
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2401

State of Washington

68th Legislature

2024 Regular Session

By House Appropriations (originally sponsored by Representatives Duerr, Doglio, Berry, Fitzgibbon, Ramel, and Pollet)

READ FIRST TIME 02/05/24.

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;
4 reenacting and amending RCW 43.21B.110 and 43.21B.300; adding a new
5 section to chapter 82.04 RCW; adding a new chapter to Title 70A RCW;
6 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 financial incentive
38 payment to be paid to service technicians and others for recovered
39 gas, will incentivize a greater supply of used fluorinated
40 refrigerants removed from equipment, which can then be reclaimed and

1 reused. Increasing the supply of reclaimed refrigerants available to
2 fulfill the demand for refrigerants in existing and new equipment
3 will support smooth implementation of federal regulations under the
4 American innovation and manufacturing act. It will also increase the
5 supply of refrigerants for ramping new heat pump adoption to
6 decarbonize the building stock. Overall, greater reclamation of
7 hydrofluorocarbons will not only prevent direct greenhouse gas
8 emissions but also support the state's building electrification and
9 heat pump adoption 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. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

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

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

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

25 (2) "Covered refrigerant" means any fluorinated regulated
26 refrigerant or substitute, as those terms are defined in chapter
27 70A.60 RCW, that are used for heat transfer purposes to provide a
28 cooling or heating effect.

29 (3) "Department" means the Washington state department of
30 ecology.

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

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

38 (5) "Distributor" or "wholesaler" means any person or entity
39 engaged in the distribution, wholesale sale, sale, or other

1 commercial furnishing of any covered refrigerant or precharged
2 equipment, except for service technicians transferring refrigerant to
3 end-user consumers as part of a service call.

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

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

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

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

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

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

26 (ii) With respect to precharged equipment:

27 (A) If the precharged equipment is sold under the brand of the
28 precharged equipment manufacturer, the producer is the person that
29 manufactures the precharged equipment;

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

33 (C) If there is no person to which (a) (ii) (A) or (B) of this
34 subsection applies, the producer is the person that is the licensee
35 of a brand or trademark under which the precharged equipment is used
36 in a commercial enterprise, sold, offered for sale, or distributed in
37 or into this state, whether or not the trademark is registered in
38 this state;

39 (D) If there is no person described in (a) (ii) (A) through (C) of
40 this subsection within the United States, the producer is the person

1 who is the importer of record for the precharged equipment into the
2 United States for use in a commercial enterprise that sells, offers
3 for sale, or distributes the precharged equipment in this state;

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

8 (b) A person is the "producer" as defined in (a) of this
9 subsection except where another person has mutually signed an
10 agreement with a producer as defined in (a) of this subsection that
11 contractually assigns responsibility to the producer, and the person
12 has joined a registered refrigerant stewardship organization as the
13 responsible producer for that covered refrigerant, precharged
14 equipment, or refrigerant contained in the precharged equipment. In
15 the event that another person is assigned responsibility as the
16 producer under this subsection (8)(b), the producer under (a) of this
17 subsection must provide written certification of that contractual
18 agreement to the refrigerant stewardship organization and to the
19 department.

20 (c) "Producer" does not include any person who only manufactures,
21 sells, offers for sale, distributes, or imports into the state
22 precharged equipment if the gas contained in the precharged equipment
23 is supplied by a producer that has joined a registered refrigerant
24 stewardship organization as the producer for that precharged
25 equipment and the covered refrigerant contained in the precharged
26 equipment under this chapter. Such a producer of gas that is included
27 in precharged equipment must provide written certification of that
28 membership to both the producer of the precharged equipment and the
29 refrigerant stewardship organization of which the gas producer is a
30 member.

31 (9) "Reclaimer" means any person undertaking reclamation of
32 covered refrigerants in compliance with federal requirements,
33 including recordkeeping and reporting and all other requirements
34 stipulated under 40 C.F.R. Sec. 84, as it existed as of January 1,
35 2024.

36 (10) "Reclamation" or "reclaim" means the reprocessing of a
37 recovered covered refrigerant or substitute to recover usable
38 products or regenerate the material, including to at least the purity
39 specified in the air conditioning, heating, and refrigeration
40 institute (AHRI) standard 700-2016 and verifying this purity using

1 the analytical methodology prescribed in the standard, and meets the
2 reclamation standard of containing no greater than 15 percent virgin
3 or new material by weight.

4 (11) "Recovery" means the process by which a regulated
5 refrigerant is:

6 (a) Removed, in any condition, from equipment in a manner
7 consistent with 40 C.F.R. 82.158, as it existed as of January 1,
8 2024, or in a manner consistent with federal regulations updated
9 after January 1, 2024, and subsequently adopted by the department by
10 rule; and

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

13 (12) "Recovery rate" means the proportion of the total amount of
14 recovered covered refrigerant that is collected and subsequently
15 undergoes reclamation or destruction as a fraction of the estimated
16 total amount of covered refrigerant that is available for recovery
17 from equipment in a given year, as calculated by the refrigerant
18 stewardship organization and approved by the department.

19 (13) "Refrigerant stewardship organization" means a producer that
20 directly implements a stewardship plan under this chapter or a
21 nonprofit entity formed to implement a stewardship plan under this
22 chapter, including the collection and management of covered
23 refrigerants, and the disbursement of funds to incentivize enhanced
24 refrigerant recovery, reclamation, and destruction.

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

29 (15) "Service technician" means any person certified by the
30 United States environmental protection agency under section 608 or
31 609, as appropriate, of the federal clean air act, as it existed as
32 of January 1, 2024, or the federal American innovation and
33 manufacturing act of 2020, as it existed as of January 1, 2024.

34 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A
35 PROGRAM. (1) Beginning January 1, 2025, any producer who sells, or
36 otherwise enters into commerce, bulk covered refrigerants or
37 precharged equipment containing a covered refrigerant into the state
38 of Washington must register with the department through a refrigerant
39 stewardship organization. Beginning January 1, 2025, each producer

1 must participate in a refrigerant stewardship organization and
2 appropriately fund the operations of the refrigerant stewardship
3 organization.

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

8 (3) By December 1, 2027, in order to be eligible to receive an
9 incentive payment from a refrigerant stewardship organization
10 consistent with section 8 of this act, each entity that is not a
11 producer but sells, resells, distributes, or otherwise enters into
12 commerce bulk covered refrigerants after the first point of sale must
13 register with a refrigerant stewardship organization as a partner
14 participant in the refrigerant stewardship organization. A partner
15 participant may include, but is not limited to, refrigerant
16 distributors, wholesalers, reclaimers, and service technicians.
17 Partner participants are not required to fund a refrigerant
18 stewardship organization, but may be recipients of financial
19 incentives aimed at enhancing refrigerant recovery. In order to be
20 eligible to receive a financial incentive payment, partner
21 participants must keep records and report information to a
22 refrigerant stewardship organization in the manner necessary to
23 enable the refrigerant stewardship organization to fulfill its
24 reporting requirements to the department under section 10 of this
25 act.

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

29 NEW SECTION. **Sec. 4.** STEWARDSHIP PLAN COMPONENTS. (1) By May 1,
30 2027, a refrigerant stewardship organization or organizations must
31 submit a plan to the department for review and approval. Within 120
32 days of submission, the department must review and may approve a plan
33 provided it contains and adequately addresses the following
34 components:

- 35 (a) Includes contact information for each producer in the plan;
36 (b) (i) Identifies the brands and equipment models of each
37 producer of precharged equipment containing covered refrigerants
38 participating in the plan; and

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

3 (c) Proposes the implementation mechanisms through which the
4 program expects to meet the requirements of the performance
5 assessment established in section 5 of this act and describes the
6 methods used to calculate whether the program is achieving its
7 performance targets, including a specific description of the data
8 sources and calculations to be relied upon in calculating a recovery
9 rate for department approval;

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

13 (e) Describes the mechanisms used for the collection and
14 consolidation of recovered covered refrigerants, as well as
15 destruction of any recovered covered refrigerants collected by the
16 program that are deemed too contaminated to be reclaimed by a
17 reclaimer certified by the United States environmental protection
18 agency, consistent with section 6 of this act, including the
19 financial incentives described in section 8 of this act that are to
20 be paid to persons that furnish covered refrigerants recovered from
21 equipment in the state;

22 (f) Identifies proposed transporters, processors, and facilities
23 to be used by the program for the reclamation, destruction, and final
24 disposition of covered refrigerants that are deemed too contaminated
25 to be reclaimed by a reclaimer certified by the United States
26 environmental protection agency;

27 (g) Describes the financing methods to implement the plan,
28 consistent with section 8 of this act, including how producer fees
29 and fee modulation will incorporate incentives for the recovery and
30 collection of covered refrigerants in a manner that prioritizes the
31 reclamation and reuse of those covered refrigerants and minimizes
32 their emissions;

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

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

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

39 (k) Additional information determined by the department to be
40 necessary to ensure effective implementation of the requirements of

1 this chapter by the refrigerant stewardship organization and
2 effective oversight of refrigerant stewardship organization
3 activities by the department.

4 (2) The department may:

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

8 (b) Require a refrigerant stewardship organization to implement
9 the amended plan.

10 (3) A refrigerant stewardship organization must submit an updated
11 plan to the department for approval no less frequently than every
12 five years. In addition, if required by the department, a refrigerant
13 stewardship organization must submit a new plan to the department for
14 approval:

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

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

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

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

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

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

36 (5) By October 1st of each year following the submission of an
37 annual report under section 10 of this act, and based on the data
38 reported to the department by refrigerant stewardship organizations
39 as outlined in section 10 of this act, the department shall publish

1 an annual report assessing the performance of refrigerant stewardship
2 organizations. The annual report must include an evaluation of the
3 recovery rates and other performance targets achieved by the program
4 and any recommendations for continued improvement in the quantities
5 of covered refrigerants collected, reclaimed, or destroyed.

6 NEW SECTION. **Sec. 6.** COLLECTION AND MANAGEMENT. (1) A
7 refrigerant stewardship organization must provide for the collection
8 of all covered refrigerants recovered by any person from within the
9 state of Washington. A collection site may not charge a collection
10 fee at the time when covered refrigerants are returned to the
11 collection site and a financial incentive must be paid to a service
12 technician who recovers the covered refrigerant, consistent with
13 section 8 of this act.

14 (2) At a minimum, a refrigerant stewardship organization must
15 provide statewide opportunities for the collection of bulk covered
16 refrigerant through:

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

20 (b) Existing commercial sites operated by distributors and
21 wholesalers of covered refrigerants who participate in a refrigerant
22 stewardship organization. Distributors and wholesalers must offer
23 such sites as program collection sites for recovered bulk covered
24 refrigerants.

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

27 (a) A retail establishment that sells precharged equipment
28 containing covered refrigerants may elect to serve as a collection
29 site; and

30 (b) Local governments or nonprofit organizations that operate
31 household hazardous waste facilities or other solid waste facilities
32 may elect for these facilities to serve as collection sites under the
33 program.

34 (4) A refrigerant stewardship organization and any person hired
35 by the refrigerant stewardship organization to carry out services
36 related to refrigerant recovery or collection must manage covered
37 refrigerants in a manner consistent with best practices consistent
38 with federal refrigerant management regulations under sections 608
39 and 609 of the clean air act (40 C.F.R. Part 82) and WAC 173-443-205,

1 as they existed as of January 1, 2024, or as updated by the
2 department by rule after that date in order to maintain consistency
3 with updated federal regulations, that minimize the release into the
4 environment and in compliance with all applicable state rules and
5 federal regulations.

6 (5) A refrigerant stewardship organization may suspend or
7 terminate a collection site that does not adhere to the collection
8 site criteria in the approved plan or that poses an immediate health
9 or safety concern. A refrigerant stewardship organization must notify
10 the department upon suspending or terminating a collection site.

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

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

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

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

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

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

25 (2) During the first year of program implementation and every
26 five years thereafter, a refrigerant stewardship organization must
27 carry out a survey of the program's partner participants awareness to
28 determine the effectiveness of the requirements of the program and
29 awareness of the program established under this chapter. A
30 refrigerant stewardship organization must share the results of the
31 awareness surveys with the department, who may choose to make the
32 information public.

33 (3) If multiple refrigerant stewardship organizations are
34 implementing plans approved by the department, the refrigerant
35 stewardship organizations must coordinate in carrying out their
36 education and outreach responsibilities under this section and must
37 include in their annual reports to the department a summary of their
38 coordinated education and outreach efforts.

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

5 (a) The collection of recovered covered refrigerants;

6 (b) Education and outreach;

7 (c) Annual reporting to the department;

8 (d) The payments of a financial incentive to persons with a
9 United States environmental protection agency refrigerant
10 certification under section 608 or 609 of the federal clean air act
11 or the American innovation and manufacturing act of 2020, as they
12 existed as of January 1, 2024, that furnish recovered covered
13 refrigerants to the program for collection;

14 (e) The payments for services rendered by distributors,
15 wholesalers, or any persons providing collection sites for recovered
16 covered refrigerants; and

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

18 (2) (a) A refrigerant stewardship organization must develop and
19 implement a system to collect charges from participating producers to
20 cover the costs of plan implementation in an equitable,
21 environmentally sound, and socially just manner. Except as provided
22 in (f) of this subsection, a refrigerant stewardship organization's
23 system of charges must utilize a standard per-mass unit assessment
24 applied based on the volume of covered refrigerants introduced into
25 Washington.

26 (b) The system of charges must apply equally regardless of
27 whether that refrigerant is contained in precharged equipment or
28 manufactured, imported, distributed, or sold directly onto the market
29 as bulk covered refrigerants. For precharged equipment, the system of
30 charges may rely on reasonable estimations of refrigerant volumes
31 contained in the precharged equipment.

32 (c) To allow a refrigerant stewardship organization to establish
33 an equitable and reasonable system of charges for producers of
34 precharged equipment and bulk covered refrigerants, and to allow the
35 refrigerant stewardship organization to calculate recovery rates for
36 purposes of section 5 of this act, a refrigerant stewardship
37 organization may require a producer to provide product specifications
38 and product sale and distribution volumes in or into Washington for
39 precharged equipment and bulk covered refrigerants.

1 (d) In the plan proposed to the department, the refrigerant
2 stewardship organization must propose an initial rate per pound of
3 covered refrigerant to calculate the charges due from producers in
4 the first year of the program, consistent with the requirements of
5 this section. The department may approve the proposed rate of the
6 refrigerant stewardship organization if it determines, based on
7 consideration of the experiences of other jurisdictions that have
8 implemented similar programs, that the proposed rate will be
9 sufficient for the refrigerant stewardship organization to achieve
10 the performance targets established in section 5 of this act and to
11 carry out the other obligations of the refrigerant stewardship
12 organization under this chapter.

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

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

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

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

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

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

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

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

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

1 administration, and agency reimbursement in accordance with best
2 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 partner
15 participant registered with the refrigerant stewardship organization
16 furnishes to the program for management. Financial incentive payments
17 must be made, where appropriate, to the employer of the person
18 furnishing the covered refrigerant to the program for management, as
19 long as the employer of the person furnishing the covered refrigerant
20 provides a payment mechanism in which no less than 90 percent of the
21 value of the financial incentive is received by the person furnishing
22 the refrigerant to the program. Persons receiving financial
23 incentives must possess a refrigerant certification under section 608
24 or 609 of the federal clean air act or the American innovation and
25 manufacturing act of 2020, as they existed as of January 1, 2024.
26 This financial incentive is not required to be consistent with the
27 amount specified in subsection (2) of this section. A refrigerant
28 stewardship organization must demonstrate to the department that the
29 amount of the financial incentive for each unit of covered
30 refrigerant will be sufficient to incentivize the use of the program
31 by service technicians or other persons with unwanted recovered
32 covered refrigerant, to discourage illegal dumping or venting of
33 refrigerants or other pollutants, and must be in addition to any
34 other incentive payments offered for the same covered refrigerants or
35 precharged equipment through utility rebate, energy efficiency, or
36 other programs.

37 (b) The financial incentives offered through the program may vary
38 as appropriate to ensure the achievement of the performance targets
39 established in section 5 of this act in an efficient manner. In

1 developing the financial incentives, a refrigerant stewardship
2 organization may consider any combination of the following:

3 (i) The volume of recovered covered refrigerant furnished by a
4 partner participant;

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

6 (iii) Whether the recovered covered refrigerant has been
7 collected and furnished to the program in a manner that minimizes the
8 costs and environmental impacts of managing that refrigerant and
9 whether it has been collected and furnished in a manner that
10 facilitates the reuse of the refrigerant rather than its destruction,
11 where appropriate.

12 (c) If the department determines that a refrigerant stewardship
13 organization has not met a performance target established in section
14 5 of this act, the department may require the refrigerant stewardship
15 organization to increase the value of the financial incentive
16 established under this subsection.

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

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, transportation costs, and other
25 costs associated with safety, accessibility, and operation of the
26 collection site. A refrigerant stewardship organization may provide
27 additional supports to facilitate the recovery of covered
28 refrigerants including, but not limited to, assistance for service
29 technicians in obtaining equipment to facilitate recovery of covered
30 refrigerants.

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

34 (b) As federal programs under the American innovation in
35 manufacturing act, including those in 40 C.F.R. Part 84, and similar
36 state programs phase down the use of hydrofluorocarbon refrigerants,
37 the department may evaluate the benefits of incentivizing
38 destruction, and on or after January 1, 2035, the department may by
39 rule set an incentive for destruction of covered refrigerants that

1 may not be used for any carbon credits or other greenhouse gas offset
2 credits, including under chapter 70A.65 RCW.

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

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

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

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

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

16 (a) Inform customers regarding the climate impacts of
17 refrigerants;

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

22 (c) Identify the prohibitions under federal law and chapters
23 70A.15 and 70A.60 RCW on the willful release of refrigerants.

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

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

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

1 (b) A summary financial statement documenting the financing of
2 the refrigerant stewardship organization program and an analysis of
3 program costs and expenditures, including an analysis of the
4 program's expenses, such as collection, storage, transportation, and
5 other activities in support of the program;

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

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

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

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

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

21 (e) A summary of the activities carried out at the collection
22 sites;

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

28 (g) Any changes to:

29 (i) The list of producers participating, including producers of
30 precharged equipment;

31 (ii) Collection infrastructure, including the list of collection
32 sites;

33 (iii) Recovery rates and progress towards performance targets;
34 and

35 (iv) The program necessary to continue progress towards
36 performance targets; and

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

39 (2) On March 1st, June 1st, September 1st, and December 1st of
40 each year in which a refrigerant stewardship organization implements

1 a program, a refrigerant stewardship organization must submit to the
2 department an updated list of participating producers of covered
3 refrigerants and precharged equipment, and the brands and models for
4 precharged equipment, to be posted on the department's website.

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

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

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

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

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

37 NEW SECTION. **Sec. 11.** PROTECTION OF CONFIDENTIAL AND BUSINESS
38 SENSITIVE INFORMATION. A refrigerant stewardship organization may
39 request that the information or records be made available only for

1 the confidential use of the department, the director of the
2 department, or the appropriate division of the department. The
3 director of the department must give consideration to the request and
4 if this action is not detrimental to the public interest and is
5 otherwise in accordance with the policies and purposes of chapter
6 43.21A RCW, the director must grant the request for the information
7 to remain confidential as authorized in RCW 43.21A.160.

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

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

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

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

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

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

32 (b) The department must:

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

37 (ii) Increase annual payments for the coming fiscal year to cover
38 the costs identified under (a)(ii) of this subsection, if the

1 collected annual payment was less than the amount required to cover
2 those costs for a given year.

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

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

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

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

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

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

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

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

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

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

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

39 (b) Review the annual report within 120 days of receipt of a
40 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.** LIMITATION OF CHAPTER. Nothing in this
8 chapter changes or limits the applicability of the requirements of
9 chapter 70A.15, 70A.60, or 70A.300 RCW to covered refrigerants.

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

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

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

18 (b) Charges to producers by a refrigerant stewardship
19 organization formed under chapter 70A.--- RCW (the new chapter
20 created in section 21 of this act) under a stewardship plan as
21 provided in section 8 of this act; or

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

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

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

28 **Sec. 19.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
29 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
30 read as follows:

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

1 (a) Civil penalties imposed pursuant to RCW 18.104.155,
2 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
3 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
4 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
5 70A.555.110, 70A.560.020, section 13 of this act, 76.09.170,
6 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
7 90.56.310, 90.56.330, and 90.64.102.

8 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
9 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
10 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 13 of this
11 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
12 90.56.330.

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

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

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

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

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

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

39 (i) Decisions of the department of natural resources, the
40 department of fish and wildlife, and the department that are

1 reviewable under chapter 76.09 RCW, and the department of natural
2 resources' appeals of county, city, or town objections under RCW
3 76.09.050(7).

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

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

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

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

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

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

23 (2) The following hearings shall not be conducted by the hearings
24 board:

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

27 (b) Hearings conducted by the department pursuant to RCW
28 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
29 70A.15.3110, and 90.44.180.

30 (c) Appeals of decisions by the department under RCW 90.03.110
31 and 90.44.220.

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

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

37 **Sec. 20.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and
38 2023 c 135 s 7 are each reenacted and amended to read as follows:

1 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
2 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
3 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
4 70A.455.090, 70A.555.110, 70A.560.020, section 13 of this act,
5 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
6 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in
7 writing, either by certified mail with return receipt requested or by
8 personal service, to the person incurring the penalty from the
9 department or the local air authority, describing the violation with
10 reasonable particularity. For penalties issued by local air
11 authorities, within 30 days after the notice is received, the person
12 incurring the penalty may apply in writing to the authority for the
13 remission or mitigation of the penalty. Upon receipt of the
14 application, the authority may remit or mitigate the penalty upon
15 whatever terms the authority in its discretion deems proper. The
16 authority may ascertain the facts regarding all such applications in
17 such reasonable manner and under such rules as it may deem proper and
18 shall remit or mitigate the penalty only upon a demonstration of
19 extraordinary circumstances such as the presence of information or
20 factors not considered in setting the original penalty.

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

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

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

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

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

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

1 authority within 30 days after it becomes due and payable, the
2 authority may bring an action to recover the penalty in the superior
3 court of the county of the authority's main office or of any county
4 in which the violator does business. In these actions, the procedures
5 and rules of evidence shall be the same as in an ordinary civil
6 action.

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

22 NEW SECTION. **Sec. 21.** Sections 1 through 17 of this act
23 constitute a new chapter in Title 70A RCW.

24 NEW SECTION. **Sec. 22.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

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