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

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

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

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

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

23 (ii) With respect to precharged equipment:

24 (A) If the precharged equipment is sold under the brand of the
25 precharged equipment manufacturer, the producer is the person that
26 manufactures the precharged equipment;

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

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

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

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

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

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

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

28 (11) "Recovery" means the process by which a regulated
29 refrigerant is:

30 (a) Removed, in any condition, from equipment in a manner
31 consistent with 40 C.F.R. 82.158, as it existed as of January 1,
32 2024, or in a manner consistent with federal regulations updated
33 after January 1, 2024, and subsequently adopted by the department by
34 rule; and

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

37 (12) "Recovery rate" means the proportion of the total amount of
38 recovered covered refrigerant that is collected and subsequently
39 undergoes reclamation or destruction as a fraction of the estimated
40 total amount of covered refrigerant that is available for recovery

1 from equipment in a given year, as calculated by the refrigerant
2 stewardship organization and approved by the department.

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

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

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

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

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

31 (3) By July 1, 2026, each entity that is not a producer but
32 sells, resells, distributes, or otherwise enters into commerce bulk
33 covered refrigerants after the first point of sale shall register
34 with a refrigerant stewardship organization as a nonproducer
35 participant in the refrigerant stewardship organization. A
36 nonproducer participant may include, but is not limited to,
37 refrigerant distributors, wholesalers, reclaimers, and service
38 technicians. Nonproducer participants are not required to fund a
39 refrigerant stewardship organization but may be recipients of

1 financial incentives aimed at enhancing refrigerant recovery.
2 Nonproducer participants must keep records and report information to
3 a refrigerant stewardship organization in the manner necessary to
4 enable the refrigerant stewardship organization to fulfill its
5 reporting requirements to the department under section 10 of this
6 act.

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

10 NEW SECTION. **Sec. 4.** STEWARDSHIP PLAN COMPONENTS. (1) By May 1,
11 2027, a refrigerant stewardship organization or organizations must
12 submit a plan to the department for review and approval. Within 120
13 days of submission, the department must review and may approve a plan
14 provided it contains and adequately addresses the following
15 components:

- 16 (a) Includes contact information for each producer in the plan;
- 17 (b) (i) Identifies the brands and equipment models of each
18 producer of precharged equipment containing covered refrigerants
19 participating in the plan; and
- 20 (ii) Identifies the producers for each type of bulk covered
21 refrigerant manufactured, imported, or distributed into the state;
- 22 (c) Proposes the implementation mechanisms through which the
23 program expects to meet the requirements of the performance
24 assessment established in section 5 of this act and describes the
25 methods used to calculate whether the program is achieving its
26 performance targets, including a specific description of the data
27 sources and calculations to be relied upon in calculating a recovery
28 rate for department approval;
- 29 (d) Includes a detailed and comprehensive list of promotion
30 activities to be undertaken as part of the educational and outreach
31 program required in section 7 of this act;
- 32 (e) Describes the mechanisms used for the collection and
33 consolidation of recovered covered refrigerant, as well as
34 transportation for subsequent reclamation or destruction of all
35 recovered covered refrigerants collected by the program, consistent
36 with section 6 of this act, including the financial incentives
37 described in section 8 of this act that are to be paid to persons
38 that furnish covered refrigerants recovered from equipment in the
39 state;

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

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

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

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

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

16 (k) Additional information determined by the department to be
17 necessary to ensure effective implementation of the requirements of
18 this chapter by the refrigerant stewardship organization and
19 effective oversight of refrigerant stewardship organization
20 activities by the department.

21 (2) The department may:

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

25 (b) Require a refrigerant stewardship organization to implement
26 the amended plan.

27 (3) A refrigerant stewardship organization must submit an updated
28 plan to the department for approval no less frequently than every
29 five years. In addition, if required by the department, a refrigerant
30 stewardship organization must submit a new plan to the department for
31 approval:

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

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

37 NEW SECTION. **Sec. 5.** PERFORMANCE MEASUREMENTS. (1) In plans
38 submitted under section 4 of this act, a refrigerant stewardship
39 organization shall set, and the department must review and may

1 approve, reasonable binding interim annual performance targets in
2 addition to and in advance of the 2032 recovery rate target.

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

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

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

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

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

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

31 (2) At a minimum, a refrigerant stewardship organization must
32 provide statewide opportunities for the collection of bulk covered
33 refrigerant through:

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

37 (b) Existing commercial sites operated by distributors and
38 wholesalers of covered refrigerants who participate in a refrigerant
39 stewardship organization. Distributors and wholesalers must offer

1 such sites as program collection sites for recovered bulk covered
2 refrigerants.

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

5 (a) A retail establishment that sells precharged equipment
6 containing covered refrigerants may elect to serve as a collection
7 site; and

8 (b) Local governments or nonprofit organizations that operate
9 household hazardous waste facilities or other solid waste facilities
10 may elect for these facilities to serve as collection sites under the
11 program.

12 (4) A refrigerant stewardship organization and any person hired
13 by the refrigerant stewardship organization to carry out services
14 related to refrigerant recovery, transport, collection, or
15 reclamation must manage covered refrigerants in a manner consistent
16 with best practices consistent with federal refrigerant management
17 regulations under sections 608 and 609 of the clean air act (40
18 C.F.R. Part 82) and WAC 173-443-205, as they existed as of January 1,
19 2024, or as updated by the department by rule after that date in
20 order to maintain consistency with updated federal regulations, that
21 minimize the release into the environment and in compliance with all
22 applicable state rules and federal regulations.

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

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

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

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

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

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

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

3 (2) During the first year of program implementation and every
4 five years thereafter, a refrigerant stewardship organization must
5 carry out a survey of the program's nonproducer participants
6 awareness to determine the effectiveness of the requirements of the
7 program and awareness of the program established under this chapter.
8 A refrigerant stewardship organization must share the results of the
9 awareness surveys with the department, who may choose to make the
10 information public.

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

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

21 (a) The collection, transport, and processing of recovered
22 covered refrigerants;

23 (b) Education and outreach;

24 (c) Annual reporting to the department;

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

27 (e) The payments for services rendered by distributors,
28 wholesalers, or any persons providing collection sites for recovered
29 covered refrigerants; and

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

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

1 (b) The system of charges must apply equally regardless of
2 whether that refrigerant is contained in precharged equipment or
3 manufactured, imported, distributed, or sold directly onto the market
4 as bulk covered refrigerants. For precharged equipment, the system of
5 charges may rely on reasonable estimations of refrigerant volumes
6 contained in the precharged equipment.

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

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

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

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

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

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

34 (3) The system of charges must use ecomodulated fees to encourage
35 the use of design attributes that reduce the environmental impacts of
36 covered refrigerants. Examples of ecomodulated fees include, but are
37 not limited to:

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

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

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

3 (4) A refrigerant stewardship organization is responsible for all
4 costs of recovered covered refrigerant collection, transportation,
5 processing, education, administration, and agency reimbursement in
6 accordance with best environmental management practices.

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

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

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

35 (i) The volume of recovered covered refrigerant furnished by a
36 person;

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

38 (iii) Whether the recovered covered refrigerant has been
39 collected and furnished to the program in a manner that minimizes the
40 costs and environmental impacts of managing that refrigerant and

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

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

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

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

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

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

1 NEW SECTION. **Sec. 9.** ROLE OF RETAIL ESTABLISHMENTS SELLING
2 PRECHARGED EQUIPMENT. (1) Beginning July 1, 2028, retail
3 establishments may not sell, offer for sale, otherwise make available
4 for sale, install, or otherwise furnish to customers precharged
5 equipment containing a covered refrigerant unless the producer
6 responsible for the precharged equipment participates in a
7 refrigerant stewardship organization.

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

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

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

1 (a) Inform customers regarding the climate impacts of
2 refrigerants;

3 (b) Encourage customers to choose a service technician
4 participating in the program and encourage customers to confirm with
5 their service technician that the customer's refrigerants will be
6 reclaimed; and

7 (c) Identify the prohibitions under federal law and chapters
8 70A.15 and 70A.60 RCW on the willful release of refrigerants.

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

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

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

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

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

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

34 (ii) The quantity of each type of recovered covered refrigerant
35 and the management outcomes of those recovered covered refrigerants
36 as to reclamation, destruction, or transportation for those purposes,
37 or any maintained stocks; and

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

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

7 (e) A summary of the activities carried out at the collection
8 sites;

9 (f) A summary of the education and outreach activities supporting
10 plan implementation, including a summary of coordinated education and
11 outreach efforts with refrigerant stewardship organizations if
12 multiple refrigerant stewardship organizations have formed, and the
13 results of awareness surveys;

14 (g) Any changes to:

15 (i) The list of producers participating, including producers of
16 precharged equipment;

17 (ii) Collection infrastructure, including the list of collection
18 sites;

19 (iii) Recovery rates and progress towards performance targets;
20 and

21 (iv) The program necessary to continue progress towards
22 performance targets; and

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

25 (2) On March 1st, June 1st, September 1st, and December 1st of
26 each year in which a refrigerant stewardship organization implements
27 a program, a refrigerant stewardship organization must submit to the
28 department an updated list of participating producers of covered
29 refrigerants and precharged equipment, and the brands and models for
30 precharged equipment, to be posted on the department's website.

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

1 (a) By March 31st of each year a refrigerant stewardship
2 organization implements a program, distributors and wholesalers must
3 report to each refrigerant stewardship organization quantities and
4 types of covered refrigerants sold to them by each producer
5 participating in that refrigerant stewardship organization and
6 subsequently resold by them for use in the state of Washington, and
7 not neighboring states, in the prior year;

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

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

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

19 NEW SECTION. **Sec. 11.** PROTECTION OF CONFIDENTIAL AND BUSINESS
20 SENSITIVE INFORMATION. A refrigerant stewardship organization may
21 request that the information or records be made available only for
22 the confidential use of the department, the director of the
23 department, or the appropriate division of the department. The
24 director of the department must give consideration to the request and
25 if this action is not detrimental to the public interest and is
26 otherwise in accordance with the policies and purposes of chapter
27 43.21A RCW, the director must grant the request for the information
28 to remain confidential as authorized in RCW 43.21A.160.

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

1 the definitions in section 2 of this act in order to maintain
2 consistency with federal law.

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

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

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

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

12 (iv) Send notice to a refrigerant stewardship organization of fee
13 amounts due consistent with rules adopted under (a)(iii) of this
14 subsection.

15 (b) The department must:

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

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

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

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

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

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

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

38 (B) Reasons for not approving a plan. A refrigerant stewardship
39 organization must submit a new or revised plan within 60 days after
40 receipt of the letter of disapproval. In the event that a new or

1 revised plan submitted by a refrigerant stewardship organization does
2 not sufficiently meet the requirements of this chapter, including any
3 deficiencies identified in the initial letter of disapproval, the
4 department may:

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

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

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

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

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

20 (b) Review the annual report within 120 days of receipt of a
21 complete annual report;

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

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

26 (ii) Reasons for not approving the annual report. The refrigerant
27 stewardship organization must submit a revised annual report within
28 60 days after receipt of the letter of disapproval;

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

34 (5) Consistent with section 6 of this act, the department may
35 grant an infeasibility waiver temporarily exempting, for the duration
36 of a plan, a refrigerant stewardship organization from the
37 requirement to provide a permanent collection site in each county.
38 The department may only grant an exemption if the refrigerant
39 stewardship organization demonstrates that no refrigerant
40 distributor, wholesaler, or service provider exists to service a

1 collection site, no local government or retail establishment has
2 voluntarily elected to serve as a collection site, and that access to
3 collection services by persons in possession of recovered covered
4 refrigerants will not be substantially affected by the lack of a
5 permanent collection site in a low population density county. The
6 refrigerant stewardship organization, if granted an infeasibility
7 waiver under this section must, at minimum, hold at least two
8 collection events each year in any counties covered by the
9 infeasibility waiver.

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

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

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

17 (7) If multiple refrigerant stewardship organizations form to
18 implement plans, and if requested by the refrigerant stewardship
19 organizations, the department may serve as a coordinating body or
20 oversee coordination of refrigerant stewardship organization plans.

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

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

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

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

1 (a)(i) Issue corrective action orders to a producer or a
2 refrigerant stewardship organization;

3 (ii) Issue orders to a refrigerant stewardship organization to
4 provide for the continued implementation of the program in the
5 absence of an approved plan;

6 (b) Revoke the refrigerant stewardship organization's plan
7 approval and require the refrigerant stewardship organization to
8 implement its contingency plan;

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

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

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

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

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

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

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

35 (2) The cost and structure of a refrigerant stewardship
36 organization plan; and

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

1 NEW SECTION. **Sec. 15.** RESPONSIBLE REFRIGERANT DISPOSAL ACCOUNT.

2 The responsible refrigerant disposal account is created in the
3 custody of the state treasurer. All receipts from section 12 of this
4 act must be deposited into the account. Expenditures from the account
5 may be used only for administering, implementing, and enforcing the
6 requirements of this chapter. Moneys in the account may not be
7 diverted for any purpose or activity other than those specified in
8 this section. Only the director of ecology or the director's designee
9 may authorize expenditures from the account. The account is subject
10 to allotment procedures under chapter 43.88 RCW, but an appropriation
11 is not required for expenditures.

12 NEW SECTION. **Sec. 16.** PROHIBITION ON THE USES OF FUNDS. A

13 refrigerant stewardship organization may not use funds collected for
14 purposes of implementing a plan required under this chapter
15 associated with:

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

17 (2) Administrative appeals of orders or penalties;

18 (3) Litigation between the refrigerant stewardship organization
19 and the state;

20 (4) Compensation of a person whose position is primarily
21 representing the refrigerant stewardship organization relative to the
22 passage, defeat, approval, or modification of legislation that is
23 being considered by a government entity; or

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

28 NEW SECTION. **Sec. 17.** LIMITATION OF CHAPTER. Nothing in this

29 chapter changes or limits the applicability of the requirements of
30 chapter 70A.15, 70A.60, or 70A.300 RCW to covered refrigerants.

31 NEW SECTION. **Sec. 18.** A new section is added to chapter 82.04

32 RCW to read as follows:

33 BUSINESS AND OCCUPATION TAX EXEMPTION. (1) This chapter does not
34 apply to the receipts of a refrigerant stewardship organization
35 formed under chapter 70A.--- RCW (the new chapter created in section
36 21 of this act) from charges to participating producers under a
37 stewardship plan as provided in section 8 of this act.

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

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

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

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

15 (a) Civil penalties imposed pursuant to RCW 18.104.155,
16 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
17 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
18 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
19 70A.555.110, 70A.560.020, section 13 of this act, 76.09.170,
20 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
21 90.56.310, 90.56.330, and 90.64.102.

22 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
23 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
24 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 13 of this
25 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
26 90.56.330.

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

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

37 (e) Decisions of local health departments regarding the issuance
38 and enforcement of permits to use or dispose of biosolids under RCW
39 70A.226.090.

1 (f) Decisions of the department regarding waste-derived
2 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
3 decisions of the department regarding waste-derived soil amendments
4 under RCW 70A.205.145.

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

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

14 (i) Decisions of the department of natural resources, the
15 department of fish and wildlife, and the department that are
16 reviewable under chapter 76.09 RCW, and the department of natural
17 resources' appeals of county, city, or town objections under RCW
18 76.09.050(7).

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

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

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

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

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

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

38 (2) The following hearings shall not be conducted by the hearings
39 board:

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

3 (b) Hearings conducted by the department pursuant to RCW
4 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
5 70A.15.3110, and 90.44.180.

6 (c) Appeals of decisions by the department under RCW 90.03.110
7 and 90.44.220.

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

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

13 **Sec. 20.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and
14 2023 c 135 s 7 are each reenacted and amended to read as follows:

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

35 (2) Any penalty imposed under this section may be appealed to the
36 pollution control hearings board in accordance with this chapter if
37 the appeal is filed with the hearings board and served on the
38 department or authority 30 days after the date of receipt by the
39 person penalized of the notice imposing the penalty or 30 days after

1 the date of receipt of the notice of disposition by a local air
2 authority of the application for relief from penalty.

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

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

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

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

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

22 (5) All penalties recovered shall be paid into the state treasury
23 and credited to the general fund except those penalties imposed
24 pursuant to RCW 18.104.155, which shall be credited to the
25 reclamation account as provided in RCW 18.104.155(7), RCW
26 70A.15.3160, the disposition of which shall be governed by that
27 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
28 to the recycling enhancement account created in RCW 70A.245.100, RCW
29 70A.300.090, 70A.555.110, ~~((and))~~ 70A.560.020, and section 13 of this
30 act, which shall be credited to the model toxics control operating
31 account created in RCW 70A.305.180, RCW 70A.65.200, which shall be
32 credited to the climate investment account created in RCW 70A.65.250,
33 RCW 90.56.330, which shall be credited to the coastal protection fund
34 created by RCW 90.48.390, and RCW 70A.355.070, which shall be
35 credited to the underground storage tank account created by RCW
36 70A.355.090.

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

1 NEW SECTION. **Sec. 22.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- **END** ---