

2SHB 2401 - H AMD 905

By Representative Duerr

ADOPTED 02/09/2024

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

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

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

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

1 actualize the vast climate benefits expected from the American
2 innovation and manufacturing act and the Kigali amendment.

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

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

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

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

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

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

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

10 (2) "Covered refrigerant" means any fluorinated regulated
11 refrigerant or substitute, as those terms are defined in chapter
12 70A.60 RCW, that are used for heat transfer purposes to provide a
13 cooling or heating effect.

14 (3) "Department" means the Washington state department of
15 ecology.

16 (4) (a) "Destruction" means the expiration of a covered
17 refrigerant to the destruction and removal efficiency actually
18 achieved.

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

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

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

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

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

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

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

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

10 (ii) With respect to precharged equipment:

11 (A) If the precharged equipment is sold under the brand of the
12 precharged equipment manufacturer, the producer is the person that
13 manufactures the precharged equipment;

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

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

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

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

32 (b) A person is the "producer" as defined in (a) of this
33 subsection except where another person has mutually signed an
34 agreement with a producer as defined in (a) of this subsection that
35 contractually assigns responsibility to the producer, and the person
36 has joined a registered refrigerant stewardship organization as the
37 responsible producer for that covered refrigerant, precharged
38 equipment, or refrigerant contained in the precharged equipment. In
39 the event that another person is assigned responsibility as the
40 producer under this subsection (8)(b), the producer under (a) of this

1 subsection must provide written certification of that contractual
2 agreement to the refrigerant stewardship organization and to the
3 department.

4 (c) "Producer" does not include any person who only manufactures,
5 sells, offers for sale, distributes, or imports into the state
6 precharged equipment if the gas contained in the precharged equipment
7 is supplied by a producer that has joined a registered refrigerant
8 stewardship organization as the producer for that precharged
9 equipment and the covered refrigerant contained in the 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 December 1, 2027, in order to be eligible to receive an
32 incentive payment from a refrigerant stewardship organization
33 consistent with section 8 of this act, each entity that is not a
34 producer but sells, resells, distributes, or otherwise enters into
35 commerce bulk covered refrigerants after the first point of sale must
36 register with a refrigerant stewardship organization as a partner
37 participant in the refrigerant stewardship organization. A partner
38 participant may include, but is not limited to, refrigerant
39 distributors, wholesalers, reclaimers, and service technicians.

1 Partner participants are not required to fund a refrigerant
2 stewardship organization, but may be recipients of financial
3 incentives aimed at enhancing refrigerant recovery. In order to be
4 eligible to receive a financial incentive payment, partner
5 participants must keep records and report information to a
6 refrigerant stewardship organization in the manner necessary to
7 enable the refrigerant stewardship organization to fulfill its
8 reporting requirements to the department under section 10 of this
9 act.

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

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

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

20 (b) (i) Identifies the brands and equipment models of each
21 producer of precharged equipment containing covered refrigerants
22 participating in the plan; and

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

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

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

35 (e) Describes the mechanisms used for the collection and
36 consolidation of recovered covered refrigerants, as well as
37 destruction of any recovered covered refrigerants collected by the
38 program that are deemed too contaminated to be reclaimed by a
39 reclaimer certified by the United States environmental protection

1 agency, consistent with section 6 of this act, including the
2 financial incentives described in section 8 of this act that are to
3 be paid to persons that furnish covered refrigerants recovered from
4 equipment in the state;

5 (f) Identifies proposed transporters, processors, and facilities
6 to be used by the program for the reclamation, destruction, and final
7 disposition of covered refrigerants that are deemed too contaminated
8 to be reclaimed by a reclaimer certified by the United States
9 environmental protection agency;

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

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

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

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

22 (k) Additional information determined by the department to be
23 necessary to ensure effective implementation of the requirements of
24 this chapter by the refrigerant stewardship organization and
25 effective oversight of refrigerant stewardship organization
26 activities by the department.

27 (2) The department may:

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

31 (b) Require a refrigerant stewardship organization to implement
32 the amended plan.

33 (3) A refrigerant stewardship organization must submit an updated
34 plan to the department for approval no less frequently than every
35 five years. In addition, if required by the department, a refrigerant
36 stewardship organization must submit a new plan to the department for
37 approval:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) The development and maintenance of a website;
- 2 (b) The development and placement of graphic advertisements for
3 use on social media or other relevant media platforms;
- 4 (c) The development of promotional materials about the program to
5 be used by the refrigerant stewardship organization, government
6 agencies, and nonprofit organizations, businesses, and others;
- 7 (d) Educational promotional materials targeted towards service
8 technicians made available at each collection site used by the
9 refrigerant stewardship organization; and
- 10 (e) Educational materials to be used at the point of sale for
11 precharged equipment.
- 12 (2) During the first year of program implementation and every
13 five years thereafter, a refrigerant stewardship organization must
14 carry out a survey of the program's partner participants awareness to
15 determine the effectiveness of the requirements of the program and
16 awareness of the program established under this chapter. A
17 refrigerant stewardship organization must share the results of the
18 awareness surveys with the department, who may choose to make the
19 information public.
- 20 (3) If multiple refrigerant stewardship organizations are
21 implementing plans approved by the department, the refrigerant
22 stewardship organizations must coordinate in carrying out their
23 education and outreach responsibilities under this section and must
24 include in their annual reports to the department a summary of their
25 coordinated education and outreach efforts.

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

- 30 (a) The collection of recovered covered refrigerants;
- 31 (b) Education and outreach;
- 32 (c) Annual reporting to the department;
- 33 (d) The payments of a financial incentive to persons with a
34 United States environmental protection agency refrigerant
35 certification under section 608 or 609 of the federal clean air act
36 or the American innovation and manufacturing act of 2020, as they
37 existed as of January 1, 2024, that furnish recovered covered
38 refrigerants to the program for collection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (6) (a) To encourage persons to manage recovered covered
35 refrigerants through the program and to ensure that the program
36 targets established in section 5 of this act are achieved, a
37 refrigerant stewardship organization must propose in its plan, and
38 carry out in its program, the payment of a financial incentive for
39 each mass unit, such as pound of covered refrigerant, that a partner
40 participant registered with the refrigerant stewardship organization

1 furnishes to the program for management. Financial incentive payments
2 must be made, where appropriate, to the employer of the person
3 furnishing the covered refrigerant to the program for management, as
4 long as the employer of the person furnishing the covered refrigerant
5 provides a payment mechanism in which no less than 90 percent of the
6 value of the financial incentive is received by the person furnishing
7 the refrigerant to the program. Persons receiving financial
8 incentives must possess a refrigerant certification under section 608
9 or 609 of the federal clean air act or the American innovation and
10 manufacturing act of 2020, as they existed as of January 1, 2024.
11 This financial incentive is not required to be consistent with the
12 amount specified in subsection (2) of this section. A refrigerant
13 stewardship organization must demonstrate to the department that the
14 amount of the financial incentive for each unit of covered
15 refrigerant will be sufficient to incentivize the use of the program
16 by service technicians or other persons with unwanted recovered
17 covered refrigerant, to discourage illegal dumping or venting of
18 refrigerants or other pollutants, and must be in addition to any
19 other incentive payments offered for the same covered refrigerants or
20 precharged equipment through utility rebate, energy efficiency, or
21 other programs.

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

27 (i) The volume of recovered covered refrigerant furnished by a
28 partner participant;

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

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

36 (c) If the department determines that a refrigerant stewardship
37 organization has not met a performance target established in section
38 5 of this act, the department may require the refrigerant stewardship
39 organization to increase the value of the financial incentive
40 established under this subsection.

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

5 (7) A refrigerant stewardship organization must reimburse
6 demonstrable costs incurred at a collection site as a result of a
7 serving as a collection site for the program including, but not
8 limited to, associated labor costs, transportation costs, and other
9 costs associated with safety, accessibility, and operation of the
10 collection site. A refrigerant stewardship organization may provide
11 additional supports to facilitate the recovery of covered
12 refrigerants including, but not limited to, assistance for service
13 technicians in obtaining equipment to facilitate recovery of covered
14 refrigerants.

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 partner 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. To the
38 extent feasible, recordkeeping and reporting requirements applicable
39 to partner participants must be harmonized with the recordkeeping and
40 reporting requirements under chapter 70A.60 RCW and required by the

1 United States environmental protection agency. Partner participants
2 must report information to a refrigerant stewardship organization in
3 a form and manner prescribed by the refrigerant stewardship
4 organization, and consistent with the following:

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

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

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

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

23 NEW SECTION. **Sec. 11.** PROTECTION OF CONFIDENTIAL AND BUSINESS
24 SENSITIVE INFORMATION. A refrigerant stewardship organization may
25 request that the information or records be made available only for
26 the confidential use of the department, the director of the
27 department, or the appropriate division of the department. The
28 director of the department must give consideration to the request and
29 if this action is not detrimental to the public interest and is
30 otherwise in accordance with the policies and purposes of chapter
31 43.21A RCW, the director must grant the request for the information
32 to remain confidential as authorized in RCW 43.21A.160.

33 NEW SECTION. **Sec. 12.** ROLES AND RESPONSIBILITIES OF DEPARTMENT
34 OF ECOLOGY SECTION. (1) The department must implement, administer,
35 and enforce this chapter. By December 31, 2026, the department shall
36 adopt rules as necessary to implement, administer, and enforce this
37 chapter. If, after January 1, 2024, the United States environmental
38 protection agency updates the federal standards referenced in section

1 2 of this act, including the provisions referenced in the definitions
2 of "reclaimer," "service technician," "recovery," and "destruction"
3 in section 2 of this act, the department must notify the appropriate
4 committees of the legislature and recommend appropriate changes to
5 the definitions in section 2 of this act in order to maintain
6 consistency with federal law.

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

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

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

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

16 (iv) Send notice to a refrigerant stewardship organization of fee
17 amounts due consistent with rules adopted under (a)(iii) of this
18 subsection.

19 (b) The department must:

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

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

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

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

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

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

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

4 (B) Reasons for not approving a plan. A refrigerant stewardship
5 organization must submit a new or revised plan within 60 days after
6 receipt of the letter of disapproval. In the event that a new or
7 revised plan submitted by a refrigerant stewardship organization does
8 not sufficiently meet the requirements of this chapter, including any
9 deficiencies identified in the initial letter of disapproval, the
10 department may:

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

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

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

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

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

26 (b) Review the annual report within 120 days of receipt of a
27 complete annual report;

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

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

32 (ii) Reasons for not approving the annual report. The refrigerant
33 stewardship organization must submit a revised annual report within
34 60 days after receipt of the letter of disapproval;

35 (d) Notify a refrigerant stewardship organization if the annual
36 report demonstrates that the program and activities to implement the
37 plan fail to achieve the performance targets approved by the
38 department or otherwise fail to achieve significant requirements
39 under this chapter.

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

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

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

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

24 (7) If multiple refrigerant stewardship organizations form to
25 implement plans, and if requested by the refrigerant stewardship
26 organizations, the department may serve as a coordinating body or
27 oversee coordination of refrigerant stewardship organization plans.

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

32 (b) Prior to imposing penalties under this subsection, the
33 department must provide a person with a written warning for the first
34 violation by the person of the requirements of this chapter. The
35 written warning must inform the person that the person must
36 participate in an approved plan or otherwise come into compliance
37 with the requirements of this chapter within 30 days of the notice. A
38 person that violates a provision of this chapter after the initial

1 written warning may be assessed a penalty as provided in this
2 subsection.

3 (2) Upon the department notifying a refrigerant stewardship
4 organization that it has not met a significant requirement of this
5 chapter, the department may, in addition to assessing the penalties
6 provided in subsection (1) of this section, take any combination of
7 the following actions:

8 (a)(i) Issue corrective action orders to a producer or a
9 refrigerant stewardship organization;

10 (ii) Issue orders to a refrigerant stewardship organization to
11 provide for the continued implementation of the program in the
12 absence of an approved plan;

13 (b) Revoke the refrigerant stewardship organization's plan
14 approval and require the refrigerant stewardship organization to
15 implement its contingency plan;

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

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

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

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

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

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

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

4 (2) The cost and structure of a refrigerant stewardship
5 organization plan; and

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

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

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

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

20 refrigerant stewardship organization may not use funds collected for
21 purposes of implementing a plan required under this chapter
22 associated with:

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

24 (2) Administrative appeals of orders or penalties;

25 (3) Litigation between the refrigerant stewardship organization
26 and the state;

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

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

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

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

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

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

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

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

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

15 (2) This section is not subject to the requirements of RCW
16 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

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

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

29 (a) Civil penalties imposed pursuant to RCW 18.104.155,
30 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
31 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
32 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
33 70A.555.110, 70A.560.020, section 13 of this act, 76.09.170,
34 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
35 90.56.310, 90.56.330, and 90.64.102.

36 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
37 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
38 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 13 of this

1 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
2 90.56.330.

3 (c) Except as provided in RCW 90.03.210(2), the issuance,
4 modification, or termination of any permit, certificate, or license
5 by the department or any air authority in the exercise of its
6 jurisdiction, including the issuance or termination of a waste
7 disposal permit, the denial of an application for a waste disposal
8 permit, the modification of the conditions or the terms of a waste
9 disposal permit, or a decision to approve or deny an application for
10 a solid waste permit exemption under RCW 70A.205.260.

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

13 (e) Decisions of local health departments regarding the issuance
14 and enforcement of permits to use or dispose of biosolids under RCW
15 70A.226.090.

16 (f) Decisions of the department regarding waste-derived
17 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
18 decisions of the department regarding waste-derived soil amendments
19 under RCW 70A.205.145.

20 (g) Decisions of local conservation districts related to the
21 denial of approval or denial of certification of a dairy nutrient
22 management plan; conditions contained in a plan; application of any
23 dairy nutrient management practices, standards, methods, and
24 technologies to a particular dairy farm; and failure to adhere to the
25 plan review and approval timelines in RCW 90.64.026.

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

29 (i) Decisions of the department of natural resources, the
30 department of fish and wildlife, and the department that are
31 reviewable under chapter 76.09 RCW, and the department of natural
32 resources' appeals of county, city, or town objections under RCW
33 76.09.050(7).

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

36 (k) Decisions of the department of fish and wildlife to issue,
37 deny, condition, or modify a hydraulic project approval permit under
38 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
39 comply, to issue a civil penalty, or to issue a notice of intent to
40 disapprove applications.

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

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

7 (n) Decisions of the department of ecology that are appealable
8 under RCW 70A.245.020 to set recycled minimum postconsumer content
9 for covered products or to temporarily exclude types of covered
10 products in plastic containers from minimum postconsumer recycled
11 content requirements.

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

13 (2) The following hearings shall not be conducted by the hearings
14 board:

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

17 (b) Hearings conducted by the department pursuant to RCW
18 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
19 70A.15.3110, and 90.44.180.

20 (c) Appeals of decisions by the department under RCW 90.03.110
21 and 90.44.220.

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

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

27 **Sec. 20.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and
28 2023 c 135 s 7 are each reenacted and amended to read as follows:

29 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
30 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
31 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
32 70A.455.090, 70A.555.110, 70A.560.020, section 13 of this act,
33 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
34 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in
35 writing, either by certified mail with return receipt requested or by
36 personal service, to the person incurring the penalty from the
37 department or the local air authority, describing the violation with
38 reasonable particularity. For penalties issued by local air
39 authorities, within 30 days after the notice is received, the person

1 incurring the penalty may apply in writing to the authority for the
2 remission or mitigation of the penalty. Upon receipt of the
3 application, the authority may remit or mitigate the penalty upon
4 whatever terms the authority in its discretion deems proper. The
5 authority may ascertain the facts regarding all such applications in
6 such reasonable manner and under such rules as it may deem proper and
7 shall remit or mitigate the penalty only upon a demonstration of
8 extraordinary circumstances such as the presence of information or
9 factors not considered in setting the original penalty.

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

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

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

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

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

24 (4) If the amount of any penalty is not paid to the department
25 within 30 days after it becomes due and payable, the attorney
26 general, upon request of the department, shall bring an action in the
27 name of the state of Washington in the superior court of Thurston
28 county, or of any county in which the violator does business, to
29 recover the penalty. If the amount of the penalty is not paid to the
30 authority within 30 days after it becomes due and payable, the
31 authority may bring an action to recover the penalty in the superior
32 court of the county of the authority's main office or of any county
33 in which the violator does business. In these actions, the procedures
34 and rules of evidence shall be the same as in an ordinary civil
35 action.

36 (5) All penalties recovered shall be paid into the state treasury
37 and credited to the general fund except those penalties imposed
38 pursuant to RCW 18.104.155, which shall be credited to the
39 reclamation account as provided in RCW 18.104.155(7), RCW
40 70A.15.3160, the disposition of which shall be governed by that

1 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
2 to the recycling enhancement account created in RCW 70A.245.100, RCW
3 70A.300.090, 70A.555.110, (~~and~~) 70A.560.020, and section 13 of this
4 act, which shall be credited to the model toxics control operating
5 account created in RCW 70A.305.180, RCW 70A.65.200, which shall be
6 credited to the climate investment account created in RCW 70A.65.250,
7 RCW 90.56.330, which shall be credited to the coastal protection fund
8 created by RCW 90.48.390, and RCW 70A.355.070, which shall be
9 credited to the underground storage tank account created by RCW
10 70A.355.090.

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

13 NEW SECTION. **Sec. 22.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected."

17 Correct the title.

EFFECT: (1) Clarifies that precharged equipment required to participate in a refrigerant stewardship organization (RSO) does not include equipment that contains only covered refrigerant that is certified to be the responsibility of another producer.

(2) Allows producers to mutually sign an agreement with other producers to contractually assign responsibility for refrigerant stewardship organization participation requirements and provide written certification of that assignment to the RSO and department of ecology (ecology).

(3) Amends terminology used in the bill, including changing references from "nonproducer participants" to "partner participants," and replacing references to "bounties" with "financial incentive payments."

(4) Delays the requirement that partner participants register with a RSO until December 1, 2027, and makes registration a requirement only as precondition to receiving financial incentive payments from the RSO, rather than as a requirement applicable to all partner participants.

(5) Specifies that financial incentive payments by a RSO may only be made to persons with a refrigerant certification from the United States environmental protection agency, and must be made, where appropriate, to the employer of a service technician, rather than the person responsible for furnishing the refrigerant directly, as long as at least 90 percent of the financial incentive payment is passed through to the person directly responsible for furnishing the refrigerant.

(6) Eliminates requirements that the RSO manage and fund the transportation of collected covered refrigerants under the program.

(7) Requires the RSO to identify in its plan mechanisms and facilities used for the final disposition of covered refrigerants deemed too contaminated to be reclaimed.

(8) Eliminates the requirement that the per-pound producer charge to fund the RSO be \$7 per pound in 2028, and instead requires the RSO to propose an initial per-pound producer charge as part of the plan submitted to ecology for approval.

(9) Authorizes the RSO to retain a cash reserve to ensure its ability to pay financial incentives in future years of the program.

(10) Authorizes RSOs to provide additional supports to facilitate the recovery of covered refrigerants, including assistance for service technicians in obtaining equipment.

(11) Requires recordkeeping and reporting requirements for partner participants to be harmonized with other state or federal reporting requirements.

(12) Exempts the RSO's charges to participating producers and financial incentive payments to partner participants from the state's business and occupation tax.

--- END ---