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**SUBSTITUTE HOUSE BILL 2401**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Duerr, Doglio, Berry, Fitzgibbon, Ramel, and Pollet)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to providing for the responsible management of  
2 refrigerant gases with a higher global warming potential than carbon  
3 dioxide that are used in appliances or other infrastructure; amending  
4 RCW 70A.65.260; reenacting and amending RCW 43.21B.110 and  
5 43.21B.300; adding a new section to chapter 82.04 RCW; adding a new  
6 chapter to Title 70A RCW; and prescribing penalties.

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

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

17 (2) In 2019 and 2021, the legislature took significant steps  
18 towards reducing greenhouse gas emissions from hydrofluorocarbons by  
19 transitioning to the use of less damaging hydrofluorocarbons or other  
20 suitable substitutes in several new end-uses including their largest  
21 end-uses where they are used as refrigerants as well instituting a

1 statewide refrigerant management program. However, significant  
2 sources of hydrofluorocarbons and refrigerant emissions in Washington  
3 remain unaddressed because vast quantities of refrigerants are  
4 contained inside the installed base of heating and cooling equipment  
5 beyond those covered by the statewide refrigerant management program.  
6 There is a dire need for improving life-cycle refrigerant management  
7 to prevent those refrigerants from being emitted into the atmosphere.

8 (3) On a national and global scale, the United States has begun  
9 implementing a phasedown of hydrofluorocarbons. The United States has  
10 ratified the global Kigali amendment to the Montreal protocol, an  
11 international agreement to phase down the production and consumption  
12 of hydrofluorocarbons by 85 percent by 2036. Domestically, in 2020,  
13 the United States congress enacted the American innovation and  
14 manufacturing act which closely matches the Kigali amendment's phase-  
15 down schedule. Any state actions that complement the phasedown by  
16 reducing demand of newly produced hydrofluorocarbons will help  
17 actualize the vast climate benefits expected from the American  
18 innovation and manufacturing act and the Kigali amendment.

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

36 (5) Implementation of extended producer responsibility schemes in  
37 Washington and other leading states, including a bounty to be paid to  
38 service technicians and others for recovered gas, will incentivize a  
39 greater supply of used fluorinated refrigerants removed from  
40 equipment, which can then be reclaimed and reused. Increasing the

1 supply of reclaimed refrigerants available to fulfill the demand for  
2 refrigerants in existing and new equipment will support smooth  
3 implementation of federal regulations under the American innovation  
4 and manufacturing act. It will also increase the supply of  
5 refrigerants for ramping new heat pump adoption to decarbonize the  
6 building stock. Overall, greater reclamation of hydrofluorocarbons  
7 will not only prevent direct greenhouse gas emissions but also  
8 support the state's building electrification and heat pump adoption  
9 goals.

10 (6) Once the need for reclaimed refrigerants has passed in the  
11 future, the most polluting refrigerant chemicals should be safely  
12 destroyed.

13 NEW SECTION. **Sec. 2.** DEFINITIONS. (1)(a) "Bulk" means a covered  
14 refrigerant of any amount that is in a container for the  
15 transportation or storage of that substance such as cylinders, drums,  
16 ISO tanks, and small cans.

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

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

23 (2) "Covered refrigerant" means any fluorinated regulated  
24 refrigerant or substitute, as those terms are defined in chapter  
25 70A.60 RCW, that are used for heat transfer purposes to provide a  
26 cooling or heating effect.

27 (3) "Department" means the Washington state department of  
28 ecology.

29 (4)(a) "Destruction" means the expiration of a covered  
30 refrigerant to the destruction and removal efficiency actually  
31 achieved.

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

36 (5) "Distributor" or "wholesaler" means any person or entity  
37 engaged in the distribution, wholesale sale, sale, or other  
38 commercial furnishing of any covered refrigerant or precharged

1 equipment, except for service technicians transferring refrigerant to  
2 end-user consumers as part of a service call.

3 (6) "Nonproducer participant" means an entity that is not a  
4 producer but is a part of the supply chain of covered refrigerants.  
5 "Nonproducer participants" includes, but is not limited to,  
6 refrigerant distributors, wholesalers, reclaimers, and service  
7 technicians.

8 (7) "Precharged equipment" means any appliance or refrigeration,  
9 air conditioning, or heat pump equipment or other equipment  
10 containing a quantity of covered refrigerant already added or charged  
11 into the equipment or appliance prior to installation in the field.

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

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

17 (ii) With respect to precharged equipment:

18 (A) If the precharged equipment is sold under the brand of the  
19 precharged equipment manufacturer, the producer is the person that  
20 manufactures the precharged equipment;

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

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

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

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

39 (b) "Producer" does not include any person who only manufactures,  
40 sells, offers for sale, distributes, or imports into the state

1 precharged equipment if the gas contained in the precharged equipment  
2 is supplied by a producer that has joined a registered refrigerant  
3 stewardship organization as the producer for that precharged  
4 equipment under this chapter. Such a producer of gas that is included  
5 in precharged equipment must provide written certification of that  
6 membership to both the producer of the precharged equipment and the  
7 refrigerant stewardship organization of which the gas producer is a  
8 member.

9 (9) "Reclaimer" means any person undertaking reclamation of  
10 covered refrigerants in compliance with federal requirements,  
11 including recordkeeping and reporting and all other requirements  
12 stipulated under 40 C.F.R. Sec. 84, as it existed as of January 1,  
13 2024.

14 (10) "Reclamation" or "reclaim" means the reprocessing of a  
15 recovered covered refrigerant or substitute to recover usable  
16 products or regenerate the material, including to at least the purity  
17 specified in the air conditioning, heating, and refrigeration  
18 institute (AHRI) standard 700-2016 and verifying this purity using  
19 the analytical methodology prescribed in the standard, and meets the  
20 reclamation standard of containing no greater than 15 percent virgin  
21 or new material by weight.

22 (11) "Recovery" means the process by which a regulated  
23 refrigerant is:

24 (a) Removed, in any condition, from equipment in a manner  
25 consistent with 40 C.F.R. 82.158, as it existed as of January 1,  
26 2024, or in a manner consistent with federal regulations updated  
27 after January 1, 2024, and subsequently adopted by the department by  
28 rule; and

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

31 (12) "Recovery rate" means the proportion of the total amount of  
32 recovered covered refrigerant that is collected and subsequently  
33 undergoes reclamation or destruction as a fraction of the estimated  
34 total amount of covered refrigerant that is available for recovery  
35 from equipment in a given year, as calculated by the refrigerant  
36 stewardship organization and approved by the department.

37 (13) "Refrigerant stewardship organization" means a producer that  
38 directly implements a stewardship plan under this chapter or a  
39 nonprofit entity formed to implement a stewardship plan under this  
40 chapter, including the collection and management of covered

1 refrigerants, and the disbursement of funds to incentivize enhanced  
2 refrigerant recovery, reclamation, and destruction.

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

7 (15) "Service technician" means any person certified by the  
8 United States environmental protection agency under section 608 or  
9 609, as appropriate, of the federal clean air act, as it existed as  
10 of January 1, 2024, or the federal American innovation and  
11 manufacturing act of 2020, as it existed as of January 1, 2024.

12 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A  
13 PROGRAM. (1) Beginning January 1, 2025, any producer who sells, or  
14 otherwise enters into commerce, bulk covered refrigerants or  
15 precharged equipment containing a covered refrigerant into the state  
16 of Washington must register with the department through a refrigerant  
17 stewardship organization. Beginning January 1, 2025, each producer  
18 must participate in a refrigerant stewardship organization and  
19 appropriately fund the operations of the refrigerant stewardship  
20 organization.

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

25 (3) By July 1, 2026, each entity that is not a producer but  
26 sells, resells, distributes, or otherwise enters into commerce bulk  
27 covered refrigerants after the first point of sale shall register  
28 with a refrigerant stewardship organization as a nonproducer  
29 participant in the refrigerant stewardship organization. A  
30 nonproducer participant may include, but is not limited to,  
31 refrigerant distributors, wholesalers, reclaimers, and service  
32 technicians. Nonproducer participants are not required to fund a  
33 refrigerant stewardship organization but may be recipients of  
34 financial incentives aimed at enhancing refrigerant recovery.  
35 Nonproducer participants must keep records and report information to  
36 a refrigerant stewardship organization in the manner necessary to  
37 enable the refrigerant stewardship organization to fulfill its  
38 reporting requirements to the department under section 10 of this  
39 act.

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

4 NEW SECTION. **Sec. 4.** STEWARDSHIP PLAN COMPONENTS. (1) By May 1,  
5 2027, a refrigerant stewardship organization or organizations must  
6 submit a plan to the department for review and approval. Within 120  
7 days of submission, the department must review and may approve a plan  
8 provided it contains and adequately addresses the following  
9 components:

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

11 (b) (i) Identifies the brands and equipment models of each  
12 producer of precharged equipment containing covered refrigerants  
13 participating in the plan; and

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

16 (c) Proposes the implementation mechanisms through which the  
17 program expects to meet the requirements of the performance  
18 assessment established in section 5 of this act and describes the  
19 methods used to calculate whether the program is achieving its  
20 performance targets, including a specific description of the data  
21 sources and calculations to be relied upon in calculating a recovery  
22 rate for department approval;

23 (d) Includes a detailed and comprehensive list of promotion  
24 activities to be undertaken as part of the educational and outreach  
25 program required in section 7 of this act;

26 (e) Describes the mechanisms used for the collection and  
27 consolidation of recovered covered refrigerant, as well as  
28 transportation for subsequent reclamation or destruction of all  
29 recovered covered refrigerants collected by the program, consistent  
30 with section 6 of this act, including the financial incentives  
31 described in section 8 of this act that are to be paid to persons  
32 that furnish covered refrigerants recovered from equipment in the  
33 state;

34 (f) Identifies proposed brokers, transporters, processors, and  
35 facilities to be used by the program for the reclamation,  
36 destruction, and final disposition of covered refrigerants;

37 (g) Describes the financing methods to implement the plan,  
38 consistent with section 8 of this act, including how producer fees  
39 and fee modulation will incorporate incentives for the recovery and

1 collection of covered refrigerants in a manner that prioritizes the  
2 reclamation and reuse of those covered refrigerants and minimizes  
3 their emissions;

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

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

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

10 (k) Additional information determined by the department to be  
11 necessary to ensure effective implementation of the requirements of  
12 this chapter by the refrigerant stewardship organization and  
13 effective oversight of refrigerant stewardship organization  
14 activities by the department.

15 (2) The department may:

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

19 (b) Require a refrigerant stewardship organization to implement  
20 the amended plan.

21 (3) A refrigerant stewardship organization must submit an updated  
22 plan to the department for approval no less frequently than every  
23 five years. In addition, if required by the department, a refrigerant  
24 stewardship organization must submit a new plan to the department for  
25 approval:

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

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

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

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



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

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

9 (5) By October 1st of each year following the submission of an  
10 annual report under section 10 of this act, and based on the data  
11 reported to the department by refrigerant stewardship organizations  
12 as outlined in section 10 of this act, the department shall publish  
13 an annual report assessing the performance of refrigerant stewardship  
14 organizations. The annual report must include an evaluation of the  
15 recovery rates and other performance targets achieved by the program  
16 and any recommendations for continued improvement in the quantities  
17 of covered refrigerants collected, reclaimed, or destroyed.

18 NEW SECTION. **Sec. 6.** COLLECTION AND MANAGEMENT. (1) A

19 refrigerant stewardship organization must provide for the collection  
20 of all covered refrigerants recovered by any person from within the  
21 state of Washington. A collection site may not charge a collection  
22 fee at the time when covered refrigerants are returned to the  
23 collection site and a financial incentive must be paid to a service  
24 technician who recovers the covered refrigerant, consistent with  
25 section 8 of this act.

26 (2) At a minimum, a refrigerant stewardship organization must  
27 provide statewide opportunities for the collection of bulk covered  
28 refrigerant through:

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

32 (b) Existing commercial sites operated by distributors and  
33 wholesalers of covered refrigerants who participate in a refrigerant  
34 stewardship organization. Distributors and wholesalers must offer  
35 such sites as program collection sites for recovered bulk covered  
36 refrigerants.

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

1 (a) A retail establishment that sells precharged equipment  
2 containing covered refrigerants may elect to serve as a collection  
3 site; and

4 (b) Local governments or nonprofit organizations that operate  
5 household hazardous waste facilities or other solid waste facilities  
6 may elect for these facilities to serve as collection sites under the  
7 program.

8 (4) A refrigerant stewardship organization and any person hired  
9 by the refrigerant stewardship organization to carry out services  
10 related to refrigerant recovery, transport, collection, or  
11 reclamation must manage covered refrigerants in a manner consistent  
12 with best practices consistent with federal refrigerant management  
13 regulations under sections 608 and 609 of the clean air act (40  
14 C.F.R. Part 82) and WAC 173-443-205, as they existed as of January 1,  
15 2024, or as updated by the department by rule after that date in  
16 order to maintain consistency with updated federal regulations, that  
17 minimize the release into the environment and in compliance with all  
18 applicable state rules and federal regulations.

19 (5) A refrigerant stewardship organization may suspend or  
20 terminate a collection site that does not adhere to the collection  
21 site criteria in the approved plan or that poses an immediate health  
22 or safety concern. A refrigerant stewardship organization must notify  
23 the department upon suspending or terminating a collection site.

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

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

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

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

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

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

38 (2) During the first year of program implementation and every  
39 five years thereafter, a refrigerant stewardship organization must

1 carry out a survey of the program's nonproducer participants  
2 awareness to determine the effectiveness of the requirements of the  
3 program and awareness of the program established under this chapter.  
4 A refrigerant stewardship organization must share the results of the  
5 awareness surveys with the department, who may choose to make the  
6 information public.

7 (3) If multiple refrigerant stewardship organizations are  
8 implementing plans approved by the department, the refrigerant  
9 stewardship organizations must coordinate in carrying out their  
10 education and outreach responsibilities under this section and must  
11 include in their annual reports to the department a summary of their  
12 coordinated education and outreach efforts.

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

17 (a) The collection, transport, and processing of recovered  
18 covered refrigerants;

19 (b) Education and outreach;

20 (c) Annual reporting to the department;

21 (d) The payments of a financial incentive to persons that furnish  
22 recovered covered refrigerants to the program for collection;

23 (e) The payments for services rendered by distributors,  
24 wholesalers, or any persons providing collection sites for recovered  
25 covered refrigerants; and

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

27 (2)(a) A refrigerant stewardship organization must develop and  
28 implement a system to collect charges from participating producers to  
29 cover the costs of plan implementation in an equitable,  
30 environmentally sound, and socially just manner. Except as provided  
31 in (f) of this subsection, a refrigerant stewardship organization's  
32 system of charges must utilize a standard per-mass unit assessment  
33 applied based on the volume of covered refrigerants introduced into  
34 Washington.

35 (b) The system of charges must apply equally regardless of  
36 whether that refrigerant is contained in precharged equipment or  
37 manufactured, imported, distributed, or sold directly onto the market  
38 as bulk covered refrigerants. For precharged equipment, the system of

1 charges may rely on reasonable estimations of refrigerant volumes  
2 contained in the precharged equipment.

3 (c) To allow a refrigerant stewardship organization to establish  
4 an equitable and reasonable system of charges for producers of  
5 precharged equipment and bulk covered refrigerants, and to allow the  
6 refrigerant stewardship organization to calculate recovery rates for  
7 purposes of section 5 of this act, a refrigerant stewardship  
8 organization may require a producer to provide product specifications  
9 and product sale and distribution volumes in or into Washington for  
10 precharged equipment and bulk covered refrigerants.

11 (d) In 2028, an initial rate of at least \$7.00 per pound of  
12 covered refrigerant must be used to calculate the charges due from  
13 producers in the first year of the program.

14 (e) In subsequent years, the charges due from producers may be  
15 adjusted as follows:

16 (i) A refrigerant stewardship organization may propose an  
17 adjustment to the department to adjust the rate based on the  
18 performance assessment described in section 5 of this act, and the  
19 department may review and make a determination whether to approve the  
20 adjustment; or

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

23 (f) Applicable no earlier than in calendar year 2031 of program  
24 operations, and using the process specified in (e) of this  
25 subsection, a refrigerant stewardship organization's system of  
26 charges may utilize an assessment that is weighted based on the  
27 global warming potential of each covered refrigerant, with a  
28 proportionally higher fee being assessed for gases with comparatively  
29 higher global warming potential.

30 (3) The system of charges must use ecomodulated fees to encourage  
31 the use of design attributes that reduce the environmental impacts of  
32 covered refrigerants. Examples of ecomodulated fees include, but are  
33 not limited to:

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

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

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

39 (4) A refrigerant stewardship organization is responsible for all  
40 costs of recovered covered refrigerant collection, transportation,

1 processing, education, administration, and agency reimbursement in  
2 accordance with best environmental management practices.

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

9 (6) (a) To encourage persons to manage recovered covered  
10 refrigerants through the program and to ensure that the program  
11 targets established in section 5 of this act are achieved, a  
12 refrigerant stewardship organization must propose in its plan, and  
13 carry out in its program, the payment of a financial incentive for  
14 each mass unit, such as pound of covered refrigerant, that a person  
15 furnishes to the program for management. This financial incentive is  
16 not required to be consistent with the amount specified in subsection  
17 (2) of this section. A refrigerant stewardship organization must  
18 demonstrate to the department that the amount of the financial  
19 incentive for each unit of covered refrigerant will be sufficient to  
20 incentivize the use of the program by service technicians or other  
21 persons with unwanted recovered covered refrigerant, to discourage  
22 illegal dumping or venting of refrigerants or other pollutants, and  
23 must be in addition to any other incentive payments offered for the  
24 same covered refrigerants or precharged equipment through utility  
25 rebate, energy efficiency, or other programs.

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

31 (i) The volume of recovered covered refrigerant furnished by a  
32 person;

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

34 (iii) Whether the recovered covered refrigerant has been  
35 collected and furnished to the program in a manner that minimizes the  
36 costs and environmental impacts of managing that refrigerant and  
37 whether it has been collected and furnished in a manner that  
38 facilitates the reuse of the refrigerant rather than its destruction,  
39 where appropriate.

1 (c) If the department determines that a refrigerant stewardship  
2 organization has not met a performance target established in section  
3 5 of this act, the department may require the refrigerant stewardship  
4 organization to increase the value of the financial incentive  
5 established under this subsection.

6 (7) A refrigerant stewardship organization must reimburse  
7 demonstrable costs incurred at a collection site as a result of a  
8 serving as a collection site for the program including, but not  
9 limited to, associated labor costs, transportation costs, and other  
10 costs associated with safety, accessibility, and operation of the  
11 collection site.

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

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

23 (9) If more than one refrigerant stewardship organization is  
24 registered within the state, each refrigerant stewardship  
25 organization must coordinate with other refrigerant stewardship  
26 organizations to provide reimbursement, to ensure that covered  
27 refrigerants are not reported as supplied or managed by more than one  
28 refrigerant stewardship organization, and to ensure that one or more  
29 of the registered refrigerant stewardship organizations do not  
30 inequitably subsidize the operations of other registered refrigerant  
31 stewardship organizations through the overpayment of financial  
32 incentives to service technicians and other persons relative to that  
33 refrigerant stewardship organization or refrigerant stewardship  
34 organization's share of covered refrigerants that it is responsible  
35 for in the state.

36 NEW SECTION. **Sec. 9.** ROLE OF RETAIL ESTABLISHMENTS SELLING  
37 PRECHARGED EQUIPMENT. (1) Beginning July 1, 2028, retail  
38 establishments may not sell, offer for sale, otherwise make available  
39 for sale, install, or otherwise furnish to customers precharged

1 equipment containing a covered refrigerant unless the producer  
2 responsible for the precharged equipment participates in a  
3 refrigerant stewardship organization.

4 (2) A retail establishment is in compliance with the requirements  
5 of subsection (1) of this section and is not subject to penalties as  
6 long as the website made available by the department under section 12  
7 of this act lists, as of the date the precharged equipment is made  
8 available for retail sale, the producer responsible for the brand and  
9 appliance model of the precharged appliance, sold by the retail  
10 establishment as being a participant in an approved plan or the  
11 implementer of an approved plan.

12 (3) A retail establishment that sells precharged equipment  
13 containing covered refrigerant is not required to make retail  
14 locations available to serve as collection sites or services for a  
15 program operated by a refrigerant stewardship organization. However,  
16 a retail establishment that agrees to make a retail location  
17 available to serve as a collection site or otherwise offers  
18 refrigerant recovery services for a program must comply with the  
19 requirements for collection sites and service providers, consistent  
20 with section 6 of this act.

21 (4) A retail establishment selling or offering precharged  
22 equipment containing covered refrigerant for sale in Washington must  
23 provide information to customers, provided to the retail  
24 establishment by each refrigerant stewardship organization, regarding  
25 available end-of-life management options for covered refrigerants  
26 collected by the refrigerant stewardship organization. The  
27 information that a refrigerant stewardship organization must make  
28 available to retail establishments and refrigerant service providers  
29 must include, but is not limited to, in-store signage, written  
30 materials, and other promotional materials that retail establishments  
31 and refrigerant service providers must use to inform customers of the  
32 available end-of-life management options for covered refrigerants  
33 collected by the refrigerant stewardship organization. All materials  
34 developed by a refrigerant stewardship organization under this  
35 subsection must:

36 (a) Inform customers regarding the climate impacts of  
37 refrigerants;

38 (b) Encourage customers to choose a service technician  
39 participating in the program and encourage customers to confirm with

1 their service technician that the customer's refrigerants will be  
2 reclaimed; and

3 (c) Identify the prohibitions under federal law and chapters  
4 70A.15 and 70A.60 RCW on the willful release of refrigerants.

5 (5) Retail establishments, refrigerant service providers,  
6 producers, or refrigerant stewardship organizations may not charge a  
7 point-of-sale fee to consumers to cover the administrative or  
8 operational costs of the refrigerant stewardship organization or the  
9 program.

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

16 (a) An independent financial audit of a program implemented by  
17 the refrigerant stewardship organization, including a breakdown of  
18 the program's expenses, such as collection, storage, transportation,  
19 and other operational activities in support of the program;

20 (b) A summary financial statement documenting the financing of  
21 the refrigerant stewardship organization program and an analysis of  
22 program costs and expenditures, including an analysis of the  
23 program's expenses, such as collection, storage, transportation, and  
24 other activities in support of the program;

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

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

30 (ii) The quantity of each type of recovered covered refrigerant  
31 and the management outcomes of those recovered covered refrigerants  
32 as to reclamation, destruction, or transportation for those purposes,  
33 or any maintained stocks; and

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

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



1 (e) A summary of the activities carried out at the collection  
2 sites;

3 (f) A summary of the education and outreach activities supporting  
4 plan implementation, including a summary of coordinated education and  
5 outreach efforts with refrigerant stewardship organizations if  
6 multiple refrigerant stewardship organizations have formed, and the  
7 results of awareness surveys;

8 (g) Any changes to:

9 (i) The list of producers participating, including producers of  
10 precharged equipment;

11 (ii) Collection infrastructure, including the list of collection  
12 sites;

13 (iii) Recovery rates and progress towards performance targets;  
14 and

15 (iv) The program necessary to continue progress towards  
16 performance targets; and

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

19 (2) On March 1st, June 1st, September 1st, and December 1st of  
20 each year in which a refrigerant stewardship organization implements  
21 a program, a refrigerant stewardship organization must submit to the  
22 department an updated list of participating producers of covered  
23 refrigerants and precharged equipment, and the brands and models for  
24 precharged equipment, to be posted on the department's website.

25 (3) The nonproducer participants in a refrigerant stewardship  
26 organization, such as distributors and wholesalers of bulk covered  
27 refrigerants or precharged equipment, are required to keep records of  
28 information needed by the refrigerant stewardship organization to  
29 fulfill the refrigerant stewardship organization's reporting  
30 requirements listed in this section and to aid the performance  
31 assessment requirements listed in section 5 of this act. Nonproducer  
32 participants must report information to a refrigerant stewardship  
33 organization in a form and manner prescribed by the refrigerant  
34 stewardship organization, and consistent with the following:

35 (a) By March 31st of each year a refrigerant stewardship  
36 organization implements a program, distributors and wholesalers must  
37 report to each refrigerant stewardship organization quantities and  
38 types of covered refrigerants sold to them by each producer  
39 participating in that refrigerant stewardship organization and

1 subsequently resold by them for use in the state of Washington, and  
2 not neighboring states, in the prior year;

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

5 (c) Distributors and wholesalers must require attestation from  
6 any service technician or other individual returning recovered  
7 covered refrigerant that the refrigerant came from the state of  
8 Washington. At minimum, the attestation must include quantities and  
9 types of refrigerants recovered at each location inside of  
10 Washington, as well as the address of the recovery;

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

14 NEW SECTION. **Sec. 11.** PROTECTION OF CONFIDENTIAL AND BUSINESS  
15 SENSITIVE INFORMATION. A refrigerant stewardship organization may  
16 request that the information or records be made available only for  
17 the confidential use of the department, the director of the  
18 department, or the appropriate division of the department. The  
19 director of the department must give consideration to the request and  
20 if this action is not detrimental to the public interest and is  
21 otherwise in accordance with the policies and purposes of chapter  
22 43.21A RCW, the director must grant the request for the information  
23 to remain confidential as authorized in RCW 43.21A.160.

24 NEW SECTION. **Sec. 12.** ROLES AND RESPONSIBILITIES OF DEPARTMENT  
25 OF ECOLOGY SECTION. (1) The department must implement, administer,  
26 and enforce this chapter. By December 31, 2026, the department shall  
27 adopt rules as necessary to implement, administer, and enforce this  
28 chapter. If, after January 1, 2024, the United States environmental  
29 protection agency updates the federal standards referenced in section  
30 2 of this act, including the provisions referenced in the definitions  
31 of "reclaimer," "service technician," "recovery," and "destruction"  
32 in section 2 of this act, the department must notify the appropriate  
33 committees of the legislature and recommend appropriate changes to  
34 the definitions in section 2 of this act in order to maintain  
35 consistency with federal law.

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

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

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

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

8 (iv) Send notice to a refrigerant stewardship organization of fee  
9 amounts due consistent with rules adopted under (a)(iii) of this  
10 subsection.

11 (b) The department must:

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

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

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

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

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

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

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

34 (B) Reasons for not approving a plan. A refrigerant stewardship  
35 organization must submit a new or revised plan within 60 days after  
36 receipt of the letter of disapproval. In the event that a new or  
37 revised plan submitted by a refrigerant stewardship organization does  
38 not sufficiently meet the requirements of this chapter, including any  
39 deficiencies identified in the initial letter of disapproval, the  
40 department may:

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

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

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

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

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

16 (b) Review the annual report within 120 days of receipt of a  
17 complete annual report;

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

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

22 (ii) Reasons for not approving the annual report. The refrigerant  
23 stewardship organization must submit a revised annual report within  
24 60 days after receipt of the letter of disapproval;

25 (d) Notify a refrigerant stewardship organization if the annual  
26 report demonstrates that the program and activities to implement the  
27 plan fail to achieve the performance targets approved by the  
28 department or otherwise fail to achieve significant requirements  
29 under this chapter.

30 (5) Consistent with section 6 of this act, the department may  
31 grant an infeasibility waiver temporarily exempting, for the duration  
32 of a plan, a refrigerant stewardship organization from the  
33 requirement to provide a permanent collection site in each county.  
34 The department may only grant an exemption if the refrigerant  
35 stewardship organization demonstrates that no refrigerant  
36 distributor, wholesaler, or service provider exists to service a  
37 collection site, no local government or retail establishment has  
38 voluntarily elected to serve as a collection site, and that access to  
39 collection services by persons in possession of recovered covered  
40 refrigerants will not be substantially affected by the lack of a

1 permanent collection site in a low population density county. The  
2 refrigerant stewardship organization, if granted an infeasibility  
3 waiver under this section must, at minimum, hold at least two  
4 collection events each year in any counties covered by the  
5 infeasibility waiver.

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

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

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

13 (7) If multiple refrigerant stewardship organizations form to  
14 implement plans, and if requested by the refrigerant stewardship  
15 organizations, the department may serve as a coordinating body or  
16 oversee coordination of refrigerant stewardship organization plans.

17 NEW SECTION. **Sec. 13.** PENALTIES. (1)(a) The department may

18 administratively impose a civil penalty of up to \$1,000 per violation  
19 per day on any person who violates this chapter and up to \$10,000 per  
20 violation per day for the second and each subsequent violation.

21 (b) Prior to imposing penalties under this subsection, the  
22 department must provide a person with a written warning for the first  
23 violation by the person of the requirements of this chapter. The  
24 written warning must inform the person that the person must  
25 participate in an approved plan or otherwise come into compliance  
26 with the requirements of this chapter within 30 days of the notice. A  
27 person that violates a provision of this chapter after the initial  
28 written warning may be assessed a penalty as provided in this  
29 subsection.

30 (2) Upon the department notifying a refrigerant stewardship  
31 organization that it has not met a significant requirement of this  
32 chapter, the department may, in addition to assessing the penalties  
33 provided in subsection (1) of this section, take any combination of  
34 the following actions:

35 (a)(i) Issue corrective action orders to a producer or a  
36 refrigerant stewardship organization;

37 (ii) Issue orders to a refrigerant stewardship organization to  
38 provide for the continued implementation of the program in the  
39 absence of an approved plan;

1 (b) Revoke the refrigerant stewardship organization's plan  
2 approval and require the refrigerant stewardship organization to  
3 implement its contingency plan;

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

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

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

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

16 (5) Penalties levied under this section must be deposited in the  
17 climate commitment account created in RCW 70A.65.260.

18 NEW SECTION. **Sec. 14.** ANTITRUST PROTECTIONS. Producers and a  
19 refrigerant stewardship organization, acting on behalf of producers  
20 that prepare, submit, and implement a refrigerant stewardship  
21 organization plan pursuant to this chapter and who are thereby  
22 subject to regulation by the department, are hereby granted immunity  
23 from state laws relating to antitrust, restraint of trade, unfair  
24 trade practices, and other regulation of trade and commerce, for the  
25 limited purpose of planning, reporting, and operating the stewardship  
26 program, including:

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

30 (2) The cost and structure of a refrigerant stewardship  
31 organization plan; and

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

34 NEW SECTION. **Sec. 15.** RESPONSIBLE REFRIGERANT DISPOSAL ACCOUNT.  
35 The responsible refrigerant disposal account is created in the  
36 custody of the state treasurer. All receipts from section 12 of this  
37 act must be deposited into the account. Expenditures from the account  
38 may be used only for administering, implementing, and enforcing the

1 requirements of this chapter. Moneys in the account may not be  
2 diverted for any purpose or activity other than those specified in  
3 this section. Only the director of ecology or the director's designee  
4 may authorize expenditures from the account. The account is subject  
5 to allotment procedures under chapter 43.88 RCW, but an appropriation  
6 is not required for expenditures.

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

- 11 (1) The payment of an administrative penalty levied;
- 12 (2) Administrative appeals of orders or penalties;
- 13 (3) Litigation between the refrigerant stewardship organization  
14 and the state;
- 15 (4) Compensation of a person whose position is primarily  
16 representing the refrigerant stewardship organization relative to the  
17 passage, defeat, approval, or modification of legislation that is  
18 being considered by a government entity; or
- 19 (5) Paid advertisements related to encouraging the passage,  
20 defeat, approval, or modification of legislation that is being  
21 considered during an upcoming or current legislative session or was  
22 considered during the previous legislative session.

23 NEW SECTION. **Sec. 17.** LIMITATION OF CHAPTER. Nothing in this  
24 chapter changes or limits the applicability of the requirements of  
25 chapter 70A.15, 70A.60, or 70A.300 RCW to covered refrigerants.

26 NEW SECTION. **Sec. 18.** A new section is added to chapter 82.04  
27 RCW to read as follows:

28 BUSINESS AND OCCUPATION TAX EXEMPTION. (1) This chapter does not  
29 apply to the receipts of a refrigerant stewardship organization  
30 formed under chapter 70A.--- RCW (the new chapter created in section  
31 22 of this act) from charges to participating producers under a  
32 stewardship plan as provided in section 8 of this act.

33 (2) This section is not subject to the requirements of RCW  
34 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

1       **Sec. 19.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,  
2 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to  
3 read as follows:

4       (1) The hearings board shall only have jurisdiction to hear and  
5 decide appeals from the following decisions of the department, the  
6 director, local conservation districts, the air pollution control  
7 boards or authorities as established pursuant to chapter 70A.15 RCW,  
8 local health departments, the department of natural resources, the  
9 department of fish and wildlife, the parks and recreation commission,  
10 and authorized public entities described in chapter 79.100 RCW:

11       (a) Civil penalties imposed pursuant to RCW 18.104.155,  
12 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
13 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
14 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,  
15 70A.555.110, 70A.560.020, section 13 of this act, 76.09.170,  
16 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
17 90.56.310, 90.56.330, and 90.64.102.

18       (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
19 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
20 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 13 of this  
21 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and  
22 90.56.330.

23       (c) Except as provided in RCW 90.03.210(2), the issuance,  
24 modification, or termination of any permit, certificate, or license  
25 by the department or any air authority in the exercise of its  
26 jurisdiction, including the issuance or termination of a waste  
27 disposal permit, the denial of an application for a waste disposal  
28 permit, the modification of the conditions or the terms of a waste  
29 disposal permit, or a decision to approve or deny an application for  
30 a solid waste permit exemption under RCW 70A.205.260.

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

33       (e) Decisions of local health departments regarding the issuance  
34 and enforcement of permits to use or dispose of biosolids under RCW  
35 70A.226.090.

36       (f) Decisions of the department regarding waste-derived  
37 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
38 decisions of the department regarding waste-derived soil amendments  
39 under RCW 70A.205.145.



1 (g) Decisions of local conservation districts related to the  
2 denial of approval or denial of certification of a dairy nutrient  
3 management plan; conditions contained in a plan; application of any  
4 dairy nutrient management practices, standards, methods, and  
5 technologies to a particular dairy farm; and failure to adhere to the  
6 plan review and approval timelines in RCW 90.64.026.

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

10 (i) Decisions of the department of natural resources, the  
11 department of fish and wildlife, and the department that are  
12 reviewable under chapter 76.09 RCW, and the department of natural  
13 resources' appeals of county, city, or town objections under RCW  
14 76.09.050(7).

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

17 (k) Decisions of the department of fish and wildlife to issue,  
18 deny, condition, or modify a hydraulic project approval permit under  
19 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
20 comply, to issue a civil penalty, or to issue a notice of intent to  
21 disapprove applications.

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

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

28 (n) Decisions of the department of ecology that are appealable  
29 under RCW 70A.245.020 to set recycled minimum postconsumer content  
30 for covered products or to temporarily exclude types of covered  
31 products in plastic containers from minimum postconsumer recycled  
32 content requirements.

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

34 (2) The following hearings shall not be conducted by the hearings  
35 board:

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

38 (b) Hearings conducted by the department pursuant to RCW  
39 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
40 70A.15.3110, and 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110  
2 and 90.44.220.

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

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

8 **Sec. 20.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and  
9 2023 c 135 s 7 are each reenacted and amended to read as follows:

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

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

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

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

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

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

6 (4) If the amount of any penalty is not paid to the department  
7 within 30 days after it becomes due and payable, the attorney  
8 general, upon request of the department, shall bring an action in the  
9 name of the state of Washington in the superior court of Thurston  
10 county, or of any county in which the violator does business, to  
11 recover the penalty. If the amount of the penalty is not paid to the  
12 authority within 30 days after it becomes due and payable, the  
13 authority may bring an action to recover the penalty in the superior  
14 court of the county of the authority's main office or of any county  
15 in which the violator does business. In these actions, the procedures  
16 and rules of evidence shall be the same as in an ordinary civil  
17 action.

18 (5) All penalties recovered shall be paid into the state treasury  
19 and credited to the general fund except those penalties imposed  
20 pursuant to RCW 18.104.155, which shall be credited to the  
21 reclamation account as provided in RCW 18.104.155(7), RCW  
22 70A.15.3160, the disposition of which shall be governed by that  
23 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
24 to the recycling enhancement account created in RCW 70A.245.100, RCW  
25 70A.300.090, 70A.555.110, and 70A.560.020, which shall be credited to  
26 the model toxics control operating account created in RCW  
27 70A.305.180, RCW 70A.65.200, which shall be credited to the climate  
28 investment account created in RCW 70A.65.250, RCW 90.56.330, which  
29 shall be credited to the coastal protection fund created by RCW  
30 90.48.390, ~~((and))~~ RCW 70A.355.070, which shall be credited to the  
31 underground storage tank account created by RCW 70A.355.090, and  
32 section 13 of this act, which shall be credited to the climate  
33 commitment account created in RCW 70A.65.260.

34 **Sec. 21.** RCW 70A.65.260 and 2023 c 475 s 939 are each amended to  
35 read as follows:

36 (1) The climate commitment account is created in the state  
37 treasury. The account must receive moneys distributed to the account  
38 from the climate investment account created in RCW 70A.65.250 and  
39 from penalties imposed under section 13 of this act. Moneys in the

1 account may be spent only after appropriation. Projects, activities,  
2 and programs eligible for funding from the account must be physically  
3 located in Washington state and include, but are not limited to, the  
4 following:

5 (a) Implementing the working families' tax credit in RCW  
6 82.08.0206;

7 (b) Supplementing the growth management planning and  
8 environmental review fund established in RCW 36.70A.490 for the  
9 purpose of making grants or loans to local governments for the  
10 purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and  
11 36.70A.600, for costs associated with RCW 36.70A.610, and to cover  
12 costs associated with the adoption of optional elements of  
13 comprehensive plans consistent with RCW 43.21C.420;

14 (c) Programs, activities, or projects that reduce and mitigate  
15 impacts from greenhouse gases and copollutants in overburdened  
16 communities, including strengthening the air quality monitoring  
17 network to measure, track, and better understand air pollution levels  
18 and trends and to inform the analysis, monitoring, and pollution  
19 reduction measures required in RCW 70A.65.020;

20 (d) Programs, activities, or projects that deploy renewable  
21 energy resources, such as solar and wind power, and projects to  
22 deploy distributed generation, energy storage, demand-side  
23 technologies and strategies, and other grid modernization projects;

24 (e) Programs, activities, or projects that increase the energy  
25 efficiency or reduce greenhouse gas emissions of industrial  
26 facilities including, but not limited to, proposals to implement  
27 combined heat and power, district energy, or on-site renewables, such  
28 as solar and wind power, to upgrade the energy efficiency of existing  
29 equipment, to reduce process emissions, and to switch to less  
30 emissions intensive fuel sources;

31 (f) Programs, activities, or projects that achieve energy  
32 efficiency or emissions reductions in the agricultural sector  
33 including:

34 (i) Fertilizer management;

35 (ii) Soil management;

36 (iii) Bioenergy;

37 (iv) Biofuels;

38 (v) Grants, rebates, and other financial incentives for  
39 agricultural harvesting equipment, heavy duty trucks, agricultural

1 pump engines, tractors, and other equipment used in agricultural  
2 operations;

3 (vi) Grants, loans, or any financial incentives to food  
4 processors to implement projects that reduce greenhouse gas  
5 emissions;

6 (vii) Renewable energy projects;

7 (viii) Farmworker housing weatherization programs;

8 (ix) Dairy digester research and development;

9 (x) Alternative manure management; and

10 (xi) Eligible fund uses under RCW 89.08.615;

11 (g) Programs, activities, or projects that increase energy  
12 efficiency in new and existing buildings, or that promote low carbon  
13 architecture, including use of newly emerging alternative building  
14 materials that result in a lower carbon footprint in the built  
15 environment over the life cycle of the building and component  
16 building materials;

17 (h) Programs, activities, or projects that promote the  
18 electrification and decarbonization of new and existing buildings,  
19 including residential, commercial, and industrial buildings;

20 (i) Programs, activities, or projects that improve energy  
21 efficiency, including district energy, and investments in market  
22 transformation of high efficiency electric appliances and equipment  
23 for space and water heating;

24 (j) Clean energy transition and assistance programs, activities,  
25 or projects that assist affected workers or people with lower incomes  
26 during the transition to a clean energy economy, or grow and expand  
27 clean manufacturing capacity in communities across Washington state  
28 including, but not limited to:

29 (i) Programs, activities, or projects that directly improve  
30 energy affordability and reduce the energy burden of people with  
31 lower incomes, as well as the higher transportation fuel burden of  
32 rural residents, such as bill assistance, energy efficiency, and  
33 weatherization programs;

34 (ii) Community renewable energy projects that allow qualifying  
35 participants to own or receive the benefits of those projects at  
36 reduced or no cost;

37 (iii) Programs, activities, or other worker-support projects for  
38 bargaining unit and nonsupervisory fossil fuel workers who are  
39 affected by the transition away from fossil fuels to a clean energy  
40 economy. Worker support may include, but is not limited to: (A) Full

1 wage replacement, health benefits, and pension contributions for  
2 every worker within five years of retirement; (B) full wage  
3 replacement, health benefits, and pension contributions for every  
4 worker with at least one year of service for each year of service up  
5 to five years of service; (C) wage insurance for up to five years for  
6 workers reemployed who have more than five years of service; (D) up  
7 to two years of retraining costs, including tuition and related  
8 costs, based on in-state community and technical college costs; (E)  
9 peer counseling services during transition; (F) employment placement  
10 services, prioritizing employment in the clean energy sector; and (G)  
11 relocation expenses;

12 (iv) Direct investment in workforce development, via technical  
13 education, community college, institutions of higher education,  
14 apprenticeships, and other programs including, but not limited to:

15 (A) Initiatives to develop a forest health workforce established  
16 under RCW 76.04.521; and

17 (B) Initiatives to develop new education programs, emerging  
18 fields, or jobs pertaining to the clean energy economy;

19 (v) Transportation, municipal service delivery, and technology  
20 investments that increase a community's capacity for clean  
21 manufacturing, with an emphasis on communities in greatest need of  
22 job creation and economic development and potential for commute  
23 reduction;

24 (k) Programs, activities, or projects that reduce emissions from  
25 landfills and waste-to-energy facilities through diversion of organic  
26 materials, methane capture or conversion strategies, installation of  
27 gas collection devices and gas control systems, monitoring and  
28 reporting of methane emissions, or other means, prioritizing funding  
29 needed for any activities by local governments to comply with chapter  
30 70A.540 RCW;

31 (l) Carbon dioxide removal projects, programs, and activities;  
32 and

33 (m) Activities to support efforts to mitigate and adapt to the  
34 effects of climate change affecting Indian tribes, including capital  
35 investments in support of the relocation of Indian tribes located in  
36 areas at heightened risk due to anticipated sea level rise, flooding,  
37 or other disturbances caused by climate change. The legislature  
38 intends to dedicate at least \$50,000,000 per biennium from the  
39 account for purposes of this subsection.

1 (2) Moneys in the account may not be used for projects or  
2 activities that would violate tribal treaty rights or result in  
3 significant long-term damage to critical habitat or ecological  
4 functions. Investments from this account must result in long-term  
5 environmental benefits and increased resilience to the impacts of  
6 climate change.

7 (3) During the 2023-2025 fiscal biennium, the legislature may  
8 appropriate moneys from the climate commitment account for activities  
9 related to environmental justice, including implementation of chapter  
10 314, Laws of 2021.

11 NEW SECTION. **Sec. 22.** Sections 1 through 17 of this act  
12 constitute a new chapter in Title 70A RCW.

13 NEW SECTION. **Sec. 23.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected.

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