

**E2SHB 2401** - S COMM AMD

By Committee on Environment, Energy & Technology

**NOT CONSIDERED 03/07/2024**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that  
4 hydrofluorocarbons are climate pollutants that pose significant  
5 threats to our environment. Although hydrofluorocarbons currently  
6 represent a small portion of the state's greenhouse gas emissions,  
7 emissions of hydrofluorocarbons have been rapidly increasing in the  
8 United States and worldwide, and they are hundreds to thousands of  
9 times more potent at trapping heat than carbon dioxide. Preventing  
10 the release of hydrofluorocarbons is among the highest global impact  
11 measures to address the climate crisis.

12 (2) In 2019 and 2021, the legislature took significant steps  
13 towards reducing greenhouse gas emissions from hydrofluorocarbons by  
14 transitioning to the use of less damaging hydrofluorocarbons or other  
15 suitable substitutes in several new end-uses including their largest  
16 end-uses where they are used as refrigerants as well instituting a  
17 statewide refrigerant management program. However, significant  
18 sources of hydrofluorocarbons and refrigerant emissions in Washington  
19 remain unaddressed because vast quantities of refrigerants are  
20 contained inside the installed base of heating and cooling equipment  
21 beyond those covered by the statewide refrigerant management program.  
22 There is a dire need for improving life-cycle refrigerant management  
23 to prevent those refrigerants from being emitted into the atmosphere.

24 (3) On a national and global scale, the United States has begun  
25 implementing a phasedown of hydrofluorocarbons. The United States has  
26 ratified the global Kigali amendment to the Montreal protocol, an  
27 international agreement to phase down the production and consumption  
28 of hydrofluorocarbons by 85 percent by 2036. Domestically, in 2020,  
29 the United States congress enacted the American innovation and  
30 manufacturing act which closely matches the Kigali amendment's phase-  
31 down schedule. Any state actions that complement the phasedown by

1 reducing demand of newly produced hydrofluorocarbons will help  
2 actualize the vast climate benefits expected from the American  
3 innovation and manufacturing act and the Kigali amendment.

4 (4) As in any circular economy, an important lever for reducing  
5 demand for new or virgin material is to maximize the recovery,  
6 recycling, reclaiming, and reuse of existing material. The same  
7 principle can be successfully applied to refrigerants. However, the  
8 current state regulatory environment notably lacks a mechanism to  
9 ensure that refrigerants and greenhouse gases are recovered,  
10 reclaimed, and put back into the economy for reuse. Recognizing the  
11 benefits of minimizing refrigerant releases and maximizing  
12 reclamation, the United States environmental protection agency has  
13 recently proposed rules to require the use of reclaimed refrigerants  
14 in various sectors, including commercial and industrial refrigeration  
15 as well as air conditioners and heat pumps. Due to those pending  
16 federal regulations requiring the use of reclaimed refrigerants, it  
17 is in the state's interest to incentivize a refrigerant recovery,  
18 reclamation, and recycling program to ensure an adequate supply of  
19 refrigerant chemicals exists for Washington users as the transition  
20 to chemicals with lower climate-polluting risks takes place.

21 (5) Implementation of extended producer responsibility schemes in  
22 Washington and other leading states, including a financial incentive  
23 payment to be paid to service technicians and others for recovered  
24 gas, will incentivize a greater supply of used fluorinated  
25 refrigerants removed from equipment, which can then be reclaimed and  
26 reused. Increasing the supply of reclaimed refrigerants available to  
27 fulfill the demand for refrigerants in existing and new equipment  
28 will support smooth implementation of federal regulations under the  
29 American innovation and manufacturing act. It will also increase the  
30 supply of refrigerants for ramping new heat pump adoption to  
31 decarbonize the building stock. Overall, greater reclamation of  
32 hydrofluorocarbons will not only prevent direct greenhouse gas  
33 emissions but also support the state's building electrification and  
34 heat pump adoption goals.

35 (6) Once the need for reclaimed refrigerants has passed in the  
36 future, the most polluting refrigerant chemicals should be safely  
37 destroyed.

1        NEW SECTION.        **Sec. 2.**        DEFINITIONS. The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4        (1) (a) "Bulk" means a covered refrigerant of any amount that is  
5 in a container for the transportation or storage of that substance  
6 such as cylinders, drums, ISO tanks, and small cans.

7        (b) A covered refrigerant that must first be transferred from a  
8 container to another container, vessel, or piece of equipment in  
9 order to realize its intended use is a bulk substance.

10       (c) A covered refrigerant contained in a manufactured product  
11 such as an appliance, an aerosol can, or a foam is not a bulk  
12 substance.

13       (2) "Covered refrigerant" means any fluorinated regulated  
14 refrigerant or fluorinated substitute, as those terms are defined in  
15 chapter 70A.60 RCW, that are used for heat transfer purposes to  
16 provide a cooling or heating effect.

17       (3) "Department" means the Washington state department of  
18 ecology.

19       (4) (a) "Destruction" means the expiration of a covered  
20 refrigerant to the destruction and removal efficiency actually  
21 achieved.

22       (b) Technologies used for destruction of covered refrigerants  
23 should be limited to the federally approved list of destruction  
24 technologies maintained under 40 C.F.R. Sec. 84.2 as it existed as of  
25 January 1, 2024.

26       (5) "Distributor" or "wholesaler" means any person or entity  
27 engaged in the distribution, wholesale sale, sale, or other  
28 commercial furnishing of any covered refrigerant or precharged  
29 equipment, except for service technicians transferring refrigerant to  
30 end-user consumers as part of a service call.

31       (6) "Partner participant" means an entity that is not a producer  
32 but is a part of the supply chain of covered refrigerants. "Partner  
33 participants" includes, but is not limited to, refrigerant  
34 distributors, wholesalers, reclaimers, and service technicians.

35       (7) (a) "Precharged equipment" means any appliance or  
36 refrigeration, air conditioning, or heat pump equipment or other  
37 equipment containing a quantity of covered refrigerant already added  
38 or charged into the equipment or appliance prior to installation in  
39 the field.

1 (b) "Precharged equipment" does not include equipment that does  
2 not contain any covered refrigerant already added or charged into the  
3 equipment prior to installation in the field, or that solely contains  
4 refrigerants other than covered refrigerants.

5 (c) "Precharged equipment" does not include equipment that  
6 contains only a covered refrigerant that is certified to be the  
7 responsibility of another producer under subsection (8)(b) or (c) of  
8 this section.

9 (8)(a) "Producer" includes:

10 (i) With respect to covered refrigerants, the person or entity  
11 who is the first point of sale for covered refrigerants that are  
12 sold, offered for sale, distributed, or otherwise entered into  
13 commerce in or into Washington;

14 (ii) With respect to precharged equipment:

15 (A) If the precharged equipment is sold under the brand of the  
16 precharged equipment manufacturer, the producer is the person that  
17 manufactures the precharged equipment;

18 (B) If the precharged equipment is sold under a retail brand or  
19 under a brand owned by a person other than the manufacturer, the  
20 producer is the brand owner;

21 (C) If there is no person to which (a)(ii)(A) or (B) of this  
22 subsection applies, the producer is the person that is the licensee  
23 of a brand or trademark under which the precharged equipment is used  
24 in a commercial enterprise, sold, offered for sale, or distributed in  
25 or into this state, whether or not the trademark is registered in  
26 this state;

27 (D) If there is no person described in (a)(ii)(A) through (C) of  
28 this subsection within the United States, the producer is the person  
29 who is the importer of record for the precharged equipment into the  
30 United States for use in a commercial enterprise that sells, offers  
31 for sale, or distributes the precharged equipment in this state;

32 (E) If there is no person described in (a)(ii)(A) through (D) of  
33 this subsection with a commercial presence within the state, the  
34 producer is the person who first sells, offers for sale, or  
35 distributes the precharged equipment in or into this state.

36 (b) A person is the "producer" as defined in (a) of this  
37 subsection except where another person has mutually signed an  
38 agreement with a producer as defined in (a) of this subsection that  
39 contractually assigns responsibility to the producer, and the person  
40 has joined a registered refrigerant stewardship organization as the

1 responsible producer for that covered refrigerant, precharged  
2 equipment, or refrigerant contained in the precharged equipment. In  
3 the event that another person is assigned responsibility as the  
4 producer under this subsection (8)(b), the producer under (a) of this  
5 subsection must provide written certification of that contractual  
6 agreement to the refrigerant stewardship organization and to the  
7 department.

8 (c) "Producer" does not include any person who only manufactures,  
9 sells, offers for sale, distributes, or imports into the state  
10 precharged equipment if the gas contained in the precharged equipment  
11 is supplied by a producer that has joined a registered refrigerant  
12 stewardship organization as the producer for that precharged  
13 equipment and the covered refrigerant contained in the precharged  
14 equipment under this chapter. Such a producer of gas that is included  
15 in precharged equipment must provide written certification of that  
16 membership to both the producer of the precharged equipment and the  
17 refrigerant stewardship organization of which the gas producer is a  
18 member.

19 (9) "Reclaimer" means any person undertaking reclamation of  
20 covered refrigerants in compliance with federal requirements,  
21 including recordkeeping and reporting and all other requirements  
22 stipulated under 40 C.F.R. Sec. 84, as it existed as of January 1,  
23 2024.

24 (10) "Reclamation" or "reclaim" means the reprocessing of a  
25 recovered covered refrigerant or substitute to recover usable  
26 products or regenerate the material, including to at least the purity  
27 specified in the air conditioning, heating, and refrigeration  
28 institute (AHRI) standard 700-2016 and verifying this purity using  
29 the analytical methodology prescribed in the standard, and meets the  
30 reclamation standard of containing no greater than 15 percent virgin  
31 or new material by weight.

32 (11) "Recovery" means the process by which a regulated  
33 refrigerant is:

34 (a) Removed, in any condition, from equipment in a manner  
35 consistent with 40 C.F.R. 82.158, as it existed as of January 1,  
36 2024, or in a manner consistent with federal regulations updated  
37 after January 1, 2024, and subsequently adopted by the department by  
38 rule; and

39 (b) Stored in an external container, with or without testing or  
40 processing of the regulated refrigerant.

1 (12) "Recovery rate" means the proportion of the total amount of  
2 recovered covered refrigerant that is collected and subsequently  
3 undergoes reclamation or destruction as a fraction of the estimated  
4 total amount of covered refrigerant that is available for recovery  
5 from equipment in a given year, as calculated by the refrigerant  
6 stewardship organization and approved by the department.

7 (13) "Refrigerant stewardship organization" means a producer that  
8 directly implements a stewardship plan under this chapter or a  
9 nonprofit entity formed to implement a stewardship plan under this  
10 chapter, including the collection and management of covered  
11 refrigerants, and the disbursement of funds to incentivize enhanced  
12 refrigerant recovery, reclamation, and destruction.

13 (14) "Retail establishment" means a person who sells precharged  
14 equipment containing covered refrigerants in or into this state or  
15 offers or otherwise makes available covered precharged equipment to a  
16 customer, including other businesses, for use in this state.

17 (15) "Service technician" means any person certified by the  
18 United States environmental protection agency under section 608 or  
19 609, as appropriate, of the federal clean air act, as it existed as  
20 of January 1, 2024, or the federal American innovation and  
21 manufacturing act of 2020, as it existed as of January 1, 2024.

22 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A  
23 PROGRAM. (1) Beginning January 1, 2025, any producer who sells, or  
24 otherwise enters into commerce, bulk covered refrigerants or  
25 precharged equipment containing a covered refrigerant in or into the  
26 state of Washington must register with the department through a  
27 refrigerant stewardship organization. Beginning January 1, 2025, each  
28 producer must participate in a refrigerant stewardship organization  
29 and appropriately fund the operations of the refrigerant stewardship  
30 organization.

31 (2) Beginning July 1, 2025, a producer that does not participate  
32 in a registered refrigerant stewardship organization is prohibited  
33 from selling bulk covered refrigerants or precharged equipment in or  
34 into Washington.

35 (3) By December 1, 2027, in order to be eligible to receive an  
36 incentive payment from a refrigerant stewardship organization  
37 consistent with section 8 of this act, each entity that is not a  
38 producer but sells, resells, distributes, or otherwise enters into  
39 commerce bulk covered refrigerants after the first point of sale must

1 register with a refrigerant stewardship organization as a partner  
2 participant in the refrigerant stewardship organization. A partner  
3 participant may include, but is not limited to, refrigerant  
4 distributors, wholesalers, reclaimers, and service technicians.  
5 Partner participants are not required to fund a refrigerant  
6 stewardship organization, but may be recipients of financial  
7 incentives aimed at enhancing refrigerant recovery. In order to be  
8 eligible to receive a financial incentive payment, partner  
9 participants must keep records and report information to a  
10 refrigerant stewardship organization in the manner necessary to  
11 enable the refrigerant stewardship organization to fulfill its  
12 reporting requirements to the department under section 10 of this  
13 act.

14 (4) Beginning January 1, 2028, producers, through a refrigerant  
15 stewardship organization, shall implement the plan approved by the  
16 department as outlined in section 4 of this act.

17 NEW SECTION. **Sec. 4.** STEWARDSHIP PLAN COMPONENTS. (1) By May 1,  
18 2027, a refrigerant stewardship organization or organizations must  
19 submit a plan to the department for review and approval. Within 120  
20 days of submission, the department must review and may approve a plan  
21 provided it contains and adequately addresses the following  
22 components:

23 (a) Includes contact information for each producer in the plan;

24 (b) (i) Identifies the brands and equipment models of each  
25 producer of precharged equipment containing covered refrigerants  
26 participating in the plan; and

27 (ii) Identifies the producers for each type of bulk covered  
28 refrigerant manufactured, imported, or distributed into the state;

29 (c) Proposes the implementation mechanisms through which the  
30 program expects to meet the requirements of the performance  
31 assessment established in section 5 of this act and describes the  
32 methods used to calculate whether the program is achieving its  
33 performance targets, including a specific description of the data  
34 sources and calculations to be relied upon in calculating a recovery  
35 rate for department approval;

36 (d) Includes a detailed and comprehensive list of promotional  
37 activities to be undertaken as part of the educational and outreach  
38 program required in section 7 of this act;

1 (e) Describes the mechanisms used for the collection and  
2 consolidation of recovered covered refrigerants, as well as  
3 destruction of any recovered covered refrigerants collected by the  
4 program that are deemed too contaminated to be reclaimed by a  
5 reclaimer certified by the United States environmental protection  
6 agency, consistent with section 6 of this act, including the  
7 financial incentives described in section 8 of this act that are to  
8 be paid to persons that furnish covered refrigerants recovered from  
9 equipment in the state;

10 (f) Identifies proposed transporters, processors, and facilities  
11 to be used by the program for the reclamation, destruction, and final  
12 disposition of covered refrigerants that are deemed too contaminated  
13 to be reclaimed by a reclaimer certified by the United States  
14 environmental protection agency;

15 (g) Describes the financing methods to implement the plan,  
16 consistent with section 8 of this act, including how producer fees  
17 and fee modulation will incorporate incentives for the recovery and  
18 collection of covered refrigerants in a manner that prioritizes the  
19 reclamation and reuse of those covered refrigerants and minimizes  
20 their emissions;

21 (h) The performance targets established consistent with section 5  
22 of this act;

23 (i) A description of safety procedures or best management  
24 practices that must be used by collection sites;

25 (j) An analysis of how the program will achieve the required  
26 convenience standards; and

27 (k) Additional information determined by the department to be  
28 necessary to ensure effective implementation of the requirements of  
29 this chapter by the refrigerant stewardship organization and  
30 effective oversight of refrigerant stewardship organization  
31 activities by the department.

32 (2) The department may:

33 (a) Amend the plan submitted for approval under subsection (1) of  
34 this section if necessary to render the plan in compliance with a  
35 significant requirement of this chapter; and

36 (b) Require a refrigerant stewardship organization to implement  
37 the amended plan.

38 (3) A refrigerant stewardship organization must submit an updated  
39 plan to the department for approval no less frequently than every  
40 five years. In addition, if required by the department, a refrigerant



1 stewardship organization must submit a new plan to the department for  
2 approval:

3 (a) When there is a change to the method of financing plan  
4 implementation under section 8 of this act; and

5 (b) If there are significant changes to the methods of collection  
6 or end-of-life management under section 6 of this act that are not  
7 covered by the plan.

8 NEW SECTION. **Sec. 5.** PERFORMANCE MEASUREMENTS. (1) In plans  
9 submitted under section 4 of this act, a refrigerant stewardship  
10 organization shall set, and the department must review and may  
11 approve, reasonable binding interim annual performance targets in  
12 addition to and in advance of the 2032 recovery rate target.

13 (2) A refrigerant stewardship organization must propose and  
14 achieve an annual recovery rate of at least 70 percent in calendar  
15 year 2032 of implementation and every subsequent year.

16 (3) The department may adjust the target annual recovery rates  
17 and other performance targets in subsequent years beyond 2032 with  
18 the goal of optimizing refrigerant recovery and end-of-life  
19 management outcomes.

20 (4) The department may specify any additional reporting  
21 requirements required for the calculation of recovery rates and other  
22 performance targets consistent with this section that are above and  
23 beyond the reporting requirements listed in section 10 of this act.

24 (5) By October 1st of each year following the submission of an  
25 annual report under section 10 of this act, and based on the data  
26 reported to the department by refrigerant stewardship organizations  
27 as outlined in section 10 of this act, the department shall publish  
28 an annual report assessing the performance of refrigerant stewardship  
29 organizations. The annual report must include an evaluation of the  
30 recovery rates and other performance targets achieved by the program  
31 and any recommendations for continued improvement in the quantities  
32 of covered refrigerants collected, reclaimed, or destroyed.

33 NEW SECTION. **Sec. 6.** COLLECTION AND MANAGEMENT. (1) A  
34 refrigerant stewardship organization must provide for the collection  
35 of all covered refrigerants recovered by any person from within the  
36 state of Washington. A collection site may not charge a collection  
37 fee at the time when covered refrigerants are returned to the  
38 collection site and a financial incentive must be paid to a service

1 technician who recovers the covered refrigerant, consistent with  
2 section 8 of this act.

3 (2) At a minimum, a refrigerant stewardship organization must  
4 provide statewide opportunities for the collection of bulk covered  
5 refrigerant through:

6 (a) At least one permanent collection site in each county unless  
7 granted an infeasibility waiver from this requirement by the  
8 department; and

9 (b) Existing commercial sites operated by distributors and  
10 wholesalers of covered refrigerants who participate in a refrigerant  
11 stewardship organization. Distributors and wholesalers must offer  
12 such sites as program collection sites for recovered bulk covered  
13 refrigerants.

14 (3) Other entities including, but not limited to, the following  
15 may serve as collection sites:

16 (a) A retail establishment that sells precharged equipment  
17 containing covered refrigerants may elect to serve as a collection  
18 site; and

19 (b) Local governments or nonprofit organizations that operate  
20 household hazardous waste facilities or other solid waste facilities  
21 may elect for these facilities to serve as collection sites under the  
22 program.

23 (4) A refrigerant stewardship organization and any person hired  
24 by the refrigerant stewardship organization to carry out services  
25 related to refrigerant recovery or collection must manage covered  
26 refrigerants in a manner consistent with best practices consistent  
27 with federal refrigerant management regulations under sections 608  
28 and 609 of the clean air act (40 C.F.R. Part 82) and WAC 173-443-205,  
29 as they existed as of January 1, 2024, or as updated by the  
30 department by rule after that date in order to maintain consistency  
31 with updated federal regulations, that minimize the release into the  
32 environment and in compliance with all applicable state rules and  
33 federal regulations.

34 (5) A refrigerant stewardship organization may suspend or  
35 terminate a collection site that does not adhere to the collection  
36 site criteria in the approved plan or that poses an immediate health  
37 or safety concern. A refrigerant stewardship organization must notify  
38 the department upon suspending or terminating a collection site.

1        NEW SECTION.    **Sec. 7.**    EDUCATION AND OUTREACH. (1) A refrigerant  
2        stewardship organization must carry out promotional activities in  
3        support of plan implementation including, but not limited to:

4            (a) The development and maintenance of a website;

5            (b) The development and placement of graphic advertisements for  
6        use on social media or other relevant media platforms;

7            (c) The development of promotional materials about the program to  
8        be used by the refrigerant stewardship organization, government  
9        agencies, and nonprofit organizations, businesses, and others;

10          (d) Educational promotional materials targeted towards service  
11       technicians made available at each collection site used by the  
12       refrigerant stewardship organization; and

13          (e) Educational materials to be used at the point of sale for  
14       precharged equipment.

15        (2) During the first year of program implementation and every  
16       five years thereafter, a refrigerant stewardship organization must  
17       carry out a survey of the program's partner participants awareness to  
18       determine the effectiveness of the requirements of the program and  
19       awareness of the program established under this chapter. A  
20       refrigerant stewardship organization must share the results of the  
21       awareness surveys with the department, who may choose to make the  
22       information public.

23        (3) If multiple refrigerant stewardship organizations are  
24       implementing plans approved by the department, the refrigerant  
25       stewardship organizations must coordinate in carrying out their  
26       education and outreach responsibilities under this section and must  
27       include in their annual reports to the department a summary of their  
28       coordinated education and outreach efforts.

29        NEW SECTION.    **Sec. 8.**    FINANCIAL REQUIREMENTS. (1) A refrigerant  
30        stewardship organization must ensure adequate funding is available to  
31        fully implement its stewardship plan, including the implementation of  
32        aspects of the plan addressing:

33            (a) The collection of recovered covered refrigerants;

34            (b) Education and outreach;

35            (c) Annual reporting to the department;

36            (d) The payments of a financial incentive to persons with a  
37       United States environmental protection agency refrigerant  
38       certification under section 608 or 609 of the federal clean air act  
39       or the American innovation and manufacturing act of 2020, as they

1 existed as of January 1, 2024, that furnish recovered covered  
2 refrigerants to the program for collection;

3 (e) The payments for services rendered by distributors,  
4 wholesalers, or any persons providing collection sites for recovered  
5 covered refrigerants; and

6 (f) The payment of administrative fees to the department.

7 (2)(a) A refrigerant stewardship organization must develop and  
8 implement a system to collect charges from participating producers to  
9 cover the costs of plan implementation in an equitable,  
10 environmentally sound, and socially just manner. Except as provided  
11 in (f) of this subsection, a refrigerant stewardship organization's  
12 system of charges must utilize a standard per-mass unit assessment  
13 applied based on the volume of covered refrigerants introduced into  
14 Washington.

15 (b) The system of charges must apply equally regardless of  
16 whether that refrigerant is contained in precharged equipment or  
17 manufactured, imported, distributed, or sold directly onto the market  
18 as bulk covered refrigerants. For precharged equipment, the system of  
19 charges may rely on reasonable estimations of refrigerant volumes  
20 contained in the precharged equipment.

21 (c) To allow a refrigerant stewardship organization to establish  
22 an equitable and reasonable system of charges for producers of  
23 precharged equipment and bulk covered refrigerants, and to allow the  
24 refrigerant stewardship organization to calculate recovery rates for  
25 purposes of section 5 of this act, a refrigerant stewardship  
26 organization may require a producer to provide product specifications  
27 and product sale and distribution volumes in or into Washington for  
28 precharged equipment and bulk covered refrigerants.

29 (d) In the plan proposed to the department, the refrigerant  
30 stewardship organization must propose an initial rate per pound of  
31 covered refrigerant to calculate the charges due from producers in  
32 the first year of the program, consistent with the requirements of  
33 this section. The department may approve the proposed rate of the  
34 refrigerant stewardship organization if it determines, based on  
35 consideration of the experiences of other jurisdictions that have  
36 implemented similar programs, that the proposed rate will be  
37 sufficient for the refrigerant stewardship organization to achieve  
38 the performance targets established in section 5 of this act and to  
39 carry out the other obligations of the refrigerant stewardship  
40 organization under this chapter.

1 (e) For each year beginning in 2029, the charges due from  
2 producers may be adjusted as follows:

3 (i) A refrigerant stewardship organization may propose to the  
4 department to adjust the initial per pound rate based on the  
5 performance assessment described in section 5 of this act, and the  
6 department may review and make a determination whether to approve the  
7 adjustment; or

8 (ii) The department may of its own volition adjust the rate based  
9 on the performance assessment described in section 5 of this act.

10 (f) Applicable no earlier than in calendar year 2031 of program  
11 operations, and using the process specified in (e) of this  
12 subsection, a refrigerant stewardship organization's system of  
13 charges may utilize an assessment that is weighted based on the  
14 global warming potential of each covered refrigerant, with a  
15 proportionally higher fee being assessed for gases with comparatively  
16 higher global warming potential.

17 (3) The system of charges must use ecomodulated fees to encourage  
18 the use of design attributes that reduce the environmental impacts of  
19 covered refrigerants. Examples of ecomodulated fees include, but are  
20 not limited to:

21 (a) Encouraging designs or business models intended to facilitate  
22 recovery, reclamation, and reuse of refrigerants;

23 (b) Encouraging the use of reclaimed refrigerants; and

24 (c) Encouraging a sliding scale of fees based upon refrigerant  
25 global warming potential.

26 (4) A refrigerant stewardship organization is responsible for all  
27 costs of recovered covered refrigerant collection, education,  
28 administration, and agency reimbursement in accordance with best  
29 environmental management practices.

30 (5) A refrigerant stewardship organization is not authorized to  
31 reduce or cease collection, education and outreach, or other  
32 activities implemented under an approved plan based on the  
33 achievement of program performance targets or achieving a level of  
34 programmatic efficacy that is higher than that required in section 5  
35 of this act.

36 (6) (a) (i) To encourage persons to manage recovered covered  
37 refrigerants through the program and to ensure that the program  
38 targets established in section 5 of this act are achieved, a  
39 refrigerant stewardship organization must propose in its plan, and  
40 carry out in its program, the payment of a financial incentive for

1 each mass unit, such as pound of covered refrigerant, that a partner  
2 participant registered with the refrigerant stewardship organization  
3 furnishes to the program for management.

4 (ii) Financial incentive payments must be made, where  
5 appropriate, to the employer of the person furnishing the covered  
6 refrigerant to the program for management, as long as the employer of  
7 the person furnishing the covered refrigerant provides a payment  
8 mechanism in which no less than 90 percent of the value of the  
9 financial incentive is received by the person furnishing the  
10 refrigerant to the program.

11 (iii) An employer may not offset any wage or other amounts owed  
12 under any state law, contract, or ordinance when providing at least  
13 90 percent of the value of the financial incentive to the person who  
14 furnished the covered refrigerant.

15 (iv) Persons receiving financial incentives must possess a  
16 refrigerant certification under section 608 or 609 of the federal  
17 clean air act or the American innovation and manufacturing act of  
18 2020, as they existed as of January 1, 2024.

19 (v) The financial incentive paid under this subsection is not  
20 required to be consistent with the amount specified in subsection (2)  
21 of this section.

22 (vi) A refrigerant stewardship organization must demonstrate to  
23 the department that the amount of the financial incentive for each  
24 unit of covered refrigerant will be sufficient to incentivize the use  
25 of the program by service technicians or other persons with unwanted  
26 recovered covered refrigerant, to discourage illegal dumping or  
27 venting of refrigerants or other pollutants, and must be in addition  
28 to any other incentive payments offered for the same covered  
29 refrigerants or precharged equipment through utility rebate, energy  
30 efficiency, or other programs.

31 (b) The financial incentives offered through the program may vary  
32 as appropriate to ensure the achievement of the performance targets  
33 established in section 5 of this act in an efficient manner. In  
34 developing the financial incentives, a refrigerant stewardship  
35 organization may consider any combination of the following:

36 (i) The volume of recovered covered refrigerant furnished by a  
37 partner participant;

38 (ii) The type and purity of recovered covered refrigerant; and

39 (iii) Whether the recovered covered refrigerant has been  
40 collected and furnished to the program in a manner that minimizes the

1 costs and environmental impacts of managing that refrigerant and  
2 whether it has been collected and furnished in a manner that  
3 facilitates the reuse of the refrigerant rather than its destruction,  
4 where appropriate.

5 (c) If the department determines that a refrigerant stewardship  
6 organization has not met a performance target established in section  
7 5 of this act, the department may require the refrigerant stewardship  
8 organization to increase the value of the financial incentive  
9 established under this subsection.

10 (d) The refrigerant stewardship organization may retain a cash  
11 reserve on a year-over-year basis in order to ensure the refrigerant  
12 stewardship organization's ability to pay financial incentives in  
13 future years for the covered refrigerant furnished to the program.

14 (e) For the purposes of this subsection, "employer" means a  
15 person who directly or indirectly, or through an agent or other  
16 person, including through temporary services or the services of a  
17 third-party employer, a staffing agency, independent contractor, or  
18 similar entity, at any time, employs or exercises control over the  
19 wages, hours, or working conditions of a person furnishing covered  
20 refrigerant.

21 (7) A refrigerant stewardship organization must reimburse  
22 demonstrable costs incurred at a collection site as a result of a  
23 serving as a collection site for the program including, but not  
24 limited to, associated labor costs, and other costs associated with  
25 safety, accessibility, and operation of the collection site. A  
26 refrigerant stewardship organization may provide additional supports  
27 to facilitate the recovery of covered refrigerants including, but not  
28 limited to, assistance for service technicians in obtaining equipment  
29 to facilitate recovery of covered refrigerants.

30 (8)(a) It is the intent of the legislature to not incentivize  
31 refrigerant destruction under this chapter in the initial years of  
32 program implementation.

33 (b) As federal programs under the American innovation in  
34 manufacturing act, including those in 40 C.F.R. Part 84, and similar  
35 state programs phase down the use of hydrofluorocarbon refrigerants,  
36 the department may evaluate the benefits of incentivizing  
37 destruction, and on or after January 1, 2035, the department may by  
38 rule set an incentive for destruction of covered refrigerants that  
39 may not be used for any carbon credits or other greenhouse gas offset  
40 credits, including under chapter 70A.65 RCW.

1 (9) If more than one refrigerant stewardship organization is  
2 registered within the state, each refrigerant stewardship  
3 organization must coordinate with other refrigerant stewardship  
4 organizations to provide reimbursement, to ensure that covered  
5 refrigerants are not reported as supplied or managed by more than one  
6 refrigerant stewardship organization, and to ensure that one or more  
7 of the registered refrigerant stewardship organizations do not  
8 inequitably subsidize the operations of other registered refrigerant  
9 stewardship organizations through the overpayment of financial  
10 incentives to service technicians and other persons relative to that  
11 refrigerant stewardship organization or refrigerant stewardship  
12 organization's share of covered refrigerants that it is responsible  
13 for in the state.

14 NEW SECTION. **Sec. 9.** ROLE OF RETAIL ESTABLISHMENTS SELLING  
15 PRECHARGED EQUIPMENT. (1) Beginning July 1, 2028, retail  
16 establishments may not sell, offer for sale, otherwise make available  
17 for sale, install, or otherwise furnish to customers precharged  
18 equipment containing a covered refrigerant unless the producer  
19 responsible for the precharged equipment participates in a  
20 refrigerant stewardship organization.

21 (2) A retail establishment is in compliance with the requirements  
22 of subsection (1) of this section and is not subject to penalties as  
23 long as the website made available by the department under section 12  
24 of this act lists, as of the date the precharged equipment is made  
25 available for retail sale, the producer responsible for the brand and  
26 appliance model of the precharged appliance, sold by the retail  
27 establishment as being a participant in an approved plan or the  
28 implementer of an approved plan.

29 (3) A retail establishment that sells precharged equipment  
30 containing covered refrigerant is not required to make retail  
31 locations available to serve as collection sites or services for a  
32 program operated by a refrigerant stewardship organization. However,  
33 a retail establishment that agrees to make a retail location  
34 available to serve as a collection site or otherwise offers  
35 refrigerant recovery services for a program must comply with the  
36 requirements for collection sites and service providers, consistent  
37 with section 6 of this act.

38 (4) A retail establishment selling or offering precharged  
39 equipment containing covered refrigerant for sale in Washington must



1 provide information to customers, provided to the retail  
2 establishment by each refrigerant stewardship organization, regarding  
3 available end-of-life management options for covered refrigerants  
4 collected by the refrigerant stewardship organization. The  
5 information that a refrigerant stewardship organization must make  
6 available to retail establishments and refrigerant service providers  
7 must include, but is not limited to, in-store signage, written  
8 materials, and other promotional materials that retail establishments  
9 and refrigerant service providers must use to inform customers of the  
10 available end-of-life management options for covered refrigerants  
11 collected by the refrigerant stewardship organization. All materials  
12 developed by a refrigerant stewardship organization under this  
13 subsection must:

14 (a) Inform customers regarding the climate impacts of  
15 refrigerants;

16 (b) Encourage customers to choose a service technician  
17 participating in the program and encourage customers to confirm with  
18 their service technician that the customer's refrigerants will be  
19 reclaimed; and

20 (c) Identify the prohibitions under federal law and chapters  
21 70A.15 and 70A.60 RCW on the willful release of refrigerants.

22 (5) Retail establishments, refrigerant service providers,  
23 producers, or refrigerant stewardship organizations may not charge a  
24 point-of-sale fee to consumers to cover the administrative or  
25 operational costs of the refrigerant stewardship organization or the  
26 program.

27 NEW SECTION. **Sec. 10.** REPORTING AND RECORDKEEPING REQUIREMENTS  
28 FOR THE REFRIGERANT STEWARDSHIP ORGANIZATION, PRODUCERS, AND  
29 PARTICIPANTS. (1) By June 1, 2029, and each June 1st thereafter, a  
30 refrigerant stewardship organization must submit an annual report to  
31 the department covering the preceding calendar year of program  
32 implementation. The report must include:

33 (a) An independent financial audit of a program implemented by  
34 the refrigerant stewardship organization, including a breakdown of  
35 the program's expenses, such as collection, storage, and other  
36 operational activities in support of the program;

37 (b) A summary financial statement documenting the financing of  
38 the refrigerant stewardship organization program and an analysis of  
39 program costs and expenditures, including an analysis of the

1 program's expenses, such as collection, storage, and other activities  
2 in support of the program;

3 (c) On an annual basis, key quantitative data regarding program  
4 operations, including:

5 (i) The quantity of each type of covered refrigerant, whether in  
6 bulk or contained inside precharged equipment, sold into the state of  
7 Washington by each producer;

8 (ii) The quantity of each type of recovered covered refrigerant  
9 and the management outcomes of those recovered covered refrigerants  
10 as to reclamation, destruction, or transportation for those purposes,  
11 or any maintained stocks; and

12 (iii) A calculation of the recovery rate and other performance  
13 targets established under section 5 of this act, including the  
14 sources of data relied upon in the recovery rate calculation;

15 (d) For each facility used as a collection site, the name and  
16 address of the facility with links to appropriate websites where  
17 there are existing websites associated with a location;

18 (e) A summary of the activities carried out at the collection  
19 sites;

20 (f) A summary of the education and outreach activities supporting  
21 plan implementation, including a summary of coordinated education and  
22 outreach efforts with refrigerant stewardship organizations if  
23 multiple refrigerant stewardship organizations have formed, and the  
24 results of awareness surveys;

25 (g) Any changes to:

26 (i) The list of producers participating, including producers of  
27 precharged equipment;

28 (ii) Collection infrastructure, including the list of collection  
29 sites;

30 (iii) Recovery rates and progress towards performance targets;  
31 and

32 (iv) The program necessary to continue progress towards  
33 performance targets; and

34 (h) Any other information about program operations required to be  
35 included in the annual report in rules adopted by the department.

36 (2) On March 1st, June 1st, September 1st, and December 1st of  
37 each year in which a refrigerant stewardship organization implements  
38 a program, a refrigerant stewardship organization must submit to the  
39 department an updated list of participating producers of covered

1 refrigerants and precharged equipment, and the brands and models for  
2 precharged equipment, to be posted on the department's website.

3 (3) The partner participants in a refrigerant stewardship  
4 organization, such as distributors and wholesalers of bulk covered  
5 refrigerants or precharged equipment, are required to keep records of  
6 information needed by the refrigerant stewardship organization to  
7 fulfill the refrigerant stewardship organization's reporting  
8 requirements listed in this section and to aid the performance  
9 assessment requirements listed in section 5 of this act. To the  
10 extent feasible, recordkeeping and reporting requirements applicable  
11 to partner participants must be harmonized with the recordkeeping and  
12 reporting requirements under chapter 70A.60 RCW and required by the  
13 United States environmental protection agency. Partner participants  
14 must report information to a refrigerant stewardship organization in  
15 a form and manner prescribed by the refrigerant stewardship  
16 organization, and consistent with the following:

17 (a) By March 31st of each year a refrigerant stewardship  
18 organization implements a program, distributors and wholesalers must  
19 report to each refrigerant stewardship organization quantities and  
20 types of covered refrigerants sold to them by each producer  
21 participating in that refrigerant stewardship organization and  
22 subsequently resold by them for use in the state of Washington, and  
23 not neighboring states, in the prior year;

24 (b) Distributors and wholesalers must keep the same records  
25 outlined in (a) of this subsection for a period of five years;

26 (c) Distributors and wholesalers must require attestation from  
27 any service technician or other individual returning recovered  
28 covered refrigerant that the refrigerant came from the state of  
29 Washington. At minimum, the attestation must include quantities and  
30 types of refrigerants recovered at each location inside of  
31 Washington, as well as the address of the recovery;

32 (d) The department may require a refrigerant stewardship  
33 organization to submit any of the records listed in (a) through (c)  
34 of this subsection at any time.

35 NEW SECTION. **Sec. 11.** PROTECTION OF CONFIDENTIAL AND BUSINESS  
36 SENSITIVE INFORMATION. A refrigerant stewardship organization may  
37 request that the information or records be made available only for  
38 the confidential use of the department, the director of the  
39 department, or the appropriate division of the department. The

1 director of the department must give consideration to the request and  
2 if this action is not detrimental to the public interest and is  
3 otherwise in accordance with the policies and purposes of chapter  
4 43.21A RCW, the director must grant the request for the information  
5 to remain confidential as authorized in RCW 43.21A.160.

6 NEW SECTION. **Sec. 12.** ROLES AND RESPONSIBILITIES OF DEPARTMENT  
7 OF ECOLOGY SECTION. (1) The department must implement, administer,  
8 and enforce this chapter. By December 31, 2026, the department shall  
9 adopt rules as necessary to implement, administer, and enforce this  
10 chapter. If, after January 1, 2024, the United States environmental  
11 protection agency updates the federal standards referenced in section  
12 2 of this act, including the provisions referenced in the definitions  
13 of "reclaimer," "service technician," "recovery," and "destruction"  
14 in section 2 of this act, the department must notify the appropriate  
15 committees of the legislature and recommend appropriate changes to  
16 the definitions in section 2 of this act in order to maintain  
17 consistency with federal law.

18 (2)(a) By April 1, 2027, and every April 1st thereafter, the  
19 department must:

20 (i) Identify the projected annual costs to implement, administer,  
21 and enforce this chapter;

22 (ii) Determine a total annual fee payment to be paid by each  
23 refrigerant stewardship organization that is adequate to cover, but  
24 not exceed, the costs identified in (a)(i) of this subsection;

25 (iii) By December 31, 2026, adopt rules to equitably determine  
26 the annual fee payment by a refrigerant stewardship organization; and

27 (iv) Send notice to a refrigerant stewardship organization of fee  
28 amounts due consistent with rules adopted under (a)(iii) of this  
29 subsection.

30 (b) The department must:

31 (i) Apply any remaining annual payment funds from the current  
32 year to the annual payment for the coming fiscal year, if the  
33 collected annual payment exceeds the costs identified under (a)(ii)  
34 of this subsection for a given year; and

35 (ii) Increase annual payments for the coming fiscal year to cover  
36 the costs identified under (a)(ii) of this subsection, if the  
37 collected annual payment was less than the amount required to cover  
38 those costs for a given year.

1 (3) (a) The department must review new, updated, and revised plans  
2 submitted by a refrigerant stewardship organization. The department  
3 must:

4 (i) Make new, updated, and revised plans available for public  
5 review and comment for at least 30 days prior to the department's  
6 approval decision;

7 (ii) Review new, updated, and revised refrigerant stewardship  
8 organization plans within 120 days of receipt of a complete plan;

9 (iii) Make a determination as to whether or not to approve a  
10 plan, plan update, or plan revision and notify the refrigerant  
11 stewardship organization of the:

12 (A) Determination of approval if a plan provides for a program  
13 that meets the requirements of this chapter, taking into  
14 consideration comments received under (a) (i) of this subsection; or

15 (B) Reasons for not approving a plan. A refrigerant stewardship  
16 organization must submit a new or revised plan within 60 days after  
17 receipt of the letter of disapproval. In the event that a new or  
18 revised plan submitted by a refrigerant stewardship organization does  
19 not sufficiently meet the requirements of this chapter, including any  
20 deficiencies identified in the initial letter of disapproval, the  
21 department may:

22 (I) Use the enforcement powers specified in section 13 of this  
23 act; or

24 (II) Amend the contents of the insufficient new or revised plan  
25 in a manner that ensures that the plan meets the requirements of this  
26 chapter and the department may require the refrigerant stewardship  
27 organization to implement the plan as amended by the department.

28 (b) The approval of a plan by the department does not relieve  
29 producers participating in the plan from responsibility for  
30 fulfilling the requirements of this chapter.

31 (4) The department must review annual reports submitted by a  
32 refrigerant stewardship organization as required in section 10 of  
33 this act. The department must:

34 (a) Make annual reports available for public review and comment  
35 for at least 30 days upon the receipt of the annual report by the  
36 department;

37 (b) Review the annual report within 120 days of receipt of a  
38 complete annual report;

1 (c) Make a determination as to whether or not an annual report  
2 meets the requirements of section 10 of this act and notify a  
3 refrigerant stewardship organization of the:

4 (i) Determination of approval of the annual report; or

5 (ii) Reasons for not approving the annual report. The refrigerant  
6 stewardship organization must submit a revised annual report within  
7 60 days after receipt of the letter of disapproval;

8 (d) Notify a refrigerant stewardship organization if the annual  
9 report demonstrates that the program and activities to implement the  
10 plan fail to achieve the performance targets approved by the  
11 department or otherwise fail to achieve significant requirements  
12 under this chapter.

13 (5) Consistent with section 6 of this act, the department may  
14 grant an infeasibility waiver temporarily exempting, for the duration  
15 of a plan, a refrigerant stewardship organization from the  
16 requirement to provide a permanent collection site in each county.  
17 The department may only grant an exemption if the refrigerant  
18 stewardship organization demonstrates that no refrigerant  
19 distributor, wholesaler, or service provider exists to service a  
20 collection site, no local government or retail establishment has  
21 voluntarily elected to serve as a collection site, and that access to  
22 collection services by persons in possession of recovered covered  
23 refrigerants will not be substantially affected by the lack of a  
24 permanent collection site in a low population density county. The  
25 refrigerant stewardship organization, if granted an infeasibility  
26 waiver under this section must, at minimum, hold at least two  
27 collection events each year in any counties covered by the  
28 infeasibility waiver.

29 (6) The department must maintain a public website that:

30 (a) Lists details of each refrigerant stewardship organization  
31 along with its member producers, participants, and the covered  
32 refrigerants and brands and models precharged equipment that are  
33 included under the refrigerant stewardship organization's plan; and

34 (b) Makes available each plan and annual report received by the  
35 department under this chapter.

36 (7) If multiple refrigerant stewardship organizations form to  
37 implement plans, and if requested by the refrigerant stewardship  
38 organizations, the department may serve as a coordinating body or  
39 oversee coordination of refrigerant stewardship organization plans.

1        NEW SECTION.        **Sec. 13.**        PENALTIES. (1)(a) The department may  
2 administratively impose a civil penalty of up to \$1,000 per violation  
3 per day on any person who violates this chapter and up to \$10,000 per  
4 violation per day for the second and each subsequent violation.

5        (b) Prior to imposing penalties under this subsection, the  
6 department must provide a person with a written warning for the first  
7 violation by the person of the requirements of this chapter. The  
8 written warning must inform the person that the person must  
9 participate in an approved plan or otherwise come into compliance  
10 with the requirements of this chapter within 30 days of the notice. A  
11 person that violates a provision of this chapter after the initial  
12 written warning may be assessed a penalty as provided in this  
13 subsection.

14        (2) Upon the department notifying a refrigerant stewardship  
15 organization that it has not met a significant requirement of this  
16 chapter, the department may, in addition to assessing the penalties  
17 provided in subsection (1) of this section, take any combination of  
18 the following actions:

19        (a)(i) Issue corrective action orders to a producer or a  
20 refrigerant stewardship organization;

21        (ii) Issue orders to a refrigerant stewardship organization to  
22 provide for the continued implementation of the program in the  
23 absence of an approved plan;

24        (b) Revoke the refrigerant stewardship organization's plan  
25 approval and require the refrigerant stewardship organization to  
26 implement its contingency plan;

27        (c) Require a refrigerant stewardship organization to revise or  
28 resubmit a plan within a specified time frame; or

29        (d) Require additional reporting related to compliance with the  
30 significant requirement of this chapter that was not met.

31        (3) Prior to taking the actions described in subsection (2)(b) of  
32 this section, the department must provide a refrigerant stewardship  
33 organization with an opportunity to respond to or rebut the written  
34 finding upon which the action is predicated.

35        (4) Any person who incurs a penalty under subsection (1) of this  
36 section or an order under subsection (2) of this section may appeal  
37 the penalty or order to the pollution control hearings board  
38 established in chapter 43.21B RCW.

39        (5) Penalties levied under this section must be deposited in the  
40 model toxics control operating account created in RCW 70A.305.180.

1        NEW SECTION.    **Sec. 14.**    ANTITRUST PROTECTIONS. Producers and a  
2 refrigerant stewardship organization, acting on behalf of producers  
3 that prepare, submit, and implement a refrigerant stewardship  
4 organization plan pursuant to this chapter and who are thereby  
5 subject to regulation by the department, are hereby granted immunity  
6 from state laws relating to antitrust, restraint of trade, unfair  
7 trade practices, and other regulation of trade and commerce, for the  
8 limited purpose of planning, reporting, and operating the stewardship  
9 program, including:

10        (1) The creation, implementation, or management of the  
11 refrigerant stewardship organization and any plan regardless of  
12 whether it is submitted, denied, or approved;

13        (2) The cost and structure of a refrigerant stewardship  
14 organization plan; and

15        (3) The types or quantities of covered refrigerants being  
16 recycled or otherwise managed pursuant to this chapter.

17        NEW SECTION.    **Sec. 15.**    RESPONSIBLE REFRIGERANT DISPOSAL ACCOUNT.  
18 The responsible refrigerant disposal account is created in the  
19 custody of the state treasurer. All receipts from section 12 of this  
20 act must be deposited into the account. Expenditures from the account  
21 may be used only for administering, implementing, and enforcing the  
22 requirements of this chapter. Moneys in the account may not be  
23 diverted for any purpose or activity other than those specified in  
24 this section. Only the director of ecology or the director's designee  
25 may authorize expenditures from the account. The account is subject  
26 to allotment procedures under chapter 43.88 RCW, but an appropriation  
27 is not required for expenditures.

28        NEW SECTION.    **Sec. 16.**    PROHIBITION ON THE USES OF FUNDS. A  
29 refrigerant stewardship organization may not use funds collected for  
30 purposes of implementing a plan required under this chapter  
31 associated with:

32        (1) The payment of an administrative penalty levied;

33        (2) Administrative appeals of orders or penalties;

34        (3) Litigation between the refrigerant stewardship organization  
35 and the state;

36        (4) Compensation of a person whose position is primarily  
37 representing the refrigerant stewardship organization relative to the



1 passage, defeat, approval, or modification of legislation that is  
2 being considered by a government entity; or

3 (5) Paid advertisements related to encouraging the passage,  
4 defeat, approval, or modification of legislation that is being  
5 considered during an upcoming or current legislative session or was  
6 considered during the previous legislative session.

7 NEW SECTION. **Sec. 17.** ADVISORY COUNCIL. (1) The advisory  
8 council is established to consider, without limitation, the following  
9 topics:

10 (a) Methods to best achieve the performance targets established  
11 in and under section 5 of this act;

12 (b) Methods to improve the accuracy of the recovery rate  
13 calculations as part of a stewardship plan submitted under section 4  
14 of this act;

15 (c) Reasonable and achievable improvements for the collection of  
16 covered refrigerant;

17 (d) How incentive structures may be improved to maximize the  
18 collection of covered refrigerant by service technicians;

19 (e) Methods to streamline, where possible, registration,  
20 certification, and reporting requirements to minimize conflict,  
21 overlap, and duplication with existing state and federal laws;

22 (f) Best practices currently being used in the industry for  
23 adoption and integration into a refrigerant stewardship  
24 organization's plan and the department's plans and rules; and

25 (g) Potential additional collection site locations.

26 (2) By September 1, 2024, the department must appoint the  
27 following members to the advisory council:

28 (a) Two service technicians, each with a minimum of five years of  
29 experience servicing air conditioning and refrigeration equipment;

30 (b) Two representatives of businesses specializing in the  
31 collection and refining of covered refrigerants;

32 (c) Two representatives of distributors of products using covered  
33 refrigerants who already serve as collection sites;

34 (d) Two representatives of producers of covered refrigerants;

35 (e) Three representatives of statewide or national environmental  
36 nonprofit organizations;

37 (f) Two representatives of covered refrigerant end users  
38 including, but not limited to, from retail, grocery, hospitality,  
39 agriculture, cold chain, or other end user category;

1 (g) One representative of a national association or trade  
2 organization representing producers or partner participants;

3 (h) One representative of the refrigerant stewardship  
4 organization; and

5 (i) Additional members determined by the department as necessary  
6 for the advisory council to carry out its duties under this section.

7 (3) (a) The terms of initial appointments must be staggered to two  
8 and three-year appointments, with subsequent terms of three years.  
9 Members are eligible for reappointment.

10 (b) If there is a vacancy for any reason, the department must  
11 make an appointment to become effective immediately for the unexpired  
12 term.

13 (c) The department must attempt to fill the maximum number of  
14 available seats on the advisory council. However, nonparticipation  
15 from an individual or group described in subsection (2) of this  
16 section does not limit the ability of the advisory council to conduct  
17 meetings and make recommendations to the department or a refrigerant  
18 stewardship organization.

19 (4) (a) The advisory council must elect one of its members to  
20 serve as chairperson and another to serve as vice chairperson, for  
21 the terms and with the duties and powers necessary for the  
22 performance of the functions of such offices as the advisory council  
23 determines. The chairperson and vice chairperson may not both be  
24 members appointed under the same subsection of subsection (2) (a)  
25 through (h) of this section.

26 (b) The advisory council may adopt bylaws and a charter for the  
27 operation of its business for the purposes of this chapter.

28 (5) (a) The advisory council must meet at least once every three  
29 months for the first three years. The advisory council may also meet  
30 at other times specified by the call of the chairperson or a majority  
31 of the councilmembers, as necessary, to carry out the duties of the  
32 advisory council.

33 (b) Meetings of the advisory council must be held virtually.

34 (6) (a) The advisory council must regularly provide  
35 recommendations to the department and a refrigerant stewardship  
36 organization.

37 (b) The advisory council is not required to reach consensus to  
38 make recommendations to the department or a refrigerant stewardship  
39 organization.

1 (c) If the advisory council makes recommendations to the  
2 department or a refrigerant stewardship organization that are not  
3 unanimous, dissenting opinions must be provided.

4 (7) (a) The department must provide staff support and facilitation  
5 as necessary for the advisory council to carry out its duties.

6 (b) The department may select an impartial, third-party  
7 facilitator to convene and provide administrative support to the  
8 advisory council.

9 (8) Nothing in this section limits the authority of the  
10 department to approve plans or reports or carry out other duties as  
11 assigned under this chapter.

12 NEW SECTION. **Sec. 18.** LIMITATION OF CHAPTER. Nothing in this  
13 chapter changes or limits the applicability of the requirements of  
14 chapter 70A.15, 70A.60, or 70A.300 RCW to covered refrigerants.

15 NEW SECTION. **Sec. 19.** A new section is added to chapter 82.04  
16 RCW to read as follows:

17 BUSINESS AND OCCUPATION TAX EXEMPTION. (1) This chapter does not  
18 apply to:

19 (a) Receipts of a refrigerant stewardship organization formed  
20 under chapter 70A.--- RCW (the new chapter created in section 22 of  
21 this act) from charges to participating producers under a stewardship  
22 plan as provided in section 8 of this act; or

23 (b) Financial incentive payments received by partner participants  
24 under section 8 of this act.

25 (2) This section is not subject to the requirements of RCW  
26 82.32.805 and 82.32.808 and is not subject to an expiration date.

27 (3) The definitions in section 2 of this act apply throughout  
28 this section unless the context clearly requires otherwise.

29 **Sec. 20.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,  
30 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to  
31 read as follows:

32 (1) The hearings board shall only have jurisdiction to hear and  
33 decide appeals from the following decisions of the department, the  
34 director, local conservation districts, the air pollution control  
35 boards or authorities as established pursuant to chapter 70A.15 RCW,  
36 local health departments, the department of natural resources, the

1 department of fish and wildlife, the parks and recreation commission,  
2 and authorized public entities described in chapter 79.100 RCW:

3 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
4 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
5 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
6 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,  
7 70A.555.110, 70A.560.020, section 13 of this act, 76.09.170,  
8 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
9 90.56.310, 90.56.330, and 90.64.102.

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
11 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
12 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 13 of this  
13 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and  
14 90.56.330.

15 (c) Except as provided in RCW 90.03.210(2), the issuance,  
16 modification, or termination of any permit, certificate, or license  
17 by the department or any air authority in the exercise of its  
18 jurisdiction, including the issuance or termination of a waste  
19 disposal permit, the denial of an application for a waste disposal  
20 permit, the modification of the conditions or the terms of a waste  
21 disposal permit, or a decision to approve or deny an application for  
22 a solid waste permit exemption under RCW 70A.205.260.

23 (d) Decisions of local health departments regarding the grant or  
24 denial of solid waste permits pursuant to chapter 70A.205 RCW.

25 (e) Decisions of local health departments regarding the issuance  
26 and enforcement of permits to use or dispose of biosolids under RCW  
27 70A.226.090.

28 (f) Decisions of the department regarding waste-derived  
29 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
30 decisions of the department regarding waste-derived soil amendments  
31 under RCW 70A.205.145.

32 (g) Decisions of local conservation districts related to the  
33 denial of approval or denial of certification of a dairy nutrient  
34 management plan; conditions contained in a plan; application of any  
35 dairy nutrient management practices, standards, methods, and  
36 technologies to a particular dairy farm; and failure to adhere to the  
37 plan review and approval timelines in RCW 90.64.026.

38 (h) Any other decision by the department or an air authority  
39 which pursuant to law must be decided as an adjudicative proceeding  
40 under chapter 34.05 RCW.

1 (i) Decisions of the department of natural resources, the  
2 department of fish and wildlife, and the department that are  
3 reviewable under chapter 76.09 RCW, and the department of natural  
4 resources' appeals of county, city, or town objections under RCW  
5 76.09.050(7).

6 (j) Forest health hazard orders issued by the commissioner of  
7 public lands under RCW 76.06.180.

8 (k) Decisions of the department of fish and wildlife to issue,  
9 deny, condition, or modify a hydraulic project approval permit under  
10 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
11 comply, to issue a civil penalty, or to issue a notice of intent to  
12 disapprove applications.

13 (l) Decisions of the department of natural resources that are  
14 reviewable under RCW 78.44.270.

15 (m) Decisions of an authorized public entity under RCW 79.100.010  
16 to take temporary possession or custody of a vessel or to contest the  
17 amount of reimbursement owed that are reviewable by the hearings  
18 board under RCW 79.100.120.

19 (n) Decisions of the department of ecology that are appealable  
20 under RCW 70A.245.020 to set recycled minimum postconsumer content  
21 for covered products or to temporarily exclude types of covered  
22 products in plastic containers from minimum postconsumer recycled  
23 content requirements.

24 (o) Orders by the department of ecology under RCW 70A.455.080.

25 (2) The following hearings shall not be conducted by the hearings  
26 board:

27 (a) Hearings required by law to be conducted by the shorelines  
28 hearings board pursuant to chapter 90.58 RCW.

29 (b) Hearings conducted by the department pursuant to RCW  
30 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
31 70A.15.3110, and 90.44.180.

32 (c) Appeals of decisions by the department under RCW 90.03.110  
33 and 90.44.220.

34 (d) Hearings conducted by the department to adopt, modify, or  
35 repeal rules.

36 (3) Review of rules and regulations adopted by the hearings board  
37 shall be subject to review in accordance with the provisions of the  
38 administrative procedure act, chapter 34.05 RCW.

1       **Sec. 21.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and  
2 2023 c 135 s 7 are each reenacted and amended to read as follows:

3       (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
4 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
5 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,  
6 70A.455.090, 70A.555.110, 70A.560.020, section 13 of this act,  
7 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and  
8 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in  
9 writing, either by certified mail with return receipt requested or by  
10 personal service, to the person incurring the penalty from the  
11 department or the local air authority, describing the violation with  
12 reasonable particularity. For penalties issued by local air  
13 authorities, within 30 days after the notice is received, the person  
14 incurring the penalty may apply in writing to the authority for the  
15 remission or mitigation of the penalty. Upon receipt of the  
16 application, the authority may remit or mitigate the penalty upon  
17 whatever terms the authority in its discretion deems proper. The  
18 authority may ascertain the facts regarding all such applications in  
19 such reasonable manner and under such rules as it may deem proper and  
20 shall remit or mitigate the penalty only upon a demonstration of  
21 extraordinary circumstances such as the presence of information or  
22 factors not considered in setting the original penalty.

23       (2) Any penalty imposed under this section may be appealed to the  
24 pollution control hearings board in accordance with this chapter if  
25 the appeal is filed with the hearings board and served on the  
26 department or authority 30 days after the date of receipt by the  
27 person penalized of the notice imposing the penalty or 30 days after  
28 the date of receipt of the notice of disposition by a local air  
29 authority of the application for relief from penalty.

30       (3) A penalty shall become due and payable on the later of:

31       (a) 30 days after receipt of the notice imposing the penalty;

32       (b) 30 days after receipt of the notice of disposition by a local  
33 air authority on application for relief from penalty, if such an  
34 application is made; or

35       (c) 30 days after receipt of the notice of decision of the  
36 hearings board if the penalty is appealed.

37       (4) If the amount of any penalty is not paid to the department  
38 within 30 days after it becomes due and payable, the attorney  
39 general, upon request of the department, shall bring an action in the  
40 name of the state of Washington in the superior court of Thurston

1 county, or of any county in which the violator does business, to  
2 recover the penalty. If the amount of the penalty is not paid to the  
3 authority within 30 days after it becomes due and payable, the  
4 authority may bring an action to recover the penalty in the superior  
5 court of the county of the authority's main office or of any county  
6 in which the violator does business. In these actions, the procedures  
7 and rules of evidence shall be the same as in an ordinary civil  
8 action.

9 (5) All penalties recovered shall be paid into the state treasury  
10 and credited to the general fund except those penalties imposed  
11 pursuant to RCW 18.104.155, which shall be credited to the  
12 reclamation account as provided in RCW 18.104.155(7), RCW  
13 70A.15.3160, the disposition of which shall be governed by that  
14 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
15 to the recycling enhancement account created in RCW 70A.245.100, RCW  
16 70A.300.090, 70A.555.110, (~~and~~) 70A.560.020, and section 13 of this  
17 act, which shall be credited to the model toxics control operating  
18 account created in RCW 70A.305.180, RCW 70A.65.200, which shall be  
19 credited to the climate investment account created in RCW 70A.65.250,  
20 RCW 90.56.330, which shall be credited to the coastal protection fund  
21 created by RCW 90.48.390, and RCW 70A.355.070, which shall be  
22 credited to the underground storage tank account created by RCW  
23 70A.355.090.

24 NEW SECTION. **Sec. 22.** Sections 1 through 18 of this act  
25 constitute a new chapter in Title 70A RCW.

26 NEW SECTION. **Sec. 23.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected."

**E2SHB 2401** - S COMM AMD

By Committee on Environment, Energy & Technology

**NOT CONSIDERED 03/07/2024**

30 On page 1, line 3 of the title, after "infrastructure;" strike  
31 the remainder of the title and insert "reenacting and amending RCW

1 43.21B.110 and 43.21B.300; adding a new section to chapter 82.04 RCW;  
2 adding a new chapter to Title 70A RCW; and prescribing penalties."

EFFECT: (1) Specifies that, when defining covered refrigerant, the term includes a fluorinated substitute in addition to a fluorinated regulated refrigerant, as defined in state law, that is used for heat transfer purposes to provide a cooling or heating effect.

(2) Prohibits an employer, as newly defined, from offsetting any wage or other amounts owed under any state law, contract, or ordinance when providing the financial incentive payment to the person who furnished the covered refrigerant.

(3) Removes references to transportation costs in provisions relating to a refrigerant stewardship organization (RSO) reimbursing collection sites, and when an RSO submits an independent financial audit and a summary financial statement.

(4) Establishes an advisory council, consisting of specified department of ecology-appointed members, to consider certain topics, including, in part: (a) Methods to best achieve refrigerant recovery performance targets; (b) reasonable and achievable improvements for the collection of covered refrigerant; (c) how incentive structures may be improved to maximize the collection of covered refrigerant by service technicians; and (d) potential additional collection site locations.

(5) Removes duplicative language regarding RSO charges exempted from the state business and occupation tax.

(6) Makes other technical changes.

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