

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 91-1422
COMMENTS AND RECOMMENDATIONS)
REGARDING DEQ'S COMPREHENSIVE) Introduced by
EMISSIONS FEE PROPOSAL) David Knowles, Chair
) Joint Policy Advisory Com-
) mittee 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 source of air pollution statewide and should share the burden of meeting air quality standards; and

WHEREAS, The Department of Environmental Quality (DEQ) has proposed an emission fee approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; and

WHEREAS, The Council of the Metropolitan Service District has requested through Resolution 91-1388A that the Transportation Policy Advisory Committee (TPAC) work with the Department of Environmental Quality (DEQ) to develop a Portland metropolitan area emissions approach; and

WHEREAS, The Council of the Metropolitan Service District further directed TPAC to review the specifics of HB 2175 and prepare comments and recommendations for review and consideration by the Metro Council, the Joint Policy Advisory Committee on Transportation (JPACT), and the Bi-State Policy Advisory Committee; and

WHEREAS, The air quality strategy recommended in

HB 2175 as amended in this resolution is consistent with the Portland metropolitan area's comprehensive regional effort to reduce reliance on the single occupant vehicle; now, therefore,

BE IT RESOLVED,


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

1. That a Portland metropolitan area emissions approach to meet air quality problems consistent with the Federal Clean Air Act Amendments of 1990 be developed as described and shown in Section 9 of Exhibit A.

2. Other changes as described in Exhibit A be included in HB 2175.

3. That the Metro Council, JPACT, and the Bi-State Policy Advisory Committee be further involved in the implementation of vehicle emission-related aspects of HB 2175.

ADOPTED by the Council of the Metropolitan Service District this 25th day of April, 1991.



Jim Gardner, Deputy Presiding Officer

91-1422.RES
4-24-91

EXHIBIT A

Portland Metropolitan Area
Comments on HB 2175: Comprehensive Emissions Fees

SECTION 8. (1) Change to read as follows: "The emission fee imposed under Section 3 of this 1991 Act shall be assessed on motor vehicle emissions. This fee shall include a statewide fee and shall include a regional component as described in Section 9 of this 1991 Act for ozone non-attainment areas to address the significant portion of ozone precursors emitted by motor vehicles.

SECTION 9. A new Section 9 should be created for the Portland metropolitan area component and remaining section headings revised accordingly. The new section would read as follows:

- "(1) The Department of Environmental Quality, in consultation with the Metropolitan Service District and the District's Joint Policy Advisory Committee on Transportation, shall as expeditiously as possible conduct a study of all reasonable alternatives, including emission fee-based and regulatory approaches, to determine and recommend the most appropriate program to implement to control vehicle emissions to ensure that the federal ozone air quality standard will be attained by the end of 1993 and maintained through the year 2010 in the Portland metropolitan area as required by the Clean Air Act. This program shall be compatible and complementary to regional transportation and land use goals.
- "(2) If an emission fee-based program is recommended under subsection (1) of this section, the Environmental Quality Commission shall be authorized, with concurrence of the Metro Council and the Joint Policy Advisory Committee on Transportation, to adopt and implement such program as expeditiously as possible. If a regulatory program is recommended under subsection (1) of this section, the Environmental Quality Commission shall adopt and implement such program within existing authority.
- "(3) If an emission fee-based program is chosen, revenue from these fees, less costs of administration, shall be solely used to mitigate emissions from motor vehicles in the Portland metropolitan area in the most cost beneficial manner.
- "(4) If an emission fee-based program is chosen, the study required in (1) shall include identifying the most appropriate revenue management system."

SECTION 15. The existing paragraph should become subsection (1). The section should be rewritten to exclude the Transportation Subaccount from formal review by the Air Quality

Improvement Fund Advisory Board. The Transportation Subaccount would be subject to the process outlined in a new subsection (2). Consequently, the new Section 15 would read as follows: (1) "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 Board for consideration. In preparing this analysis, the department shall request comments from other state departments and agencies whose programs may be affected by the projects or programs. The Transportation Subaccount shall be subject to the process identified in Subsection (2) of this section. (2) "For monies in the Transportation Subaccount, the following procedure shall be used to determine projects eligible for air quality improvement funding:

"(a) At least biennially, the Oregon Department of Transportation shall prepare a plan containing a list of projects and programs eligible for air quality improvement funding. The plan would be based on an evaluation of needs and analysis of alternatives and would include program costs and priorities. The planning process would be a cooperative effort with representation from the Department of Environmental Quality, cities, counties, regional governments, and special transportation districts. The plan would be subject to public hearings before the Oregon Transportation Commission prior to submittal to the Environmental Quality Commission. The public hearings would be consistent with those conducted under section 16 of this 1991 Act pursuant to the Air Quality Improvement Fund Advisory Board.

"(b) At least biennially, the Environmental Quality Commission shall review the plan for adoption. In adopting the plan, the Commission shall take into consideration the recommendations received under section 16 of this 1991 Act and the public comments received in the public hearings conducted under section 16 of this 1991 Act.

"(c) At least biennially, the Oregon Transportation Commission shall select a list of air quality related improvement projects from the approved plan for inclusion in the Six-Year Transportation Improvement Program."

SECTION 16. Subsection (1) should be rewritten to include the Oregon Transportation Commission in the case of the Transportation Fund Subaccount. Subsection (2) should be similarly rewritten. Consequently, Section 16 should be rewritten as follows: "SECTION 16. (1) At least biennially, the Air Quality Improvement Fund Advisory Board shall recommend to the Environmental Quality Commission projects and programs to be funded from the Air Quality Improvement Fund. For the Transportation Subaccount, the Oregon Transportation Commission shall, at least biennially, recommend to the Environmental Quality Commission projects and programs to be funded consistent with the process identified in Section 15." (2) Before submitting its recommendations to the commission, the board shall consider, for projects other than those funded through the Transportation Subaccount, the list of projects and programs compiled by the Department of Environmental Quality under Section 15 of this 1991 Act and shall conduct public hearings on its proposed recommendations in order to obtain comments from interested persons, including but not limited to persons in industry, city government, county government, automobile organizations,

environmental organizations, agriculture, forestry, the wood stove industry and public health. The board shall conduct public hearings according to the provisions under ORS 183.310 to 183.550 applicable to hearings in non-contested cases.

SECTION 21. Subsection (2) should be rewritten to read "Of the monies remaining in the Transportation Programs Subaccount after payment of the costs under subsection (1) of this section, [(a) Eighty] One Hundred percent shall be used for projects and programs relating to the reduction in emissions from transportation." Existing subsection (b) should be deleted as follows: "Section 21 (2) [(b) Twenty percent shall be transferred to the Common Subaccount within the Air Quality Improvement Fund to be used for any eligible project or program. Any moneys remaining in the Transportation Programs Subaccount at the end of a biennium after all eligible projects and programs are funded also shall be transferred to the Common Subaccount.]"

Subsection (3)(b) referring to toll roads should be deleted. Toll road alternatives would be included in the alternatives analysis for a Portland metropolitan area program. The deletion would be as follows: "Section 21 (3). [(b) A feasibility study and pilot demonstration project to collect tolls on transportation routes congested by peak commuter traffic. At least one such study shall be conducted in the Portland metropolitan area.]"

SECTION 24. Subsection (6). The second sentence should be amended and a third sentence added as follows: "The maximum may not exceed 15 percent of the amount of fees collected by the entity in the first two years of the program. Beginning in the third year of the program, the maximum may not exceed 10 percent of the amount of fees collected by the entity. This recognizes the potential for high start-up costs of a program, with the assumption costs decreasing following implementation.

TRANSPORTATION AND PLANNING COMMITTEE REPORT

RESOLUTION NO. 91-1422, FOR THE PURPOSE OF ENDORSING COMMENTS AND RECOMMENDATIONS REGARDING DEQ'S COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: April 24, 1991

Presented by: Councilor Gardner

COMMITTEE RECOMMENDATION: At the April 23, 1991 Transportation and Planning Committee meeting, Councilors Bauer, Devlin, Van Bergen and myself voted 3 to 1 (Councilor Van Bergen dissenting) to recommend Council adopt Resolution No. 91-1422 as amended. Councilor McLain was excused.

COMMITTEE DISCUSSION/ISSUES: Resolution No. 91-1422 recommends specific amendments to House Bill 2175, now before the Oregon Legislature, and requests continued regional involvement in implementation of the bill's vehicle emission aspects. HB2175 would implement fees on air polluters per federal Clean Air Act Amendment requirements passed this year. However, while federal regulations focus on industrial polluters, HB2175 would extend the philosophy of fees to other air pollution sources -- automobiles, field burning, slash burning.

Resolution No. 91-1422 follows up on Resolution No. 91-1388A, adopted by the Council March 14, which broadly endorsed principles associated with HB 2175; noted regional concerns with a Portland metropolitan area add-on fee; and directed staff to develop additional comments on HB2175.

Transportation Department staff reviewed the substance of the recommended HB2175 amendments outlined in Exhibit A to Resolution No. 91-1422:

- o Proposed new Section 9 outlines a Portland metropolitan area approach to developing fees, including Metro conducting a joint study with the state Department of Environmental Quality (DEQ) (subsection 1). Subsection 2 provides for Metro, the Joint Policy Advisory Committee on Transportation (JPACT) and the Bi-State Policy Advisory Committee concurrence if DEQ initiates an emission fee-based program. DEQ supported the concurrence requirement because the department does not have the authority to unilaterally initiate such a program. Subsections 3 and 4 speak to Portland area fee revenues being used solely to mitigate auto emissions and a revenue management system being developed as a part of the joint DEQ/Metro study.
- o Section 15 comments recommend a cooperative statewide approach to reviewing air quality implications of the Emissions Fee Plan.
- o Section 21 comments strengthen the requirement that 100 percent of fee revenues, after deducting administrative costs, shall be used to mitigate auto emission pollution.

- o Section 24 comments would change the administrative cost deductions from fee revenues from the proposed 15 percent annual cap to a two-year 15 percent annual cap reduced thereafter to 10 percent. This proposal reflects the common experience of administrative costs decreasing once a program is well established.

Committee amendments addressed language clarifications. The Committee voted 3 to 1 (Councilor Van Bergen dissenting) to change "Portland area" to "Portland metropolitan area", the common designation for the full region, throughout the resolution and exhibit; to underline "include" (as part of the recommended amendment) in the second line of Section 8; to change "may" to "shall" in Section 8, consistent with the intent of Resolution No. 91-1388A; and to delete "and" in the eighth line of Section 8.

STAFF REPORT

Agenda Item No. _____

Meeting Date _____

CONSIDERATION OF RESOLUTION NO. 91-1422 FOR THE PURPOSE OF
ENDORING COMMENTS AND RECOMMENDATIONS REGARDING DEQ'S
COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: April 1, 1991

Presented by: Michael Hoglund

PROPOSED ACTION

Adopt Resolution No. 91-1422 endorsing comments and recommendations regarding DEQ's proposed emissions fee program proposed for consideration as HB 2175 by the 1991 Oregon Legislature. This resolution responds to directives previously stipulated as part of Resolution No. 91-1388A.

FACTUAL BACKGROUND AND ANALYSIS

Metro Resolution No. 91-1388A, endorsing principles associated with DEQ's Emissions Fee Bill (HB 2175), calls for further review and recommendations on particular elements of the Bill by the Metro Council, JPACT, and the Bi-State Policy Advisory Committee. The proposed Metro resolution, No. 91-1422, is in response to that directive. The resolution endorses comments describing a process to develop a specific Portland area emissions approach and includes other comments and recommendations intended to respond to Metro Council and JPACT concerns related to HB 2175.

The following information identifies those areas previously specified for further action, summarizes activities to date, and provides a schedule for remaining issues.

Further Council/JPACT/Bi-State Action

Resolve No. 4 of Resolution 91-1388A states that the Metro Council, JPACT, and the Bi-State Policy Advisory Committee should be further involved in the development of the emission fee program details. Resolve No. 5 states that TPAC should work with DEQ to recommend to the Metro Council, JPACT, and the Bi-State Policy Advisory Committee specific language to be incorporated into HB 2175 calling for the development and implementation of the added approach in the Portland area. In addition to adopting the resolution, the Council and JPACT requested that TPAC also continue to monitor the progress of the bill and that detailed comments regarding major areas of concern be prepared for their review, adoption and subsequent submittal to the Legislature. The work on these elements has begun and is described below.

Activities to Date

In response to the Metro Council/JPACT directive, a TPAC Emissions Fee Bill Subcommittee was convened by TPAC on March 1, 1991

(a list of subcommittee members is attached). The subcommittee met twice, on March 7 and March 14, to develop language for a Portland area approach and to address other issues associated with the bill.

The subcommittee recommendation for the Portland approach is included as part of Exhibit A of Resolution No. 91-21. The main elements of the approach are:

1. Establishing the approach in context with Clean Air Act Amendments consistent with regional transportation and land use goals.
2. Requiring a study of all reasonable emission control alternatives.
3. Establishing and differentiating implementation authority for either a fee-based or regulatory program (a fee-based approach will require regional consensus; a regulatory approach may be implemented within existing DEQ authority).
4. Calling for the clarification of the use of fees and revenue management.

The subcommittee also examined and made recommendations on the following issues. The issues generally reflect comments heard at previous Council, JPACT, Bi-State, and TPAC discussions on HB 2175.

1. Distribution of Funds (Section 18 of HB 2175). The bill currently includes a process where distribution of funds would be the responsibility of the Environmental Quality Commission with advice from an "Air Quality Improvement Advisory Board." It was suggested by the subcommittee that for the statewide Transportation Subaccount, a three-step process for the distribution of funds be established and that the Advisory Board be replaced by the Oregon Transportation Commission. Step 1 of the process involves OTC development of a transportation-related air quality plan for the state. The plan would include an analysis of needs, establish priorities, and identify eligible projects or strategies (similar to control measures identified in the State Implementation Plan. Step 2 would require EQC approval of the plan elements and priorities. Step 3 would be administration and disbursement of the plan by the OTC. This is recommended to be done as part of the Six-Year Transportation Improvement Program. A similar process could be established for a Portland area approach with the Metro Council, Tri-Met Board, or JPACT serving in the role of the OTC.
2. Administrative Costs (Subsection 24 (6), page 13). The bill currently specifies that up to 15 percent of a fee may be retained to recover the cost of collecting such fees. The

subcommittee suggested that the cost be lowered to 10 percent following implementation of the fee collection program.

3. Eligible Project Definitions (Section 18). It is unclear in the bill as to which projects are eligible and how they will be prioritized. The TPAC subcommittee concluded those details can best be worked out through the development of the plan described in item No. 1 above.
4. Transportation Program Subaccount (Section 21). The TPAC subcommittee recommends all monies collected through the motor vehicle emissions fee be credited to the Transportation Program Subaccount. The current bill dedicates 20 percent of the monies to a Common Subaccount. The subcommittee felt that the current language could create an equity problem which would only act to hinder the success of the bill.
5. Toll Road Demonstration Project (Section 21). The subcommittee recommended omitting this reference as stated in Subsection (3)(b). First, the reference is inconsistent with other aspects of the bill in that it is the only specific or prescribed action included. Second, the toll road demonstration option can be reviewed as an alternative in conjunction with the development of a plan consistent with the process described in item No. 1 above.

Schedule

Comments and recommendations should be forwarded to the Legislature as soon as possible. The next action on the bill in Salem has not been scheduled. The House Energy and Environment Committee is currently reviewing comments and amendments on the Industrial Emissions Section of the bill. Review of the Vehicle Emissions Section is anticipated to begin within the next two to three weeks and another public hearing is expected. We will need to forward comments from the region in time for that hearing.

The Bi-State Policy Advisory Committee reviewed and adopted Resolution No. 91-1422 on March 22. TPAC action followed on March 29. JPACT review and adoption is scheduled for April 11, with Metro Council action on April 25. As noted, in order to meet the legislative schedule, it may be necessary to forward draft (prior to Council adoption) recommendations to the Legislature.

A copy of HB 2175 is attached as information.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1422.

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.

/signed/

Tanya Collier, Presiding Officer

MH:mk
91-1388A.RES
03-14-91

Comprehensive Emission Fee Bill

HB 2175, 1/18/91
Section Listing

<u>Section</u>	<u>Description</u>	<u>Page</u>
1.	General: definitions	1
2.	General: purpose	2
3.	General: emission fee imposed	2
4.	Industry: fee collection mechanism	3
5.	Industry: existing permit fees	3
6.	Industry: new permit application fee	4
7.	Wood heating: fee collection mechanism	5
8.	Transportation: statewide and regional emission fee.....	5
9.	Slash Burning: fee collection mechanism	6
10.	Slash Burning: DOF smoke management coordination	6
11.	Field Burning: fee collection mechanism	7
12.	Field Burning: smoke management coordination	7
13.	Fund Management: fund established	8
14.	Fund Management: Advisory Board established	8
15.	Fund Management: project compilation and analysis	9
16.	Fund Management: Advisory Board recommendations	9
17.	Fund Management: project selection	9
18.	Fund Management: guidelines for use of funds	9
19.	Industry: use of funds	10
20.	Wood Heating: use of funds	10
21.	Transportation: use of funds	11
22.	Field Burning: use of funds	12
23.	Slash Burning: use of funds	12
24.	General: Environmental Quality Commission rules	13
25.	General: coordination with general exemptions	14
26.	General: report on air quality changes	14
27.	General: report on program management	14
28.	General: delegation of authority of Clean Air Act	15
29.	General: the bill is added to ORS 468	15

Comprehensive Emission Fee Bill

HB 2175, 1/18/91
Subject Listing

<u>Category</u>	<u>Sec- tion</u>	<u>Description</u>	<u>Page</u>
General	1.	Definitions	1
	2.	Purpose	2
	3.	Emission fee imposed	2
	24.	Environmental Quality Commission rules	13
	25.	Limiting existing exemptions	14
	26.	Report on program effectiveness	14
	27.	Report on program management	14
	28.	Delegation of authority of Clean Air Act	15
	29.	The bill is added to ORS 468	15
Industry	4.	Fee collection	3
	5.	Existing permit fees	3
	6.	New permit application fee	4
	19.	Use of funds	10
	24(1)	Fees for air toxics	13
	24(2)	Fee schedules and due dates	13
	24(7)	Requirements for partial refunds	13
	24(8)	Fee schedules for new/modified permits	13
Wood Heating	7.	Fee collection	5
	20.	Use of funds	10
	24(2)	Fee schedules and due dates	13
Transpor tation	8.	Statewide and regional emission fees	5
	21	Use of funds	11
	24(2)	Fee schedules and due dates	13
	24(9)	Requirements for trip reduction plans	14
Slash Burning	9.	Fee collection	6
	10.	DOF smoke management coordination	6
	23.	Use of funds	12
	24(2)	Fee schedules and due dates	13
	24(10)	Collections outside smoke management areas	14
Field Burning	11.	Fee collection	7
	12.	Smoke management coordination	7
	22.	Use of funds	12
	24(2)	Fee schedules and due dates	13
	24(10)	Collections outside smoke management areas	14
Fund Manage- ment	13.	Fund established	8
	14.	Advisory Board Established	8
	15.	Project compilation and analysis	9
	16.	Advisory board recommendations	9
	17.	Project selection	9
	18.	Guidelines for use of funds	9

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-

mission pursuant to ORS 468.295.

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

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

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

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

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

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

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

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

(3) The average base rate of the emission fees established in subsections (1) and (2) of this section shall be increased biennially by the percentage, if any, by which the Consumer Price Index increases.

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

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

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

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

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

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

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

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

SECTION 5. ORS 468.065 is amended to read:

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

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

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

(3) An applicant for certification of a project under ORS 468.732 or 468.734 shall pay as a fee all expenses incurred by the commission and department related to the review and decision of the 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 relicensure 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 relicensure. 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 291.233, 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

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

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

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

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

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

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

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

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

27 (3) The State Treasurer may invest and reinvest the moneys in the fund as provided in ORS
28 293.701 to 293.776. Interest from the moneys deposited in the fund and earnings from investment of
29 the moneys in the fund shall accrue to the fund and shall be credited to the subaccount from which
30 the interest or earnings are derived.

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

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

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

43 (3) A member of the board is entitled to compensation and expenses as provided in ORS 292.495
44 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 (c) 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 468.480 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

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1422 FOR THE PURPOSE OF ENDORING COMMENTS AND RECOMMENDATIONS REGARDING DEQ'S COMPREHENSIVE EMISSIONS FEE PROPOSAL

Date: April 1, 1991

Presented by: Michael Hoglund

PROPOSED ACTION

Adopt Resolution No. 91-1422 endorsing comments and recommendations regarding DEQ's proposed emissions fee program proposed for consideration as HB 2175 by the 1991 Oregon Legislature. This resolution responds to directives previously stipulated as part of Resolution No. 91-1388A.

FACTUAL BACKGROUND AND ANALYSIS

Metro Resolution No. 91-1388A, endorsing principles associated with DEQ's Emissions Fee Bill (HB 2175), calls for further review and recommendations on particular elements of the Bill by the Metro Council, JPACT, and the Bi-State Policy Advisory Committee. The proposed Metro resolution, No. 91-1422, is in response to that directive. The resolution endorses comments describing a process to develop a specific Portland area emissions approach and includes other comments and recommendations intended to respond to Metro Council and JPACT concerns related to HB 2175.

The following information identifies those areas previously specified for further action, summarizes activities to date, and provides a schedule for remaining issues.

Further Council/JPACT/Bi-State Action

Resolve No. 4 of Resolution 91-1388A states that the Metro Council, JPACT, and the Bi-State Policy Advisory Committee should be further involved in the development of the emission fee program details. Resolve No. 5 states that TPAC should work with DEQ to recommend to the Metro Council, JPACT, and the Bi-State Policy Advisory Committee specific language to be incorporated into HB 2175 calling for the development and implementation of the added approach in the Portland area. In addition to adopting the resolution, the Council and JPACT requested that TPAC also continue to monitor the progress of the bill and that detailed comments regarding major areas of concern be prepared for their review, adoption and subsequent submittal to the Legislature. The work on these elements has begun and is described below.

Activities to Date

In response to the Metro Council/JPACT directive, a TPAC Emissions Fee Bill Subcommittee was convened by TPAC on March 1, 1991

(a list of subcommittee members is attached). The subcommittee met twice, on March 7 and March 14, to develop language for a Portland area approach and to address other issues associated with the bill.

The subcommittee recommendation for the Portland approach is included as part of Exhibit A of Resolution No. 91-21. The main elements of the approach are:

1. Establishing the approach in context with Clean Air Act Amendments consistent with regional transportation and land use goals.
2. Requiring a study of all reasonable emission control alternatives.
3. Establishing and differentiating implementation authority for either a fee-based or regulatory program (a fee-based approach will require regional consensus; a regulatory approach may be implemented within existing DEQ authority).
4. Calling for the clarification of the use of fees and revenue management.

The subcommittee also examined and made recommendations on the following issues. The issues generally reflect comments heard at previous Council, JPACT, Bi-State, and TPAC discussions on HB 2175.

1. Distribution of Funds (Section 18 of HB 2175). The bill currently includes a process where distribution of funds would be the responsibility of the Environmental Quality Commission with advice from an "Air Quality Improvement Advisory Board." It was suggested by the subcommittee that for the statewide Transportation Subaccount, a three-step process for the distribution of funds be established and that the Advisory Board be replaced by the Oregon Transportation Commission. Step 1 of the process involves OTC development of a transportation-related air quality plan for the state. The plan would include an analysis of needs, establish priorities, and identify eligible projects or strategies (similar to control measures identified in the State Implementation Plan. Step 2 would require EQC approval of the plan elements and priorities. Step 3 would be administration and disbursement of the plan by the OTC. This is recommended to be done as part of the Six-Year Transportation Improvement Program. A similar process could be established for a Portland area approach with the Metro Council, Tri-Met Board, or JPACT serving in the role of the OTC.
2. Administrative Costs (Subsection 24 (6), page 13). The bill currently specifies that up to 15 percent of a fee may be retained to recover the cost of collecting such fees. The

subcommittee suggested that the cost be lowered to 10 percent following implementation of the fee collection program.

3. Eligible Project Definitions (Section 18). It is unclear in the bill as to which projects are eligible and how they will be prioritized. The TPAC subcommittee concluded those details can best be worked out through the development of the plan described in item No. 1 above.
4. Transportation Program Subaccount (Section 21). The TPAC subcommittee recommends all monies collected through the motor vehicle emissions fee be credited to the Transportation Program Subaccount. The current bill dedicates 20 percent of the monies to a Common Subaccount. The subcommittee felt that the current language could create an equity problem which would only act to hinder the success of the bill.
5. Toll Road Demonstration Project (Section 21). The subcommittee recommended omitting this reference as stated in Subsection (3)(b). First, the reference is inconsistent with other aspects of the bill in that it is the only specific or prescribed action included. Second, the toll road demonstration option can be reviewed as an alternative in conjunction with the development of a plan consistent with the process described in item No. 1 above.

Schedule

Comments and recommendations should be forwarded to the Legislature as soon as possible. The next action on the bill in Salem has not been scheduled. The House Energy and Environment Committee is currently reviewing comments and amendments on the Industrial Emissions Section of the bill. Review of the Vehicle Emissions Section is anticipated to begin within the next two to three weeks and another public hearing is expected. We will need to forward comments from the region in time for that hearing.

The Bi-State Policy Advisory Committee reviewed and adopted Resolution No. 91-1422 on March 22. TPAC action followed on March 29. JPACT review and adoption is scheduled for April 11, with Metro Council action on April 25. As noted, in order to meet the legislative schedule, it may be necessary to forward draft (prior to Council adoption) recommendations to the Legislature.

A copy of HB 2175 is attached as information.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1422.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING)	RESOLUTION NO. 91-1422
COMMENTS AND RECOMMENDATIONS)	
REGARDING DEQ'S COMPREHENSIVE)	Introduced by
EMISSIONS FEE PROPOSAL)	David Knowles, Chair
)	Joint Policy Advisory Com-
)	mittee 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 source of air pollution statewide and should share the burden of meeting air quality standards; and

WHEREAS, The Department of Environmental Quality (DEQ) has proposed an emission fee approach to reduce emissions through fees on polluters at the rate of \$25.00 per ton; and

WHEREAS, The Council of the Metropolitan Service District has requested through Resolution 91-1388A that the Transportation Policy Advisory Committee (TPAC) work with the Department of Environmental Quality (DEQ) to develop a Portland area emissions approach; and

WHEREAS, The Council of the Metropolitan Service District further directed TPAC to review the specifics of HB 2175 and prepare comments and recommendations for review and consideration by the Metro Council, the Joint Policy Advisory Committee on Transportation (JPACT), and the Bi-State Policy Advisory Committee; and

WHEREAS, The air quality strategy recommended in HB 2175 as amended in this resolution is consistent with the Port-

land area's comprehensive regional effort to reduce reliance on the single occupant vehicle; now, therefore,

BE IT RESOLVED,

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

1. That a Portland area emissions approach to meet air quality problems consistent with the Federal Clean Air Act Amendments of 1990 be developed as described and shown in Section 9 of Exhibit A.

2. Other changes as described in Exhibit A be included in HB 2175.

3. That the Metro Council, JPACT, and the Bi-State Policy Advisory Committee be further involved in the implementation of vehicle emission-related aspects of HB 2175.

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

Tanya Collier, Presiding Officer

EXHIBIT A

Portland Area Comments on HB 2175: Comprehensive Emissions Fees

SECTION 8. (1) Second sentence should be amended to read "This fee shall include a statewide fee and may include a regional component as described in Section 9 of this 1991 Act for ozone non-attainment areas to address the significant portion of ozone precursors emitted by motor vehicles.

SECTION 9. Portland Area Program. A new Section 9 should be created for the Portland component and remaining section headings revised accordingly. The new section would read as follows:

"(1) The Department of Environmental Quality, in consultation with the Metropolitan Service District, the District's Joint Policy Advisory Committee on Transportation and the Bi-State Policy Advisory Committee, shall as expeditiously as possible conduct a study of all reasonable alternatives, including emission fee-based and regulatory approaches, to determine and recommend the most appropriate program to implement and to control vehicle emissions to ensure that the federal ozone air quality standard will be attained by the end of 1993 and maintained through the year 2010 in the Portland metropolitan area as required by the Clean Air Act. This program shall be compatible and complementary to regional transportation and land use goals.

"(2) If an emission fee-based program is recommended under subsection (1) of this section, the Environmental Quality Commission shall be authorized, with concurrence of the Metro Council, the Joint Policy Advisory Committee on Transportation and the Bi-State Policy Advisory Committee, to adopt and implement such program as expeditiously as possible. If a regulatory program is recommended under subsection (1) of this section, the Environmental Quality Commission shall adopt and implement such program within existing authority.

"(3) If an emission fee-based program is chosen, revenue from these fees, less costs of administration, shall be solely used to mitigate emissions from motor vehicles in the Portland metropolitan area in the most cost beneficial manner.

"(4) If an emission fee-based program is chosen, the study required in (1) shall include identifying the most appropriate revenue management system."

SECTION 15. The existing paragraph should become subsection (1). The section should be rewritten to exclude the Transportation

Subaccount from formal review by the Air Quality Improvement Fund Advisory Board. The Transportation Subaccount would be subject to the process outlined in a new subsection (2). The new subsection (2) would be added to read "For monies in the Transportation Subaccount, the following procedure shall be used to determine projects eligible for air quality improvement funding:

"(a) At least biennially, the Oregon Department of Transportation shall prepare a plan containing a list of projects and programs eligible for air quality improvement funding. The plan would be based on an evaluation of needs and analysis of alternatives and would include program costs and priorities. The planning process would be a cooperative effort with representation from the Department of Environmental Quality, cities, counties, regional governments, and special transportation districts. The plan would be subject to public hearings before the Oregon Transportation Commission prior to submittal to the Environmental Quality Commission. The public hearings would be consistent with those conducted under section 16 of this 1991 Act pursuant to the Air Quality Improvement Fund Advisory Board.

"(b) At least biennially, the Environmental Quality Commission shall review the plan for adoption. In adopting the plan, the Commission shall take into consideration the recommendations received under section 16 of this 1991 Act and the public comments received in the public hearings conducted under section 16 of this 1991 Act.

"(c) At least biennially, the Oregon Transportation Commission shall select a list of air quality related improvement projects from the approved plan for inclusion in the Six-Year Transportation Improvement Program."

SECTION 16. Subsection (1) should be rewritten to include the Oregon Transportation Commission in the case of the Transportation Fund Subaccount. Subsection (2) should be similarly rewritten.

SECTION 21. Subsection (2) should be rewritten to read "Of the monies remaining in the Transportation Programs Subaccount after payment of the costs under subsection (1) of this section, One Hundred percent shall be used for projects and programs relating to the reduction in emissions from transportation." Existing subsections (a) and (b) should be deleted.

Subsection (3)(b) referring to toll roads should be deleted. Toll road alternatives would be included in the alternatives analysis for a Portland metropolitan area program.

SECTION 24. Subsection (6). The second sentence should be amended and a third sentence added as follows: "The maximum may not exceed 15 percent of the amount of fees collected by the entity in the first two years of the program. Beginning in the third year of the program, the maximum may not exceed 10 percent

of the amount of fees collected by the entity. This recognizes the potential for high start-up costs of a program, with the assumption costs decreasing following implementation.