee for each source or activity set forth in subsection (4) of this section as established by the
18 Environmental Quality Commission shall be based on the product of the average base rate and the
19 following factors for each major air contaminant which are weighted to the potential environmental
20 impact of the contaminant:

Contaminant	Factor
(a) Volatile Organic Compounds:	1.75
(b) PM10:	1.68
(c) Nitrogen Oxides:	0.87
(d) Sulfur Oxides:	0.66
(e) Carbon Monoxide:	0.04

28
29 (2) For any toxic air contaminant from an industrial source not included under subsection (1)
30 of this section for which the Environmental Quality Commission adopts standards pursuant to sec-
31 tion 112 of the Clean Air Act Amendments of 1990 (P.L. 101-549), the specific factor shall be adopted
32 by rule by the commission. The specific fee for emissions of such toxic air contaminants shall be the
33 product of the specific factor and an average base rate of \$25 per ton of emissions. The factor
34 adopted by the commission shall average approximately 1.00 and not exceed 2.00.

35 (3) The average base rate of the emission fees established in subsections (1) and (2) of this sec-
36 tion shall be increased biennially by the percentage, if any, by which the Consumer Price Index in-
37 creases.

38 (4) The emission fees established under subsections (1) and (2) of this section shall apply to
39 emissions from:

- 40 (a) Industrial sources, as specified in section 4 of this 1991 Act;
- 41 (b) Residential wood heating sources, as specified in section 7 of this 1991 Act;
- 42 (c) Motor vehicle sources, as specified in section 8 of this 1991 Act;
- 43 (d) Forest prescribed burning sources as specified in section 8, chapter 920, Oregon Laws 1989,
44 and section 9 of this 1991 Act; and

1 (e) Agricultural field burning sources as specified in ORS 468.480 and section 11 of this 1991
 2 Act.

3 (5) A person shall be liable for the payment of a fee established under this section for activities
 4 resulting in the emission of air contaminants that occur on or after July 1, 1992, or such later date
 5 as established by the commission by rule. The person shall pay the emission fee in accordance with
 6 a schedule established by the commission.

7 **SECTION 4. (1)** All industrial emission sources subject to the federal permit program shall be
 8 subject to an emission fee as specified in section 3 of this 1991 Act. The fees shall be assessed on
 9 permitted emissions. The fees shall be collected by either the Department of Environmental Quality
 10 or by a regional authority having jurisdiction over the source.

11 (2) An industrial emission source may apply to the department for a partial refund of the fee
 12 submitted under subsection (1) of this section if actual emissions are less than permitted emissions.
 13 Any industrial source applying for a partial refund shall do so in accordance with rules adopted by
 14 the Environmental Quality Commission under section 24 of this 1991 Act.

15 (3) Any penalty paid under section 510 of the Clean Air Act Amendments of 1990 for emissions
 16 in excess of allowances possessed by a source and any amount paid under section 519 of the Clean
 17 Air Act Amendments of 1990 for the purchase of allowances shall be credited in the year paid
 18 against emission fees due for emissions of the same air contaminants in excess of 4,000 tons per
 19 year.

20 (4) All fees collected under this section from an industrial source shall be deposited in the State
 21 Treasury to the credit of the Industrial Programs Subaccount of the Air Quality Improvement Fund
 22 created under section 13 of this 1991 Act.

23 **SECTION 5. ORS 468.065 is amended to read:**

24 468.065. Subject to any specific requirements imposed by ORS 448.305, 454.010 to 454.040, 454.205
 25 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter:

26 (1) Applications for all permits authorized or required by ORS 448.305, 454.010 to 454.040,
 27 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter shall be
 28 made in a form prescribed by the department. Any permit issued by the department shall specify its
 29 duration, and the conditions for compliance with the rules and standards, if any, adopted by the
 30 commission pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505
 31 to 454.535, 454.605 to 454.745 and this chapter.

32 (2) By rule and after hearing, the commission may establish a schedule of fees for permits issued
 33 pursuant to ORS 468.310, 468.315, 468.555 and 468.740. Except for permits issued under ORS
 34 468.310 and 468.315 for an industrial source subject to the fee assessed under section 4 of this
 35 1991 Act, the fees contained in the schedule shall be based upon the anticipated cost of filing and
 36 investigating the application, of issuing or denying the requested permit, and of an inspection pro-
 37 gram to determine compliance or noncompliance with the permit. The fee shall accompany the ap-
 38 plication for the permit. For a permit issued under ORS 468.310 and 468.315 for an industrial
 39 source subject to the fee assessed under section 4 of this 1991 Act, the schedule of fees and
 40 the payment due dates shall be as established by rule by the commission under section 24
 41 of this 1991 Act.

42 (3) An applicant for certification of a project under ORS 468.732 or 468.734 shall pay as a fee
 43 all expenses incurred by the commission and department related to the review and decision of the
 44 director and commission. These expenses may include legal expenses, expenses incurred in process-

1 ing and evaluating the application, issuing or denying certification and expenses of commissioning
 2 an independent study by a contractor of any aspect of the proposed project. These expenses shall
 3 not include the costs incurred in defending a decision of either the director or the commission
 4 against appeals or legal challenges. Every applicant for certification shall submit to the department
 5 a fee at the same time as the application for certification is filed. The fee for a new project shall
 6 be \$5,000, and the fee for an existing project needing relicense shall be \$3,000. To the extent possi-
 7 ble, the full cost of the investigation shall be paid from the application fee paid under this section.
 8 However, if the costs exceed the fee, the applicant shall pay any excess costs shown in an itemized
 9 statement prepared by the department. In no event shall the department incur expenses to be borne
 10 by the applicant in excess of 110 percent of the fee initially paid without prior notification to the
 11 applicant. In no event shall the total fee exceed \$40,000 for a new project or \$30,000 for an existing
 12 project needing relicense. If the costs are less than the initial fee paid, the excess shall be refunded
 13 to the applicant.

14 (4) The department may require the submission of plans, specifications and corrections and re-
 15 visions thereto and such other reasonable information as it considers necessary to determine the
 16 eligibility of the applicant for the permit.

17 (5) The department may require periodic reports from persons who hold permits under ORS
 18 448.305, 454.010 to 454.040, 454.205 to 454.225, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745
 19 and this chapter. The report shall be in a form prescribed by the department and shall contain such
 20 information as to the amount and nature or common description of the pollutant, contaminant or
 21 waste and such other information as the department may require.

22 (6) Any fee collected under this section shall be deposited in the State Treasury to the credit
 23 of an account of the department. Such fees are continuously appropriated to meet the administrative
 24 expenses of the program for which they are collected. The fees accompanying an application to a
 25 regional air pollution control authority pursuant to a permit program authorized by the commission
 26 shall be retained by and shall be income to the regional authority. Such fees shall be accounted for
 27 and expended in the same manner as are other funds of the regional authority. However, if the de-
 28 partment finds after hearing that the permit program administered by the regional authority does
 29 not conform to the requirements of the permit program approved by the commission pursuant to
 30 ORS 468.555, such fees shall be deposited and expended as are permit fees submitted to the depart-
 31 ment.

32 **SECTION 6.** ORS 468.325 is amended to read:

33 468.325. (1) The commission may require notice prior to the construction of new air contam-
 34 ination sources specified by class or classes in its rules or standards relating to air pollution.

35 (2) Within 30 days of receipt of such notice, the commission may require, as a condition
 36 precedent to approval of the construction, the submission of plans and specifications. After exam-
 37 ination thereof, the commission may request corrections and revisions to the plans and specifica-
 38 tions. The commission may also require any other information concerning air contaminant emissions
 39 as is necessary to determine whether the proposed construction is in accordance with the provisions
 40 of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605
 41 to 454.745 and this chapter and applicable rules or standards adopted pursuant thereto.

42 (3) If the commission determines that the proposed construction is in accordance with the pro-
 43 visions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535,
 44 454.605 to 454.745 and this chapter and applicable rules or standards adopted pursuant thereto, it

1 shall enter an order approving such construction. If the commission determines that the construction
2 does not comply with the provisions of ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405,
3 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter and applicable rules or standards
4 adopted pursuant thereto, it shall notify the applicant and enter an order prohibiting the con-
5 struction.

6 (4) If within 60 days of the receipt of plans, specifications or any subsequently requested re-
7 visions or corrections to the plans and specifications or any other information required pursuant to
8 this section, the commission fails to issue an order, the failure shall be considered a determination
9 that the construction may proceed. The construction must comply with the plans, specifications and
10 any corrections or revisions thereto or other information, if any, previously submitted.

11 (5) Any person against whom the order is directed may, within 20 days from the date of mailing
12 of the order, demand a hearing. The demand shall be in writing, shall state the grounds for hearing
13 and shall be mailed to the director of the department. The hearing shall be conducted pursuant to
14 the applicable provisions of ORS 183.310 to 183.550.

15 (6) The commission may delegate its duties under subsections (2) to (4) of this section to the
16 Director of the Department of Environmental Quality. If the commission delegates its duties under
17 this section, any person against whom an order of the director is directed may demand a hearing
18 before the commission as provided in subsection (5) of this section.

19 (7) Any person applying for a permit required under ORS 468.310 for a new source or a
20 major modification which, upon construction and operation, would be subject to the emission
21 fee assessed under section 4 of this 1991 Act shall submit with the permit application a
22 nonrefundable permit issuance fee. All permit issuance fees shall be in an amount sufficient
23 to pay for the department's extraordinary application processing costs as established by the
24 commission under section 24 of this 1991 Act. All fees collected under this subsection shall
25 be deposited in the State Treasury to the credit of an account of the department and are
26 continuously appropriated to the department to be used to carry out the department's re-
27 sponsibilities relating to processing applications for new sources or major modifications of
28 existing sources.

29 [(7)] (8) For the purposes of this section, "construction" includes installation and establishment
30 of new air contamination sources. Addition to or enlargement or replacement of an air contam-
31 ination source, or any major alteration or modification therein that significantly affects the emission
32 of air contaminants shall be considered as construction of a new air contamination source.

33 **SECTION 7.** (1) Any federal, state or private land manager providing cordwood shall pay to the
34 Department of Environmental Quality the emission fee imposed under section 3 of this 1991 Act.

35 (2) Any private land manager whose forestland holdings in this state are less than 1,000 acres
36 shall be exempt from the fee required under subsection (1) of this section.

37 (3) All fees collected under this section shall be deposited in the State Treasury to the credit
38 of the Residential Wood Heating Subaccount of the Air Quality Improvement Fund created under
39 section 13 of this 1991 Act.

40 (4) As used in this section, "cordwood" means any split or unsplit logs or branches of any
41 length, other than artificially compressed logs or pelletized fuel, that are to be used, sold or resold
42 as fuel for residential space heating.

43 **SECTION 8.** (1) The emission fee imposed under section 3 of this 1991 Act shall be assessed on
44 motor vehicle emissions. This fee shall include a statewide component and a regional component for

1 ozone nonattainment areas to address the significant portion of ozone precursors emitted by motor
2 vehicles.

3 (2) All moneys collected under this section shall be deposited in the State Treasury to the credit
4 of the Transportation Programs Subaccount of the Air Quality Improvement Fund created under
5 section 13 of this 1991 Act.

6 **SECTION 9.** (1) The emission fee imposed under section 3 of this 1991 Act shall be collected
7 from any person who conducts forest prescribed burning in Class 1 forestland under ORS 526.324
8 that is privately owned or managed by the state or Federal Government.

9 (2) For those forestlands subject to the registration requirements of section 8, chapter 920,
10 Oregon Laws 1989, the fee required under subsection (1) of this section shall be collected as a sur-
11 charge on the fee collected under section 8, chapter 920, Oregon Laws 1989. For all prescribed
12 burning conducted on forestlands not subject to chapter 920, Oregon Laws 1989, the Environmental
13 Quality Commission shall select the lowest cost mechanism for collecting the emission fee.

14 (3) All emission fees collected under this section shall be deposited in the State Treasury to the
15 credit of the Forest Prescribed Burning Subaccount of the Air Quality Improvement Fund created
16 under section 13 of this 1991 Act.

17 (4) As used in this section, "forest prescribed burning" includes broadcast and pile burning.

18 **SECTION 10.** Section 8, chapter 920, Oregon Laws 1989, is amended to read:

19 Sec. 8. (1) The department shall collect a nonrefundable registration fee for forestland to be
20 burned lying within the restricted area described under ORS 477.515 (3).

21 (2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1
22 forestland under ORS 526.324 lying within the restricted area as described in the plan required un-
23 der ORS 477.515 (3) shall register with the State Forester, in accordance with rules adopted by the
24 State Forester, the number of acres to be burned prior to December 31 of the same year.

25 (3) The State Forester shall establish by rule the amount of fees to be collected under this sec-
26 tion. The fees shall not exceed:

27 (a) Fifty cents per acre for registration.

28 (b) \$1.50 per acre for forestland classified as Class 1 under ORS 526.324 that has been treated
29 by any prescription burn method authorized by the issuance of a permit under ORS 477.515 (1).

30 (4) Federal lands included within the restricted area under the provision of the smoke manage-
31 ment plan approved under ORS 477.515 (3)(a) shall also be subject to the fees authorized under
32 subsection (3) of this section for forest land to be treated by any prescription burn method subject
33 to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean
34 Air Act as amended by the Clean Air Act Amendments of 1990 (P.L. 101-549).

35 (5) Except as provided in subsection (6) of this section, notwithstanding ORS 291.238, moneys
36 collected under this section shall be deposited in the Oregon Forest Smoke Management Account
37 established under section 7, chapter 920, Oregon Laws 1989 [of this 1989 Act].

38 (6) For any forestlands subject to the registration under this section, the emission fee
39 imposed under section 3 of this 1991 Act shall be collected as a surcharge from the person
40 conducting the forest prescribed burning. All fees collected as a surcharge under this sub-
41 section shall be deposited in the State Treasury to the credit of the Forest Prescribed
42 Burning Subaccount of the Air Quality Improvement Fund created under section 13 of this
43 1991 Act.

44 (7) As used in this section, "forest prescribed burning" includes broadcast and pile

1 burning.

2 SECTION 11. (1) The emission fee imposed under section 3 of this 1991 Act shall be collected
3 from any person who conducts agricultural field burning.

4 (2) For all agricultural field burning in areas of the state not subject to ORS 468.455 to 468.490,
5 the Environmental Quality Commission shall select the lowest cost mechanism for collecting the
6 emission fee.

7 (3) All emission fees collected under this section shall be deposited in the State Treasury to the
8 credit of the Agricultural Burning Subaccount of the Air Quality Improvement Fund created under
9 section 13 of this 1991 Act.

10 SECTION 12. ORS 468.480 is amended to read:

11 468.480. (1)(a) On or before April 1 of each year, the grower of a grass seed crop shall register
12 with the county court or board of county commissioners or the fire chief of a rural fire protection
13 district, or the designated representative of the fire chief, the number of acres to be burned in the
14 remainder of the year. At the time of registration the Department of Environmental Quality shall
15 collect a nonrefundable fee of \$1 per acre registered. The department may contract with counties
16 and rural fire protection districts for the collection of the fees which shall be forwarded to the de-
17 partment. Any person registering after the dates specified in this subsection shall pay an additional
18 fee of \$1 per acre registered if the late registration is due to the fault of the late registrant or one
19 under the control of the late registrant. Late registrations must be approved by the department.
20 Copies of the registration form shall be forwarded to the department. The required registration must
21 be made and the fee paid before a permit shall be issued under ORS 468.458.

22 (b) Except as provided in paragraph (c) of this subsection, after July 2, 1975, the department
23 shall collect a fee of \$2.50 per acre of crop burned prior to the issuance of any permit for open
24 burning of perennial or annual grass seed crops or cereal grain crops under ORS 468.140, 468.150,
25 468.290 and 468.455 to 468.480. The department may contract with counties and rural fire protection
26 districts for the collection of the fees which shall be forwarded to the department.

27 (c) The fee required by paragraph (b) of this subsection shall be refunded for any acreage where
28 efficient burning of stubble is accomplished with equipment using an auxiliary fuel or mobile field
29 sanitizer which has been approved by the department for field sanitizing purposes or with any other
30 certified alternative method to open field burning. The fee required by paragraph (b) of this sub-
31 section shall be refunded for any acreage not harvested prior to burning and for any acreage not
32 burned.

33 (2) With regard to the disbursement of funds collected pursuant to subsection (1) of this section,
34 the department shall:

35 (a) Pay an amount to the county or board of county commissioners or the fire chief of the rural
36 fire protection district, for each fire protection district 50 cents per acre registered for each of the
37 first 5,000 acres registered in the district, 35 cents per acre registered for each of the second 5,000
38 acres registered in the district and 20 cents per acre registered for all acreage registered in the
39 district in excess of 10,000 acres, to cover the cost of and to be used solely for the purpose of ad-
40 ministering the program of registration of acreage to be burned, issuance of permits, keeping of re-
41 cords and other matters directly related to agricultural field burning.

42 (b) Designate and retain an amount not to exceed \$500,000 for the biennium beginning July 1,
43 1979, to be used for the smoke management program defined in ORS 468.453. The department by
44 contract with the Oregon Seed Council or otherwise shall organize rural fire protection districts and

growers, coordinate and provide communications, hire ground support personnel, provide aircraft surveillance and provide such added support services as are necessary.

(c) Deposit the balance of acreage fees in the State Treasury to be credited to the account of the department. Such fees shall be segregated from other funds and used for the carrying out of the provisions of ORS 468.470, but if the amount designated in paragraph (b) of this subsection is not sufficient to support the carrying out of the smoke management program, the fees shall be used for the smoke management program.

(3) For any area of the state subject to registration under this section, the emission fee imposed under section 3 of this 1991 Act shall be collected as a surcharge from the person conducting the agricultural field burning. All fees collected as a surcharge under this subsection shall be deposited in the State Treasury to the credit of the Agricultural Burning Subaccount of the Air Quality Improvement Fund created under section 13 of this 1991 Act.

SECTION 13. (1) There is created within the State Treasury a fund known as the Air Quality Improvement Fund, separate and distinct from the General Fund. The fund shall include six subaccounts to be managed separately:

- (a) The Transportation Programs Subaccount;
- (b) The Residential Wood Heating Subaccount;
- (c) The Agricultural Burning Subaccount;
- (d) The Forest Prescribed Burning Subaccount;
- (e) The Industrial Programs Subaccount; and
- (f) The Common Subaccount.

(2) The following moneys shall be credited to the Air Quality Improvement Fund:

(a) Such moneys as may be appropriated to the fund and separate subaccounts by the Legislative Assembly.

(b) All moneys received as fees under ORS 468.480, section 8, chapter 920, Oregon Laws 1989, and sections 4, 7 to 9 and 11 of this 1991 Act.

(3) The State Treasurer may invest and reinvest the moneys in the fund as provided in ORS 293.701 to 293.776. Interest from the moneys deposited in the fund and earnings from investment of the moneys in the fund shall accrue to the fund and shall be credited to the subaccount from which the interest or earnings are derived.

SECTION 14. (1) An Air Quality Improvement Fund Advisory Board is established to advise the Environmental Quality Commission on uses of the moneys available in the Air Quality Improvement Fund. The advisory board shall consist of nine members as specified in subsection (2) of this section.

(2) The Air Quality Improvement Fund Advisory Board shall consist of:

- (a) Two members of the public, appointed by the Governor, one of whom shall serve as chair;
- (b) The chair of the Economic Development Commission, or designee;
- (c) The chair of the Energy Facility Siting Council, or designee;
- (d) The chair of the Land Conservation and Development Commission, or designee;
- (e) The chair of the Public Health Advisory Board, or designee;
- (f) The chair of the State Board of Agriculture, or designee;
- (g) The chair of the State Board of Forestry, or designee; and
- (h) The chair of the Oregon Transportation Commission, or designee.

(3) A member of the board is entitled to compensation and expenses as provided in ORS 292.495 which shall be payable from the Air Quality Improvement Fund.

1 **SECTION 15.** At least biennially, the Department of Environmental Quality shall solicit and
 2 compile a list of projects and programs eligible for air quality improvement funding along with an
 3 analysis of the relative merits of each project and present this information to the Air Quality Im-
 4 provement Fund Advisory Board for consideration. In preparing this analysis, the department shall
 5 request comments from other state departments and agencies whose programs may be affected by
 6 the projects or programs.

7 **SECTION 16. (1)** At least biennially, the Air Quality Improvement Fund Advisory Board shall
 8 recommend to the Environmental Quality Commission projects and programs to be funded from the
 9 Air Quality Improvement Fund.

10 (2) Before submitting its recommendations to the commission, the board shall consider the list
 11 of projects and programs compiled by the Department of Environmental Quality under section 15
 12 of this 1991 Act and shall conduct public hearings on its proposed recommendations in order to
 13 obtain comments from interested persons, including but not limited to persons in industry, city
 14 government, county government, automobile organizations, environmental organizations, agriculture,
 15 forestry, the woodstove industry and public health. The board shall conduct public hearings ac-
 16 cording to the provisions under ORS 183.310 to 183.550 applicable to hearings in noncontested cases.

17 **SECTION 17. (1)** At least once each biennium, the Environmental Quality Commission shall
 18 select the projects and programs to be funded from moneys available in the Air Quality Improvement
 19 Fund. In selecting the programs and projects, the commission shall take into consideration the rec-
 20 ommendations received under section 16 of this 1991 Act and the public comments received in the
 21 public hearings conducted under section 16 of this 1991 Act.

22 (2) The selected projects and programs shall be submitted to the Legislative Assembly as part
 23 of the biennial budget process. Up to 20 percent of available moneys may be budgeted for projects
 24 and programs to be selected by the commission during the biennium.

25 **SECTION 18.** Moneys remaining in the Air Quality Improvement Fund after paying for refunds,
 26 fee collection costs and expenses of the Department of Environmental Quality to administer the
 27 federal permit program and the Air Quality Improvement Fund programs shall be allocated in ac-
 28 cordance with the following guidelines:

29 (1) To be eligible, a project or program must relate in some manner to preventing or reducing
 30 air contaminant emissions in the State of Oregon.

31 (2) Moneys may be allocated to a federal, state, local government, public or private project or
 32 program including but not limited to those identified in sections 19 to 23 of this 1991 Act.

33 (3) The moneys may be used in any reasonable and appropriate manner, including but not limited
 34 to:

- 35 (a) Capital improvement projects;
- 36 (b) Low or no interest loan programs;
- 37 (c) Program operating subsidies; and
- 38 (d) Grants.

39 (4) Priority shall be given to those projects or programs that:

- 40 (a) Achieve the largest reductions in emissions and exposure to air contaminants;
- 41 (b) Are principally dedicated to full-scale air quality improvement projects;
- 42 (c) Achieve larger emission reductions per dollar expended than alternate projects or programs;
- 43 (d) Receive additional funding or in-kind services from the Federal Government, state govern-
 44 ment, local governments or private industry;

1 (e) Provide energy or other environmental benefits; and

2 (f) Address airshed problems that are barriers to orderly growth and economic development.

3 **SECTION 19.** (1) Moneys credited to the Industrial Programs Subaccount from industrial
4 sources are continuously appropriated for the following purposes:

5 (a) To pay for partial refunds of the emission fees collected under section 4 of this 1991 Act if
6 actual emissions are less than permitted emissions.

7 (b) To pay for all costs incurred by the Department of Environmental Quality and any regional
8 authority in administering the federal permit program, collecting emission fees assessed under sec-
9 tion 4 of this 1991 Act, maintaining industrial emission inventories, analyzing projects and programs
10 proposed for funding and administering projects and programs selected for funding under this sec-
11 tion.

12 (2) Of the moneys remaining in the Industrial Programs Subaccount after payment of the costs
13 and refunds under subsection (1) of this section:

14 (a) Eighty percent shall be used for projects and programs relating to the reduction in emissions
15 from industrial sources subject to the federal permit program; and

16 (b) Twenty percent shall be transferred to the Common Subaccount within the Air Quality Im-
17 provement Fund to be used for any eligible project or program. Any moneys remaining in the In-
18 dustrial Programs Subaccount at the end of a biennium after all eligible projects and programs are
19 funded also shall be transferred to the Common Subaccount.

20 **SECTION 20.** (1) Moneys credited to the Residential Wood Heating Subaccount from the
21 cordwood emission fee collected under section 7 of this 1991 Act are continuously appropriated for
22 the following purposes:

23 (a) To pay all costs incurred by the Department of Environmental Quality to collect the emission
24 fee imposed under section 7 of this 1991 Act; and

25 (b) To pay all costs incurred by the department in maintaining residential wood heating emis-
26 sions inventories, analyzing projects and programs proposed for funding in accordance with this
27 section, and administering projects and programs selected for funding in accordance with this sec-
28 tion.

29 (2) Of the moneys remaining in the Residential Wood Heating Subaccount after payment of the
30 costs under subsection (1) of this section:

31 (a) Eighty percent shall be used for projects and programs relating to the reduction in emissions
32 from residential wood burning; and

33 (b) Twenty percent shall be transferred to the Common Subaccount to be used for any eligible
34 project or program. Any moneys remaining in the Residential Wood Heating Subaccount at the end
35 of a biennium after all eligible projects and programs are funded also shall be transferred to the
36 Common Subaccount.

37 (3) A portion of the moneys available under paragraph (a) of subsection (2) of this section shall
38 be used to fund the following projects and programs at the level determined by the commission un-
39 der section 17 of this 1991 Act:

40 (a) All reasonable costs of local government public education, curtailment and opacity programs
41 to reduce residential wood heating emissions in an area that is a nonattainment area for suspended
42 particulates with a diameter below 10 microns.

43 (b) A statewide low or no interest loan program to replace traditional woodstoves. The statewide
44 program shall include the following elements:

1 (A) All forms of new high efficiency, low air contaminant emitting heating systems are allowed;

2 (B) Any removed woodstove must be destroyed; and

3 (C) Installations of used woodstoves that were not certified for sale as new on or after July 1,
4 1988, under ORS 468.655 (1) shall be prohibited by the state building code as defined in ORS 455.010.

5 (4) In addition to other projects and programs that comply with the guidelines set forth in sec-
6 tion 18 of this 1991 Act, the commission also shall consider for funding at a level determined by the
7 commission under section 17 of this 1991 Act, local government programs to provide subsidies to low
8 income persons in PM10 nonattainment areas for improvements in weatherization and replacement
9 of woodstoves that were not certified under ORS 468.655 for sale as new on or after July 1, 1988.

10 The local government programs must include the following elements to be eligible for funding:

11 (a) All forms of new high efficiency, low emitting heating systems are allowed.

12 (b) All woodstoves removed are destroyed.

13 (c) The local government adopts and enforces an ordinance that limits emissions from
14 woodstoves to no visible smoke, except for steam and heat waves, during periods of air stagnation
15 and to 20 percent opacity at all other times. This requirement shall not be in lieu of any final stage
16 of woodstove curtailment required during air stagnation if the final stage of curtailment is necessary
17 to prevent exceeding air quality standards established under ORS 468.295.

18 (d) In an airshed requiring more than a 50 percent reduction in woodheating emissions as
19 specified in the PM10 State Implementation Plan control strategy, program participants are required
20 to have a backup heat source if a certified wood stove is selected.

21 **SECTION 21.** (1) Moneys credited to the Transportation Programs Subaccount from fees re-
22 ceived under section 8 of this 1991 Act are continuously appropriated for the following purposes:

23 (a) To pay all costs incurred by the Department of Environmental Quality and other entities to
24 collect the emission fees imposed under section 8 of this 1991 Act.

25 (b) To pay for all costs incurred by the department in maintaining transportation emission in-
26 ventories, analyzing projects and programs proposed for funding under this section and administer-
27 ing projects and programs selected for funding under this section.

28 (2) Of the moneys remaining in the Transportation Programs Subaccount after payment of the
29 costs under subsection (1) of this section:

30 (a) Eighty percent shall be used for projects and programs relating to the reduction in emissions
31 from transportation; and

32 (b) Twenty percent shall be transferred to the Common Subaccount within the Air Quality Im-
33 provement Fund to be used for any eligible project or program. Any moneys remaining in the
34 Transportation Programs Subaccount at the end of a biennium after all eligible projects and pro-
35 grams are funded also shall be transferred to the Common Subaccount.

36 (3) A portion of the moneys available under paragraph (a) of subsection (2) of this section shall
37 be used to fund the following projects and programs at the level determined by the commission un-
38 der section 17 of this 1991 Act:

39 (a) A rebate program for resident individuals who purchase new alternative-fueled vehicles or
40 convert a gasoline or diesel powered vehicle, in whole or in part, to an alternative-fueled vehicle.
41 The amount of a rebate shall not exceed \$2,000 a vehicle;

42 (b) A feasibility study and pilot demonstration project to collect tolls on transportation routes
43 congested by peak commuter traffic. At least one such study shall be conducted in the Portland
44 metropolitan area;

1 (c) Transit service improvements including transit equipment acquisition and related operating
 2 expenses; and

3 (d) Work trip reduction projects sponsored by private or public employers of over 100 employees
 4 if the project meets the following conditions:

5 (A) The employer submits a trip reduction plan, in accordance with rules adopted by the com-
 6 mission under section 24 of this 1991 Act, to achieve an average vehicle ridership for employee ve-
 7 hicles of at least 1.5; and

8 (B) The application provides specific funding requests which may include transit service im-
 9 provements, van pool or car pool equipment, transit subsidies or other measures designed to achieve
 10 the vehicle ridership target specified in the trip reduction plan.

11 (4) As used in this section, "average vehicle ridership" means the figure derived by dividing the
 12 average employee population at a given worksite that reports to work weekdays between 6:00 a.m.
 13 and 10:00 a.m. by the number of motor vehicles, excluding transit vehicles and vehicles stopping
 14 enroute to other worksites, driven by these employees commuting from home to the worksite during
 15 these hours.

16 **SECTION 22.** (1) Moneys credited to the Agricultural Burning Subaccount are continuously
 17 appropriated for the following purposes:

18 (a) To pay for all costs incurred by the Department of Environmental Quality and other entities
 19 to collect the emission fees imposed under ORS 468.480 and section 11 of this 1991 Act; and

20 (b) To pay for all costs incurred by the department in maintaining agricultural burning emis-
 21 sions inventories, analyzing projects and programs proposed for funding in accordance with this
 22 section and administering projects and programs selected for funding in accordance with this sec-
 23 tion.

24 (2) Of the moneys remaining in the Agricultural Burning Subaccount after payment of the costs
 25 under subsection (1) of this section:

26 (a) Eighty percent shall be used for projects and programs relating to the reduction of emissions
 27 from agricultural field burning; and

28 (b) Twenty percent shall be transferred to the Common Subaccount within the Air Quality Im-
 29 provement Fund to be used for any eligible project or program. Any moneys remaining in the Agri-
 30 cultural Burning Subaccount at the end of a biennium after all eligible projects and programs are
 31 funded also shall be transferred returned to the Common Subaccount.

32 **SECTION 23.** (1) Moneys credited to the Forest Prescribed Burning Subaccount are contin-
 33 uously appropriated for the following purposes:

34 (a) To pay for all costs incurred by the Department of Environmental Quality and other entities
 35 to collect the forest prescribed burning emission fees imposed under section 8, chapter 920, Oregon
 36 Laws 1989, and section 9 of this 1991 Act; and

37 (b) To pay for all costs incurred by the department in maintaining forest prescribed burning
 38 emissions inventories, analyzing projects and programs proposed for funding in accordance with this
 39 section and administering projects and programs selected for funding in accordance with this sec-
 40 tion.

41 (2) Of the moneys remaining in the Forest Prescribed Burning Subaccount after payment of the
 42 costs under subsection (1) of this section:

43 (a) Eighty percent shall be used for projects and programs relating to the reduction of emissions
 44 from forest prescribed burning; and

1 (b) Twenty percent shall be transferred to the Common Subaccount within the Air Quality Im-
 2 provement Fund to be used for any eligible project or program. Any moneys remaining in the Forest
 3 Prescribed Burning Subaccount at the end of a biennium after all eligible projects and programs are
 4 funded also shall be transferred to the Common Subaccount.

5 **SECTION 24.** The Environmental Quality Commission shall establish rules necessary to imple-
 6 ment the provisions of sections 1 to 4, 7 to 9, 11 and 13 to 24 of this 1991 Act. The rules shall in-
 7 clude but need not be limited to:

8 (1) The specific factor to be used to determine the specific emission fee for any toxic air con-
 9 taminant under section 3 (2) of this 1991 Act.

10 (2) Emission calculation methodologies, specific fee schedules based on the fees established un-
 11 der section 3 of this 1991 Act and fee payment due dates for sources subject to emission fees. To
 12 the extent practicable, the fee schedule shall relate to actual emissions. The fee schedule for each
 13 category of sources shall be enumerated and assessed in the following units:

14 (a) Dollars per ton of emissions for emissions fees assessed under section 4 of this 1991 Act.

15 (b) Dollars per cord of wood for residential wood heating emissions fees assessed under section
 16 7 of this 1991 Act. The specific fee schedules established for cordwood shall take into account the
 17 effect of wood species on emissions.

18 (c) Dollars per vehicle for the emission fees assessed under section 8 of this 1991 Act.

19 (d) Dollars per acre for prescribed forest burning emission fees assessed under section 8, chapter
 20 920, Oregon Laws 1989, or section 9 of this 1991 Act. The specific fee schedule shall take into con-
 21 sideration fuel moisture, fuel loadings, lighting and mop-up techniques.

22 (e) Dollars per acre for agricultural field burning emission fees assessed under ORS 468.460 and
 23 section 11 of this 1991 Act. The specific fee schedule shall take into consideration fuel moisture,
 24 fuel loading and lighting techniques.

25 (3) Procedures for submitting project and program proposals for funding from the Air Quality
 26 Improvement Fund including, but not limited to, the content, format and due date for proposals.

27 (4) Criteria for selecting projects and programs for funding from the Air Quality Improvement
 28 Fund.

29 (5) Minimum conditions to be included in any agreement approving a project or program in-
 30 cluding but not limited to oversight, evaluation, fiscal control and accounting procedures.

31 (6) The portion of the emission fees that may be retained by an entity that collects an emission
 32 fee to reimburse the entity for the reasonable costs incurred in collecting the fee. The maximum
 33 may not exceed 15 percent of the amount of fees collected by the entity.

34 (7) Requirements for obtaining partial refunds under section 4 of this 1991 Act. The require-
 35 ments shall specify acceptable and accurate methods for determining actual emissions including but
 36 not limited to emission monitoring, material balances, fuel use and production data. The maximum
 37 total refund shall be the difference between the revenues actually received from fees collected under
 38 section 4 of this 1991 Act and the amount of the fee due when calculated on actual emissions, but
 39 in no case shall the refund result in a net fee of less than the total costs, including fee collection
 40 costs, incurred by the Department of Environmental Quality and any regional authority to operate
 41 the federal permit program in the year for which the refund is being sought. The rules shall estab-
 42 lish a method to reduce all refunds by an equal percentage in any year during which the total
 43 amount of applications approved for refunds exceeds the maximum available refund.

44 (8) A graduated schedule for the permit issuance fee imposed under ORS 468.325 based on the

1 anticipated complexity of the analysis and permit issuance process above and beyond normal permit
 2 issuance costs. The schedule at a minimum shall reflect work performed in control technology
 3 analysis, modeling, toxic risk assessment and emission trading evaluation.

4 (9) Requirements for trip reduction plans and applications for funding under section 21 of this
 5 1991 Act. At a minimum, these rules shall specify that trip reduction plans include designation of
 6 an individual responsible for implementation of the plan, an estimate of the existing average vehicle
 7 ridership, a list of existing incentives used to increase average vehicle ridership and a list of specific
 8 incentives the employer will undertake that can reasonably be expected to lead to the achievement
 9 and maintenance of the target average vehicle ridership within 12 months after plan approval. The
 10 commission also shall prepare guidelines for incentive programs that may be incorporated by an
 11 employer in the plan.

12 (10) The lowest cost mechanism for collecting emission fees for:

13 (a) Prescribed burning on land not subject to the registration requirements under section 8,
 14 chapter 920, Oregon laws 1989; and

15 (b) Agricultural field burning on land not subject to the requirements of ORS 468.455 to 468.490.

16 SECTION 25. ORS 468.290 is amended to read:

17 468.290. Except as provided in this section and in ORS 468.450, 476.380 and 478.960 and in
 18 section 11 of this 1991 Act, the air pollution laws contained in this chapter do not apply to:

19 (1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or
 20 animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150,
 21 468.455 to 468.480 and this section;

22 (2) Use of equipment in agricultural operations in the growth of crops or the raising of fowls
 23 or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140,
 24 468.150, 468.455 to 468.480 and this section;

25 (3) Barbecue equipment used in connection with any residence;

26 (4) Agricultural land clearing operations or land grading;

27 (5) Heating equipment in or used in connection with residences used exclusively as dwellings for
 28 not more than four families, except woodstoves which shall be subject to regulation under this sec-
 29 tion and ORS 468.630 to 468.655;

30 (6) Fires set or permitted by any public agency when such fire is set or permitted in the per-
 31 formance of its official duty for the purpose of weed abatement, prevention or elimination of a fire
 32 hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the
 33 agency is necessary;

34 (7) Fires set pursuant to permit for the purpose of instruction of employees of private industrial
 35 concerns in methods of fire fighting, or for civil defense instruction; or

36 (8) The propagation and raising of nursery stock, except boilers used in connection with the
 37 propagation and raising of nursery stock.

38 SECTION 26. The Department of Environmental Quality shall submit a biennial report to the
 39 Legislative Assembly evaluating the improvements in the air quality of the state resulting from the
 40 air contaminant emission fee program. The report shall include a detailed account of air contam-
 41 inants, emissions and changes caused by the program.

42 SECTION 27. The Executive Department shall submit a biennial report to the Legislative As-
 43 sembly evaluating the overall effectiveness of the emission fee program including the project and
 44 program selection process, the incentives created by emission fees, the management of major

1 projects funded from the Air Quality Improvement Fund, the consistency of major projects with the
2 purpose specified in section 2 of this 1991 Act, the adequacy of the fund to meet air quality im-
3 provement objectives and the reasonableness of the fee collection costs.

4 **SECTION 28.** (1) The Environmental Quality commission and the Department of Environmental
5 Quality are authorized to perform or cause to be performed any act necessary to gain delegation
6 of authority for regulatory programs under the provisions of the Federal Clean Air Act (42 U.S.C.
7 1857 et seq.), as amended by the Clean Air Act Amendments of 1990 (P.L. 101-549) and federal reg-
8 ulations and interpretive and guidance documents issued pursuant to the Federal Clean Air Act.

9 (2) The commission may adopt, amend or repeal any rule or license and the commission or de-
10 partment may enter into any agreement necessary to implement this section.

11 **SECTION 29.** Section 8, chapter 920, Oregon Laws 1989, and sections 1 to 4, 7 to 9, 11, 13 to
12 24 and 26 to 28 of this Act are added to and made a part of ORS chapter 468.

13

Department of Environmental Quality
Comprehensive Emission Fee
Legislative Proposal LC-1205

Presented to Metro TPAC/JPACT
January 1991

By
John Kowalczyk
Manager, Air Planning: 229-6459

OREGON'S AIR PROGRAMS/ PROBLEMS

* 27 of 33 Rules Oriented to Industrial Processes

• State Wide Annual Emission
Inventory

- Motor Vehicles	36.1%
- Slash Burning	17.9%
- Wood Stoves	11.5%
- Industry	5.7%
- Field Burning	2.4%
- Misc. (Dust, Area Sources)	26.4%
TOTAL	<hr/> 100%

EMISSION FEE REVENUE

	<u>Revenue</u>	<u>Unit</u>
	Million/Yr.	Price
Motor Vehicle	7.8	\$ 3.24/Vehicle
Slash Burning	3.6	\$16.00/Acre
Wood Heating	3.3	\$ 3.00/Cord
Industry	2.7	\$25.00/Ton (Ave.)
Field Burning	0.9	\$ 4.47/Acre
Total	----- 18.3 Million/Yr.	

POTENTIAL MAJOR PROJECTS FUNDED

- Mass Transit Improvements
- Wood Stove Conversion Subsidies
- Power Plant Subsidies for Burning Forest Slash & Grass Straw Residue

EMISSION FEE PROGRAM ACCOMPLISHMENTS

Up to 40% Reduction in
State Wide Emissions

Within 5-10 Year
Time Frame

REDUCTIONS

- | | |
|-----------------|---------|
| - Motor Vehicle | 10%-20% |
| - Slash Burning | 40%-60% |
| - Industry | 10%-20% |
| - Field Burning | 50%-75% |
| - Wood Heating | 25% |

MOTOR VEHICLE COMPONENT - PART 1

STATEWIDE FEE
(\$7.8 million/year)

Fee Collection Alternatives:

- ◆ VMT Basis (Collected through Biennial Registration)
- ◆ Lifetime Emissions (Collected on new car sales)
- ◆ Tire Treadwear Rating (Tire Sales)

FUND USES: Proposed in the Bill

- ◆ Mass Transit Improvements
- ◆ Alternative Fueled Vehicle Rebates
- ◆ Electronic Toll Road Feasibility Studies/Demo Projects
(at least one for the Portland area required)

OTHER FUND USES:

- ◆ Buy-back Oldest/Highest Polluting Vehicles
- ◆ Alternative Fuel Production, Refueling Stations
- ◆ Sales Rebate to New Lowest Polluting Vehicles
- ◆ Highway Trust Fund Limited Projects
 - HOV Lanes
 - Computerized Traffic Signalization
 - Transit/Highway Crossings

MOTOR VEHICLE COMPONENT - PART 2

Ozone Non-Attainment Area Fee
(Portland Area)

NEED:

- ◆ Statewide Vehicle Emission Fee: Not sufficient to deter driving, or to fund major emission reduction projects in the Metro area.
- ◆ Area Ozone problem worsening.
- ◆ Vehicle emissions > 75% of Ozone precursors.
- ◆ Vehicle emissions present greatest Metro area Toxic air pollutant risks: (Approx. 1 in 10,000 Cancer Risk).
- ◆ Population growth of 40% (Approx. 500,000) in next 20 years will further increase VMT emissions.
- ◆ VMT nationally is growing at a rate 2-5 times the population growth rate in urban areas because of urban sprawl, and longer commuter trips.
 - Tri-County VMT growth was 44% between 1982 and 1988, versus a 5% population growth rate.
 - Portland CBD Parking Lid: Although it is an effective carbon monoxide control strategy, it also contributes to urban sprawl.
- ◆ 1990 Clean Air Act will only reduce vehicle ozone precursor emissions approximately 40%.
- ◆ NEED TO REDUCE METRO VMT GROWTH TO PROVIDE HEALTHFUL AIR QUALITY OVER THE NEXT 10-20 YEARS.

OZONE NON-ATTAINMENT AREA FEE (continued)

FEE ALTERNATIVE:

- ◆ Parking Fee: Very effective market-based approach to reduce driving/emissions.
- ◆ Charge for value of parking. A parking permit fee in the range of \$15/month could be assessed on employees who's employer provides free parking. This would affect about half the work force if limited to employers with over 100 employees.

(A similar proposal in the San Francisco Bay Area uses a minimum fee of \$30/month.)
- ◆ Potential revenue to the Metro area would be in the range of \$25 million per year.
- ◆ Provide employer with some revenue from the permit fees collected to assist with developing mass transit or other alternatives for their employee's. (Assistance from the permit fee's would only be available to those employers who submit a plan to increase vehicle occupancy to 1.5 persons/car average.)

(Los Angeles requires employers to have such a vehicle occupancy increase plan, but they do not require a fee or provide funding assistance.)
- ◆ Remaining revenues from fee to be used for transit improvements.
- ◆ Permit issuance & fee collection would be through least cost approach (possibly Tri Met, Metro, or DEQ).

PROGRAM BENEFITS

- ◆ Does not stop the building of new parking spaces, nor stop people from driving.
- ◆ Saves energy
- ◆ Reduces congestion.
- ◆ Save's substantial cost of highway maintenance/construction, and transit expansion.
- ◆ Possible 20% reduction in regional VMT

EMISSION FEE CONCEPT SUPPORT

- ◆ Clearly difficult to sell to legislature because of the wide-spread economic impact of the Bill, but the alternative would be additional regulatory programs.
- ◆ Joint Interim Committee on Energy, Environment, and Hazardous Materials work group (including interested parties) generally supported the principals of the Bill.
- ◆ Bi-State Committee formally supports a uniform, broad based emissions fee program in both states. (Metro resolution No. 90-1352, attached).
- ◆ Oregon Department of Energy's State Energy Plan supports an emission fee concept.
- ◆ The governor elect supports bill introduction into the legislature.
- ◆ Oregon Transit Association informally supports the concept.
- ◆ Washington Department of Ecology is proposing new vehicle emission fee legislation which also includes fee's on other pollution sources as well.
- ◆ The Parking Permit Fee concept is one of six measures reported by the Oregonian to address Metro's regional growth problem. (article attached).

SOLVING THE GROWTH PUZZLE

METRO/NORTHWEST

THE SUNDAY OREGONIAN, DECEMBER 23, 1990

Here is a collection of ideas you will be hearing more about in the coming months as politicians, planners, developers and citizens search for common ground in dealing with the crush of growth, especially in the metropolitan area.

Share the wealth.



A major obstacle to regional cooperation on growth is competition among cities, counties, and special districts for economic

development to boost their tax bases.

One solution can be found in tax-base sharing, a Robin Hood-type system that takes property tax booty from rich communities, and gives it poor ones.

In the Minneapolis-St. Paul area, 40 percent of all new industrial and commercial growth in the region is pooled in a tax base that is then redistributed to seven counties, 132 cities and 50 school districts.

In the Portland area, Measure 5 complicates the politics of selling such a program. Under the tax limitation measure, an increase in property value through development is the only new source of new property tax money for governments at the limit. These communities are not likely to be in a mood to share.

In the Twin Cities area, governments that lose under the system complain every year, but the program is popular with citizens, said Charles Weaver, a

former Minnesota legislator who wrote the original law. "If you're a loser," Weaver said, "it's only because you were getting more than your share to begin with."

Move forward on light rail



Build the entire light rail system as soon as possible. By itself, light rail is just an expensive toy. But by encouraging

downtown-style development around transit stations, and backing up light rail with good bus service, the transit system could reduce the need to build more highways, give people a desirable alternative to driving, and reign in sprawl.

However, current federal rules only allow funding of one light rail line at a time. At that pace, it could be 50 years before Portland gets anything like a complete system. Portland City Commissioner Earl Blumenauer's transportation office has been holding neighborhood meetings to excite interest in light rail lines in North and Northeast Portland across to Vancouver, Wash., out Southwest Barbur Boulevard to Tigard, out Southeast McLoughlin Boulevard to Milwaukie.

But Blumenauer has stopped short of suggesting a way to pay for such a system outside of federal help.

Here's one way: Tri-Met has the power to impose a 1 percent income tax. The agency estimates this would generate about \$100 million a year - although officials stress they are not actually proposing such a tax.

Guide growth



Be honest about where growth will go next. A Metro advisory committee has suggested creation of "urban reserves" — places

where the urban growth boundary should be expanded in the future. The idea is to limit the speculation happening now on farmland all around the boundary, and to provide guidance about where to extend long-term services.

The first place to look might be where counties have already allowed development outside the line - so-called "exception" lands. Everyone on the committee felt good about this concept until citizens got wind of it last month, said Pat Kliewer, one committee member.

As a former chairwoman of the Citizen Participation Organization

in the Reedville area, Kliewer presented the idea to the umbrella group for all the county CPOs.

"I got jumped on," she said. "They hated the idea."

She said residents feared it would create even more feverish speculation in the reserve areas, and would give developers more ammunition to argue for bringing the land inside the line.

Activity centers



Focus development around a limited number of "activity centers" — planning jargon for places that can be made to work like

downtowns, with high-density housing, shopping and offices, all easily reachable on foot or by public transit.

However, this kind of compact, mixed-use, urban style of living is an alien concept in suburbia, where zoning laws require single-family homes, apartment complexes, shopping centers and factories to be grouped in their own separate areas.

Other unresolved issues include where and how many such activity centers there should be. The Clackamas Town Center area might be an obvious choice, but how about downtown Sherwood?

Taxing free parking



The IRS gives employers a sizable tax deduction for providing workers free parking, but gives a much smaller break for bus passes. Nationally, this amounts to a \$50 billion-a-year subsidy for the one-person, one-car principle.

The state Department of Environmental Quality will propose a tax on free parking as part of an air-quality package for the 1991 Legislature.

It would work like this: Commuters who don't already pay for parking would be required to pay a fee. The fee would only be imposed in places that violate federal ozone standards (so far, that's only metropolitan Portland) and on firms with more than 100 workers. John Kowalczyk, air-quality manager for the DEQ, calls it a user-fee for the air.

Employers would also be required to find ways of bringing the ratio of workers-per-car up to 1.5 to 1. It's now close to one-to-one. "It doesn't stop people from building a parking space or driving," Kowalczyk said. "But if you do, you're going to start paying."

Pay as you grow



One way to keep growth from outracing public services is to make it illegal.

"Concurrency" is the current

buzzword in the growth control game. Basically it means requiring certain levels of service before development is allowed.

Some fast-growth areas of Florida, where state law flatly forbids development unless services are in place, are threatened with moratoria due to lack of roads.

Although the idea is seductive, a couple of thorny issues are involved. First, which services do you include? Roads, water, and sewer might be obvious choices, but how about parks and open space, transit service, or a particular pupil-teacher ratio in the schools?

Also, how do you split the costs between newcomers and existing residents? In parts of California, system development charges have reached \$60,000 per house. "Concurrency without funding is a false hope," said Ethan Seltzer, Metro planner.

Excerpted from "Region at a Crossroads of Growth"
The final article in a series on growth.

DEPARTMENT OF ENVIRONMENTAL QUALITY

COMPREHENSIVE EMISSION FEE
DRAFT BILL

Revised: 11/26/90

(Legislative Counsel draft to be completed 11/30/90)

LIST OF SECTIONS

PREAMBLE.

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DESCRIPTION OF SECTIONS

PREAMBLE.

The Legislative Assembly finds that:

- (1) Air pollution continues to present a threat to the public health and welfare of the state despite enactment and implementation of longstanding regulatory programs at the federal, state and local levels.
- (2) Providing the purity of the air expected by citizens of the state, particularly in light of anticipated growth, requires new and innovative approaches.
- (3) Tightening of traditional regulatory programs has not met with widespread support in recent times, particularly for non-industrial sources, whereas utilizing a market driven approach has gained increasing support as a method of motivating and providing assistance to public and industry efforts to prevent and control air pollution.
- (4) An emission fee-based program offers the opportunity to reduce total state-wide air pollutant emissions by up to 40% within a 5 to 10 year time frame.

Section 1. Legislative Purpose.

The Legislative Assembly declares the purpose of this Act is:

- (1) To provide authority to impose air pollution emission fees on industrial sources as required by the federal Clean Air Act of 1990.
- (2) To provide an economic incentive to reduce air pollution from all major source categories of air pollution in the state.
- (3) To establish a fund for public and private sector programs and projects in all areas of the state that will substantially improve air quality.
- (4) To enhance air quality of the state while conserving energy and encouraging orderly growth and economic development.
- (5) To develop an awareness that the air resources of the state are not a free dumping ground for air pollutants and that emissions of air pollutants can have a negative environmental or economic impact whether that be on a neighbor, local airshed, statewide or global basis.

Section 2. Definitions.

As used in sections 3 through 12, unless the context requires otherwise:

(1) "Agricultural Field Burning" or "Field Burning" means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, including but not limited to open burning, stack burning, and propane flaming.

(2) "Consumer Price Index" means the average of the Consumer Price Index for all-urban consumers (or the revision which is most consistent with the Consumer Price Index for the calendar year 1989) published by the United States Department of Labor, as of the close of the 24-month period ending on July 31 of each biennium;

(3) "Cost-beneficial" means achieves larger emission reductions per dollar expended than alternate projects or programs;

(4) "Cord Wood" means any split or not split logs or branches of any length, other than artificially compressed logs or pelletized fuel, that are to be used, sold or re-sold as fuel for residential space heating;

(5) "Federal Air Permit Program" means the permit program submitted to the United States Environmental Protection Agency in accordance with section 502(d) of the reauthorization of the Clean Air Act of 1990 (P. L. ____).

(6) "Average Vehicle Ridership" means the figure derived by dividing the average employee population at a given worksite that reports to work weekdays between 6:00 a.m. and 10:00 a.m. by the number of motor vehicles, excluding transit vehicles and vehicles stopping on route to other worksites, driven by these employees commuting from home to the worksite during these hours.

Section 3. Emission Fee Established.

(1) An annual fee is established for the discharge of pollutants into the outdoor air of the state based on an average base rate of \$25 per ton. The specific emission fee for each major air pollutant shall be the product of the average base rate and the following factors which are weighted to the potential environmental impact of that pollutant.

	<u>Factor</u>
(a) Volatile Organic Compounds:	1.75
(b) PM10:	1.68
(c) Nitrogen oxides:	0.87

- (d) Sulfur Oxides: 0.66
- (e) Carbon Monoxide: 0.04
- (f) For other toxic air pollutants from industrial sources not covered under (a) through (e) above for which standards are promulgated by the Environmental Quality Commission pursuant to section 112 of the federal Clean Air Act of 1990, specific factors shall be adopted by the Environmental Quality Commission by rule which shall approximately average 1.00 and not exceed 2.00.

The average base rate of the emission fee shall be increased biennially by the percentage, if any, by which the Consumer Price Index changes.

(2) Emission fees shall apply to emissions from industry, residential wood heating, motor vehicles, forest prescribed burning, and agricultural field burning sources as specified in sections 7 through 11, respectively.

(3) The Environmental Quality Commission shall establish by rule emission calculation methodologies, specific fee schedules and fee payment due dates for sources subject to emission fees, based on the fee schedule in subsection 1 of this section. The fee schedule shall relate to the extent practicable to actual emissions. The fee schedule for each category of sources shall be enumerated and assessed in the following units:

- (a) dollars per ton of emissions for industrial emissions fees which are assessed pursuant to subsection (1) of section 7;
- (b) dollars per cord of wood for residential wood heating emissions fees which are assessed pursuant to subsection (1) of section 8;
- (c) (A) dollars per tire for motor vehicle emissions fees which are assessed pursuant to subsection (1) of section 9;
- (B) dollars per mile driven for motor vehicle emissions fees which are assessed pursuant to subsection (2) of section 9;
- (C) dollars per vehicle for motor vehicle emissions fees which are assessed pursuant to subsection (3) of section 9;
- (d) dollars per acre for forest prescribed burning emissions fees which are assessed pursuant to subsection (1) of section 10.

(e) dollars per acre for agricultural field burning emissions fees which are assessed pursuant to subsection (1) of section 11.

(4) A person shall first become liable for the payment of fees established under this section for activities resulting in emissions of air pollutants that occur on July 1, 1992, or such later date as established by the Environmental Quality Commission by rule. The person shall pay the emission fee in accordance with the schedule adopted under subsection (3) of this section.

Section 4. Air Quality Improvement Fund Established.

(1) Emission fees collected shall be deposited into separate accounts dedicated for each source category within an Air Quality Improvement Fund. A common account shall also be created and utilized pursuant to subsection (4) of section 6.

Section 5. Air Quality Improvement Fund Administration.

(1) An Air Quality Improvement Fund Advisory Board is established to advise the Environmental Quality Commission on uses of the available funds in the Air Quality Improvement Fund. The advisory board shall consist of 9 members as specified in subsection (2) of this section.

(2) The Air Quality Improvement Fund Advisory Board shall consist of two members of the general public, appointed by the Governor, one of whom shall serve as the chair of the board, and the Chair or member of the following bodies or their designee:

- (a) Economic Development Commission
- (b) Energy Facility Siting Council
- (c) Land Conservation and Development Commission
- (d) Public Health Advisory Council
- (e) State Board of Agriculture
- (f) State Board of Forestry
- (g) Transportation Commission

(3) At least biennially the Air Quality Improvement Fund Advisory Board shall make recommendations to the Environmental Quality Commission for projects and programs to be funded from the Air Quality Improvement Fund. In making such recommendations, the board shall consider projects and programs compiled by the Department of Environmental Quality pursuant to subsection (5) of this section and shall seek comment from interest groups representing at least industry, city governments, county governments, motor vehicle drivers,

environmental organizations, agriculture, forestry, woodstove industry, and public health. Public meetings shall also be held to receive comments from the general public.

(4) A member of the board is entitled to compensation and expenses as provided in ORS 292.495 which shall be payable from the Air Quality Improvement Fund.

(5) At least biennially the Department of Environmental Quality shall solicit and compile a list of projects and programs eligible for Air Quality Improvement Funding along with an analysis of the relative merits of each project and present this information to the Air Quality Improvement Fund Advisory Committee for consideration. In preparing this analysis, the Department of Environmental Quality shall seek comment from other state departments and agencies whose programs may be directly or indirectly affected by the projects or programs.

(6) The Environmental Quality Commission shall establish by rule:

(a) procedures for submitting project and program proposals for funding from the Air Quality Improvement Fund including, but not limited to, the content, format and due date for proposals;

(b) criteria for selection of projects and programs consistent with section 6; and

(c) minimum conditions for approval of projects and programs including, but not limited to, oversight, evaluation, fiscal control and accounting procedures.

Section 6. Air Quality Improvement Fund Use.

(1) The Environmental Quality Commission shall at least biennially and with consideration of recommendations from the Air Quality Improvement Fund Advisory Board and public comment, select the projects and programs that will be funded from available Air Quality Improvement Funds. The selected projects and programs shall be submitted to the Legislature as part of the normal biennial budget. Up to 20% of available funds may be budgeted for projects and programs to be selected by the Environmental Quality Commission during the biennium.

(2) Emission fees collected from industries permitted by the Department of Environmental Quality shall be utilized to cover the total costs of the Federal Air Permit Program administered by the Department of Environmental Quality as specified in section 7.

(3) Costs to collect emission fees and administer the Air Quality Improvement Fund for non-industrial sources shall be supported by the emission fees from these sources. The Environmental Quality Commission shall establish by rule a reasonable and appropriate portion of the emission fees that may be retained by organizations which directly collect emission fees to reimburse the organizations for emission fee collection costs up to a maximum of 15% of fees collected.

(4) Eighty percent of the remaining emission fees deposited each year in the dedicated accounts within the Air Quality Improvement Fund, after costs specified in subsections (2) and (3) of this section are covered, shall be utilized for projects and programs relating to the sources paying the emission fees. The remainder of the funds shall be placed in the common account within the Air Quality Improvement Fund to be utilized for any eligible project or program. If in any biennium funds remain in any specific source account after all eligible projects and programs are funded they shall also be placed in the common account.

(5) All projects and programs eligible for Air Quality Improvement Funds must relate in some manner to preventing or reducing air pollutant emissions in the state of Oregon.

(6) Air Quality Improvement Funds shall be applicable to federal, state, local government, public and private industry projects and programs including those specifically identified in sections 7 through 11. Funds may be utilized in any reasonable and appropriate manner, including but not limited to:

- (a) capital improvement projects;
- (b) low or no interest loans;
- (c) operating subsidies; and
- (d) grants.

(7) Priority shall be given to projects or programs which:

- (a) achieve the largest reductions in emissions and exposure to air pollutants;
- (b) are principally dedicated to full scale air quality improvement projects;
- (c) are cost-beneficial;
- (d) receive additional funding or in-kind services from the federal government, state government, local governments or private industry;
- (e) provide energy and other environmental benefits;

(f) address airshed problems that are barriers to orderly growth and economic development.

Section 7. Industrial Program.

(1) All industrial emission sources subject to the federal Air permit program shall be subject to emission fees as specified in section 3. The fees shall be assessed on permitted emissions. These fees shall be paid to the Department of Environmental Quality or regional authority having jurisdiction over the source in lieu of existing air permit fees. A source may apply for a partial refund of fees if actual emissions are less than permitted emissions as specified in subsection 3 of this section. Any penalty paid under section 510 of the Clean Air Act of 1990 for emissions in excess of allowances possessed by a source and any amount paid under section 519 of the Clean Air Act of 1990 for the purchase of allowances shall be credited in the year paid against emission fees due for emissions of the same pollutants in excess of 4,000 tons per year.

(2) All industrial emission sources subject to state air permit requirements other than sources subject to subsection (1) of this section shall continue to be subject to permit fees as authorized by subsection (2) of ORS 468.065 established by the Environmental Quality Commission by rule.

(3) In rules established under subsection (3) of section 3, the Environmental Quality Commission shall specify requirements for partial refunds applied for under subsection (1) of this section. These rules shall specify acceptable and accurate methods for determining actual emissions including, but not limited to, emission monitoring, material balances, fuel use, and production data. The maximum total refund shall be the difference between the revenues actually received from fees collected under subsection (1) of this section and revenue based on actual emissions but in no case shall the refund result in remaining revenue of less than the total cost of the Department of Environmental Quality's and applicable regional authority's permit program, including fee collection costs, in that year attributable to sources subject to the federal Air permit program. In any year where the total amount of applications approved for refunds exceed the maximum available refund, each refund shall be reduced by an equal percentage. If remaining revenue exceeds the cost of the Department's federal air permit program, the excess shall be placed in the Air Quality Improvement Fund as provided in subsection (4) of section 6.

(4) Persons applying for a permit for a new source or a major modification which, upon construction and operation, would be subject to fees under subsection (1) of this section shall submit with the permit application a non-refundable

permit issuance fee for extraordinary application processing work. The Environmental Quality Commission shall establish by rule a graduated schedule for the permit issuance fees based on the anticipated complexity of the analysis and permit issuance process above and beyond normal permit issuance costs. This schedule shall reflect but not be limited to work performed in control technology analysis, modelling, toxic risk assessment, and emission trading evaluation. This fee shall be retained by the Department of Environmental Quality and be separate and apart from emission fees required under section 3.

Section 8. Residential Wood Heating Program.

(1) Emission fees specified in section 3 shall apply to residential wood heating in the form of a cord wood assessment on the Federal, State or Private land managers providing the cord wood. Private land managers with forest land holdings in the state of less than 1,000 acres shall be exempt from this requirement. The specific fee schedules established under subsection (3) of section 3 shall take into account the effect of wood species on emissions. The fees shall be collected by the Department of Environmental Quality.

(2) Some portion of Air Quality Improvement Funds shall be provided for a statewide low/no interest loan program to replace traditional woodstoves providing the following conditions are met:

(a) all forms of new high efficiency, low emitting heating systems are allowed;

(b) removed woodstove is destroyed;

(c) installations of used woodstoves which were not certified for sale as new on or after July 1, 1988 pursuant to subsection (1) of ORS 468.655 are prohibited through building code provision.

(3) Air Quality Improvement Funds may be provided to local governments in areas not in attainment with PM10 air quality standards for a low income total subsidy program to upgrade weatherization and replace traditional woodstoves provided the following conditions are met:

(a) all forms of new high efficiency, low emitting heating systems are allowed;

(b) removed woodstove is destroyed;

(c) a local ordinance is adopted and enforced which limits emissions from woodstoves to no visible smoke

(except for steam and heat waves) during periods of air stagnation and to 20% opacity during other periods of time. This requirement shall not be in lieu of any final stage of woodstove curtailment required during air stagnation if such final stage of curtailment is necessary in order to prevent exceedance of air purity standards and air quality standards established pursuant to ORS 468.295.;

(d) in airsheds requiring more than a 50% reduction in wood-heating emissions as specified in the PM10 State Implementation Plan control strategy, program participants are required to have a back up heat source if a certified woodstove is selected.

(4) Some portion of Air Quality Improvement Funds shall be made available to local governments in PM10 nonattainment areas to assist in implementation of public education, curtailment and opacity programs to reduce residential wood heating emissions.

Section 9. Motor Vehicle Program.

(1) One half of the emission fee specified in section 3 shall be applied to motor vehicle emissions and collected in the form of a surcharge on new replacement motor vehicle tire fees collected pursuant to ORS 459.509. The specific emission fee schedule established under subsection (3) of section 3 shall include consideration of an average vehicle emission factor and the potential average vehicle miles travelled on the replacement tire as indicated by the tread-wear rating.

(2) One half of the emission fee specified in section 3 shall be applied to motor vehicle emissions from motor vehicles with a combined weight of 26,000 pounds or less which are owned by persons subject to registration under ORS 803.300 through a surcharge on renewal vehicle registration fees collected pursuant to ORS 803.455. One half of the emission fee specified in section 3 shall be applied to motor vehicle emissions from motor vehicles with a combined weight of more than 26,000 pounds which are owned by carriers subject to a weight-mile tax under ORS 767.815 through a surcharge on such weight-mile tax. The specific emission fee schedule established under subsection (3) of section 3 shall account for the actual emissions per mile expected for the vehicle considering the type of engine used in the vehicle. Where vehicle miles are not reported, the Environmental Quality Commission shall establish a default value. These funds shall be used only for air quality improvement projects and programs eligible under highway trust fund restrictions.

(3) (a) An excess emission surcharge shall be assessed on new motor vehicles subject to title requirements under ORS 803.025 at the time of sale based on the emission fee specified in section 3 for those vehicles with emissions above the average emission rate for the applicable class of vehicles established by the Environmental Quality Commission for the preceding model year. The Environmental Quality Commission shall annually establish an average emission rate for one or more classes of vehicles as determined by the Commission based on the best available emission test data compiled by the US Environmental Protection Agency. The specific emission fee schedule established under subsection (3) of section 3 shall be based on the expected lifetime emissions of the vehicle considering the type of engine used in the vehicle. The excess emission surcharge shall be conspicuously labeled on the vehicle and shall be remitted with the vehicle licensing fee to the Division of Motor Vehicles. A dealer who is designated to accept applications and fees for titling pursuant to ORS 802.030 shall accept the excess emission surcharge at the time of sale of a new vehicle. If the referendum referred under paragraph (b) of this subsection is not approved by the voters, the fees collected under this subsection shall be used only for air quality improvement projects and programs eligible under the highway trust fund restrictions.

(b) A referendum is referred to the voters for a constitutional amendment to allow the funds collected under paragraph (a) of this subsection to be rebated to new vehicles which are below the average emission rate for the applicable class of vehicle for the preceding model year. If the referendum is approved by the voters, the Environmental Quality Commission shall establish a specific low-emission rebate schedule which shall be proportional to the amount the vehicle is below the average emission rate for the applicable class of vehicle for the preceding model year and shall result in total rebates equal to the projected total fees collected under this subsection in each biennium less any amount by which actual rebates exceeded actual funds collected under paragraph (a) in the preceding biennium. The low-emission rebate shall be conspicuously labeled on the vehicle and shall be advanced to the purchaser at the time of sale by the dealer and reimbursed to the dealer from the Air Quality Improvement Fund by the Department of Environmental Quality. A lessor of a new vehicle shall provide a statement indicating any low-emission rebate which was applicable to the purchase of the vehicle to persons leasing the vehicle before a leasing contract is signed.

(4) In areas in exceedence of the air quality standard for ozone established pursuant to ORS 468.295 on or after January 1, 1990, employees of employers of over 100 employees shall display an air quality parking permit when parking in employer provided parking. The parking permit shall be sold by the local, regional or state government body determined by the Environmental Quality Commission by rule to be the least cost means of collecting the fee. The Environmental Quality Commission shall establish by rule the cost for parking permits based on the average annualized operating and capital cost of a parking space, up to a maximum of \$15 per month and the period or periods of time for which a parking permit shall be valid. An employee who provides proof that he or she is paying his or her employer an amount at least equal to the cost of the parking permit for employer provided parking shall be issued a free air quality parking permit. Revenue from the air quality parking permit program shall be deposited in the transportation account within the air quality improvement fund to be used for funding work trip reduction projects including transit service improvements, van pool, car pool, and transit subsidy programs sponsored by employers subject to the trip reduction program requirements in subsection (5) of this section. Employers shall be responsible for designating parking areas for employees where air quality parking permits are required and parking areas for visitors where permits are not required. Enforcement of the permit requirement shall be by the body issuing permits. The parking permit fee established by the Environmental Quality Commission shall be increased biennially by the percentage, if any, by which the Consumer Price Index changes. The Environmental Quality Commission shall establish rules needed to implement this subsection or shall delegate rulemaking authority to the body selected to issue air quality parking permits.

(5) In areas in exceedence of the air quality standard for ozone established pursuant to ORS 468.295 on or after January 1, 1990, employers of over 100 employees shall submit a trip reduction plan, in accordance with a schedule and rules adopted by the Environmental Quality Commission, to achieve an average vehicle ridership for employee vehicles of at least 1.5. Trip reduction plans shall include designation of an individual responsible for implementation of the plan, an estimate of the existing average vehicle ridership, a list of existing incentives used to increase average vehicle ridership, and a list of specific incentives the employer will undertake which can reasonably be expected to lead to the achievement and maintenance of the target average vehicle ridership within 12 months of plan approval. The Environmental Quality Commission shall prepare guidance on incentive programs which may be incorporated by an employer in the trip reduction plan. An employer may submit an application for funding from the transportation account of

the Air Quality Improvement Fund for specific projects identified in the trip reduction plan. Trip reduction plans shall be revised periodically in accordance with a schedule adopted by the Environmental Quality Commission.

(6) Any amount included in an Oregon income tax payer's adjusted federal income which is attributable to the provision of a mass transit subsidy from the tax payer's employer shall be subtracted from the tax payer's adjusted Oregon income. The Department of Revenue shall adopt rules to implement this subsection.

(7) Some of the Air Quality Improvement Funds collected under subsection 1 of this section shall be used for funding a rebate program for a resident individual who purchases a new alternative-fueled vehicle or converts a gasoline or diesel powered vehicle, in whole or in part, to an alternative-fueled vehicle. The specific rebate shall be determined through the process specified in sections 5 and 6 but in no case shall the amount exceed \$2000.

(8) Some of the Air Quality Improvement Funds collected under subsection 2 may be used for feasibility studies and pilot demonstration projects to collect tolls on roadways congested by peak commuter traffic. At least one such study shall be funded in the Portland Metro area.

Section 10. Forest Prescribed Burning Program.

(1) Emission fees specified in section 3 shall apply to all prescribed forest burning in Class I forest land under ORS 526.324 which is under private ownership or is managed by federal or state government. This shall include broadcast as well as pile burning. The specific fee schedule established under subsection (3) of section 3 shall consider fuel moisture, fuel loadings, lighting and mop-up techniques. Fees shall be collected through the Department of Forestry's smoke management fee program for all prescribed burning on land subject to that program. The Environmental Quality Commission shall select the lowest cost mechanism for collecting fees for prescribed burning on land not subject to the Department of Forestry's smoke management fee program, considering collection by the Department of Forestry, the State Fire Marshall, the Department of Environmental Quality, and other appropriate bodies.

Section 11. Agricultural Field Burning Program.

(1) Emission fees specified in section 3 shall apply to all agricultural field burning in the state. The specific fee schedule established under subsection (3) of section 3 shall take into account fuel moisture, fuel loading and lighting techniques. Fees shall be collected through the Department

of Environmental Quality's smoke management fee program for all agricultural field burning on land subject to that program. The Environmental Quality Commission shall select the lowest cost mechanism for collecting fees for agricultural field burning on land not subject to the Department of Environmental Quality's smoke management fee program, considering collection by any county court, any board of county commissioners, any fire chief of a rural fire protection district, the Department of Agriculture, the Department of Environmental Quality, and other appropriate bodies.

Section 12. Program Evaluation.

(1) The Department of Environmental Quality shall submit a biennial report to the Legislature evaluating the improvements in the air quality of the state resulting from the comprehensive emission fee program. The report shall include a detailed account of air pollutant emissions and changes caused by the program.

(2) The Executive Department shall submit a biennial report to the legislature evaluating the overall effectiveness of the emission fee program including the project and program selection process, the incentives created by emission fees, the management of major projects funded from the Air Quality Improvement Fund, the consistency of major projects with the purpose specified in section 1, the adequacy of the fund to meet air quality improvement objectives, and the reasonableness and appropriateness of fee collection costs.

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BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 91-1388A
PRINCIPLES ASSOCIATED WITH DEQ'S)
COMPREHENSIVE EMISSIONS FEE) Introduced by David Knowles,
PROPOSAL) Chair, Joint Policy Advisory
) Committee on Transportation

WHEREAS, The Portland metropolitan area is in violation of air quality standards for carbon monoxide and ozone; and

WHEREAS, Motor vehicles are a significant contributor to this air quality problem; and

WHEREAS, Significant growth of population, vehicle travel and congestion threaten to exacerbate this problem; and

WHEREAS, DEQ has proposed a market-sensitive approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District adopts the following principles:

1. Motor vehicles are a significant source of air pollution statewide and should shoulder their share of the burden of meeting air quality standards.

2. A market-sensitive statewide approach to addressing this problem is appropriate.

3. Programs and fees proposed to control automobile emissions should be consistent with state, regional and local land use objectives and assist in implementing a multi-modal approach to meeting air quality objectives.

4. The Metro Council, JPACT and TPAC should be further involved in the development of program details.

5. An added approach should be pursued to meeting air quality problems in the Portland metropolitan area; TPAC should work with the Department of Environmental Quality to recommend to JPACT and the Metro Council specific language to be incorporated into HB 2175 calling for the development and implementation of the added approach in the Portland metropolitan area.

6. This resolution does not endorse any specific proposal to implement these principles.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

MH:mk/lmk
91-1388A.RES
02-08-91