
HOUSE BILL 2401

State of Washington

68th Legislature

2024 Regular Session

By Representatives Duerr, Doglio, Berry, Fitzgibbon, Ramel, and Pollet

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (ii) With respect to precharged equipment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (2)(a) Beginning January 1, 2028, each producer shall participate
22 in an approved refrigerant stewardship organization stewardship plan
23 and must conform with the operations of the refrigerant stewardship
24 organization in a manner consistent with section 4 of this act.

25 (b) Beginning July 1, 2025, a producer that does not participate
26 in a registered refrigerant stewardship organization and, beginning
27 July 1, 2028, participate in the implementation of the refrigerant
28 stewardship organization's plan is prohibited from selling bulk
29 covered refrigerants or precharged equipment in or into Washington.

30 (3) By July 1, 2027, each entity that is not a producer but
31 sells, resells, distributes, or otherwise enters into commerce bulk
32 covered refrigerants after the first point of sale shall register
33 with the refrigerant stewardship organization as a nonproducer
34 participant in the refrigerant stewardship organization. A
35 nonproducer participant may include, but is not limited to,
36 refrigerant distributors, wholesalers, reclaimers, and service
37 technicians. Nonproducer participants are not required to fund the
38 refrigerant stewardship organization but may be recipients of
39 financial incentives aimed at enhancing refrigerant recovery.

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

6 (4) Beginning January 1, 2029, producers, through the refrigerant
7 stewardship organization, shall implement the plan approved by the
8 department as outlined in section 4 of this act.

9 NEW SECTION. **Sec. 4.** STEWARDSHIP PLAN COMPONENTS. (1) By July
10 1, 2028, the refrigerant stewardship organization must submit a plan
11 to the department for review and approval. Within 180 days of
12 submission, the department must review and may approve a plan
13 provided it contains and adequately addresses the following
14 components:

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

16 (b) (i) Identifies the brands and equipment models of each
17 producer of precharged equipment containing covered refrigerants
18 participating in the plan; and

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

21 (c) Proposes the implementation mechanisms through which the
22 program expects to meet the requirements of the performance
23 assessment established in section 5 of this act and describes the
24 methods used to calculate whether the program is achieving its
25 performance assessment;

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

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

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

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

7 (h) The performance goals and targets established consistent with
8 section 5 of this act;

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

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

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

18 (2) The department may amend the plan submitted for approval
19 under subsection (1) of this section if necessary to render the plan
20 in compliance with a significant requirement of this chapter and may
21 require a refrigerant stewardship organization to implement the
22 amended plan.

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

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

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

33 NEW SECTION. **Sec. 5.** PERFORMANCE MEASUREMENTS. (1) In plans
34 submitted under section 4 of this act, the refrigerant stewardship
35 organization shall set reasonable interim annual performance targets
36 to achieve the 2032 target.

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

1 (3) The department shall review the interim annual performance
2 targets set by the refrigerant stewardship organization and may
3 adjust the target annual recovery rates in subsequent years beyond
4 2032 with the goal of optimizing refrigerant recovery.

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

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

19 NEW SECTION. **Sec. 6.** COLLECTION AND MANAGEMENT. (1) The
20 refrigerant stewardship organization must provide for the collection
21 of all covered refrigerants recovered by any person from within the
22 state of Washington. A fee may not be charged at the time covered
23 refrigerants are collected at a collection site or directly from a
24 person and a financial incentive must be paid to a service technician
25 who recovers the covered refrigerant, consistent with section 8 of
26 this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) The collection, transport, and processing of recovered
20 covered refrigerants;

21 (b) Education and outreach;

22 (c) Annual reporting to the department;

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

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

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

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

37 (b) The system of charges must apply equally regardless of
38 whether that refrigerant is contained in precharged equipment or

1 manufactured, imported, distributed, or sold directly onto the market
2 as bulk covered refrigerants.

3 (c) In 2029, an initial rate of at least \$7.00 per pound of
4 covered refrigerant must be used to calculate the charges due from
5 producers in the first year of the program.

6 (d) In subsequent years, the charges due from producers may be
7 adjusted as follows:

8 (i) The refrigerant stewardship organization may propose an
9 adjustment to the department to adjust the rate based on the
10 performance assessment described in section 5 of this act, and the
11 department may review and make a determination whether to approve the
12 adjustment; or

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

15 (e) Applicable no earlier than in calendar year 2031 of program
16 operations, and using the process specified in (d) of this
17 subsection, the refrigerant stewardship organization's system of
18 charge may utilize an assessment that is weighted based on the global
19 warming potential of each covered refrigerant, with a proportionally
20 higher fee being assessed for gases with comparatively higher global
21 warming potential.

22 (3) The system of charges must use ecomodulated fees to encourage
23 the use of design attributes that reduce the environmental impacts of
24 covered refrigerants. Examples of ecomodulated fees include, but are
25 not limited to:

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

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

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

31 (4) The refrigerant stewardship organization is responsible for
32 all costs of recovered covered refrigerant collection,
33 transportation, processing, education, administration, and agency
34 reimbursement in accordance with best environmental management
35 practices.

36 (5) The refrigerant stewardship organization is not authorized to
37 reduce or cease collection, education and outreach, or other
38 activities implemented under an approved plan based on the
39 achievement of program performance goals or achieving a level of

1 programmatic efficacy that is higher than that required in section 5
2 of this act.

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

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

24 (i) The volume of recovered covered refrigerant furnished by a
25 person;

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

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

33 (7) The refrigerant stewardship organization must reimburse
34 demonstrable costs incurred at a collection site as a result of a
35 serving as a collection site for the program including, but not
36 limited to, associated labor costs, transportation costs, and other
37 costs associated with safety, accessibility, and operation of the
38 collection site.

39 (8) It is the intent of the legislature to not incentivize
40 refrigerant destruction under this chapter. As the nationwide

1 hydrofluorocarbon phasedown ramps down the use of hydrofluorocarbon
2 refrigerants, the department may evaluate the benefits of
3 incentivizing destruction. On or after January 1, 2035, the
4 department may, by rule, set an incentive for destruction of covered
5 refrigerants which may not be used for any carbon credits or other
6 greenhouse gas offset credits, including under chapter 70A.65 RCW.

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

20 NEW SECTION. **Sec. 9.** ROLE OF RETAIL ESTABLISHMENTS SELLING
21 PRECHARGED EQUIPMENT. (1) Beginning July 1, 2029, retail
22 establishments may not sell, offer for sale, otherwise make available
23 for sale, install, or otherwise furnish to customers a covered
24 refrigerant precharged equipment unless the producer of the covered
25 refrigerant participates in a refrigerant stewardship organization.

26 (2) A refrigerant service provider or retail establishment is in
27 compliance with the requirements of subsection (1) of this section
28 and is not subject to penalties as long as the website made available
29 by the department under section 12 of this act lists, as of the date
30 a product is made available for retail sale, a producer of a covered
31 product, or brand and appliance model of a covered appliance, sold by
32 the retail establishment or refrigerant service provider as being a
33 participant in an approved plan or the implementer of an approved
34 plan.

35 (3) A retail establishment that sells precharged equipment
36 containing covered refrigerant is not required to make retail
37 locations available to serve as collection sites or services for a
38 program operated by a refrigerant stewardship organization. However,
39 a retail establishment that agrees to make a retail location

1 available to serve as a collection site or otherwise offers
2 refrigerant recovery services for a program must comply with the
3 requirements for collection sites and service providers, consistent
4 with section 6 of this act.

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

20 (a) Emphasize to consumers the importance of using the program
21 established under this chapter for unwanted covered products;

22 (b) Encourage customers to choose a service technician
23 participating in the program and encourage customers to confirm with
24 their service technician that the customer's refrigerants will be
25 reclaimed; and

26 (c) Identify the prohibitions under federal law and chapters
27 70A.15 and 70A.60 RCW on the willful release of refrigerants.

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

33 NEW SECTION. **Sec. 10.** REPORTING AND RECORDKEEPING REQUIREMENTS
34 FOR THE REFRIGERANT STEWARDSHIP ORGANIZATION, PRODUCERS, AND
35 PARTICIPANTS. (1) By June 1, 2030, and each June 1st thereafter, the
36 refrigerant stewardship organization must submit an annual report to
37 the department covering the preceding calendar year of program
38 implementation. The report must include:

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

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

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

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

15 (ii) The quantity of each type of recovered covered refrigerant
16 and the management outcomes of those recovered covered refrigerants
17 as to reclamation, destruction, or transportation for those purposes,
18 or any maintained stocks;

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

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

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

29 (g) Any changes to:

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

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

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

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

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

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

8 (3) The nonproducer participants in the refrigerant stewardship
9 organization, such as distributors and wholesalers of bulk covered
10 refrigerants or precharged equipment, are required to keep records of
11 information needed by the refrigerant stewardship organization to
12 fulfill the refrigerant stewardship organization's reporting
13 requirements listed in this section and to aid the performance
14 assessment requirements listed in section 5 of this act. Nonproducer
15 participants must report information to the refrigerant stewardship
16 organization in a form and manner prescribed by the refrigerant
17 stewardship organization, and consistent with the following:

18 (a) By March 31, 2029, and every year thereafter, distributors
19 and wholesalers must report to the refrigerant stewardship
20 organization quantities and types of covered refrigerants sold to
21 them by each producer and subsequently resold by them for use in the
22 state of Washington, and not neighboring states, in the prior year;

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

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

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

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

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

5 NEW SECTION. **Sec. 12.** ROLES AND RESPONSIBILITIES OF DEPARTMENT
6 OF ECOLOGY SECTION. (1) The department must implement, administer,
7 and enforce this chapter. By December 31, 2027, the department shall
8 adopt rules as necessary to implement, administer, and enforce this
9 chapter. If, after January 1, 2024, the United States environmental
10 protection agency updates the federal standards referenced in section
11 2 of this act, including the provisions referenced in the definitions
12 of "reclaimer," "service technician," "recovery," and "destruction"
13 in section 2 of this act, the department must notify the appropriate
14 committees of the legislature and recommend appropriate changes to
15 the definitions in section 2 of this act in order to maintain
16 consistency with federal law.

17 (2)(a) By April 1, 2028, and every April 1st thereafter, the
18 department must:

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

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

24 (iii) By December 31, 2027, adopt rules to equitably determine
25 the annual fee payment by the refrigerant stewardship organization;
26 and

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

30 (b) The department must:

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

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

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

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

7 (ii) Review new, updated, and revised refrigerant stewardship
8 organization plans within 180 days of receipt of a complete plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (2) Administrative appeals of orders or penalties;

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

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

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

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

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

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

12 BUSINESS AND OCCUPATION TAX EXEMPTION. (1) This chapter does not
13 apply to the receipts of a refrigerant stewardship organization
14 formed under chapter 70A.--- RCW (the new chapter created in section
15 22 of this act) from charges to participating producers under a
16 stewardship plan as provided in section 8 of this act.

17 (2) This section is not subject to the requirements of RCW
18 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

21 **Sec. 19.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
22 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
23 read as follows:

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

31 (a) Civil penalties imposed pursuant to RCW 18.104.155,
32 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
33 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
34 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
35 70A.555.110, 70A.560.020, section 13 of this act, 76.09.170,
36 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
37 90.56.310, 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
3 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 13 of this
4 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
5 90.56.330.

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

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

16 (e) Decisions of local health departments regarding the issuance
17 and enforcement of permits to use or dispose of biosolids under RCW
18 70A.226.090.

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

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

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

32 (i) Decisions of the department of natural resources, the
33 department of fish and wildlife, and the department that are
34 reviewable under chapter 76.09 RCW, and the department of natural
35 resources' appeals of county, city, or town objections under RCW
36 76.09.050(7).

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

39 (k) Decisions of the department of fish and wildlife to issue,
40 deny, condition, or modify a hydraulic project approval permit under

1 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
2 comply, to issue a civil penalty, or to issue a notice of intent to
3 disapprove applications.

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

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

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

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

16 (2) The following hearings shall not be conducted by the hearings
17 board:

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

20 (b) Hearings conducted by the department pursuant to RCW
21 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
22 70A.15.3110, and 90.44.180.

23 (c) Appeals of decisions by the department under RCW 90.03.110
24 and 90.44.220.

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

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

30 **Sec. 20.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and
31 2023 c 135 s 7 are each reenacted and amended to read as follows:

32 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
33 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
34 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
35 70A.455.090, 70A.555.110, 70A.560.020, section 13 of this act,
36 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
37 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in
38 writing, either by certified mail with return receipt requested or by
39 personal service, to the person incurring the penalty from the

1 department or the local air authority, describing the violation with
2 reasonable particularity. For penalties issued by local air
3 authorities, within 30 days after the notice is received, the person
4 incurring the penalty may apply in writing to the authority for the
5 remission or mitigation of the penalty. Upon receipt of the
6 application, the authority may remit or mitigate the penalty upon
7 whatever terms the authority in its discretion deems proper. The
8 authority may ascertain the facts regarding all such applications in
9 such reasonable manner and under such rules as it may deem proper and
10 shall remit or mitigate the penalty only upon a demonstration of
11 extraordinary circumstances such as the presence of information or
12 factors not considered in setting the original penalty.

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

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

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

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

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

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

39 (5) All penalties recovered shall be paid into the state treasury
40 and credited to the general fund except those penalties imposed

1 pursuant to RCW 18.104.155, which shall be credited to the
2 reclamation account as provided in RCW 18.104.155(7), RCW
3 70A.15.3160, the disposition of which shall be governed by that
4 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
5 to the recycling enhancement account created in RCW 70A.245.100, RCW
6 70A.300.090, 70A.555.110, and 70A.560.020, which shall be credited to
7 the model toxics control operating account created in RCW
8 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
9 investment account created in RCW 70A.65.250, RCW 90.56.330, which
10 shall be credited to the coastal protection fund created by RCW
11 90.48.390, ~~((and))~~ RCW 70A.355.070, which shall be credited to the
12 underground storage tank account created by RCW 70A.355.090, and
13 section 13 of this act, which shall be credited to the climate
14 commitment account created in RCW 70A.65.260.

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

17 (1) The climate commitment account is created in the state
18 treasury. The account must receive moneys distributed to the account
19 from the climate investment account created in RCW 70A.65.250 and
20 from penalties imposed under section 13 of this act. Moneys in the
21 account may be spent only after appropriation. Projects, activities,
22 and programs eligible for funding from the account must be physically
23 located in Washington state and include, but are not limited to, the
24 following:

25 (a) Implementing the working families' tax credit in RCW
26 82.08.0206;

27 (b) Supplementing the growth management planning and
28 environmental review fund established in RCW 36.70A.490 for the
29 purpose of making grants or loans to local governments for the
30 purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and
31 36.70A.600, for costs associated with RCW 36.70A.610, and to cover
32 costs associated with the adoption of optional elements of
33 comprehensive plans consistent with RCW 43.21C.420;

34 (c) Programs, activities, or projects that reduce and mitigate
35 impacts from greenhouse gases and copollutants in overburdened
36 communities, including strengthening the air quality monitoring
37 network to measure, track, and better understand air pollution levels
38 and trends and to inform the analysis, monitoring, and pollution
39 reduction measures required in RCW 70A.65.020;

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

5 (e) Programs, activities, or projects that increase the energy
6 efficiency or reduce greenhouse gas emissions of industrial
7 facilities including, but not limited to, proposals to implement
8 combined heat and power, district energy, or on-site renewables, such
9 as solar and wind power, to upgrade the energy efficiency of existing
10 equipment, to reduce process emissions, and to switch to less
11 emissions intensive fuel sources;

12 (f) Programs, activities, or projects that achieve energy
13 efficiency or emissions reductions in the agricultural sector
14 including:

15 (i) Fertilizer management;

16 (ii) Soil management;

17 (iii) Bioenergy;

18 (iv) Biofuels;

19 (v) Grants, rebates, and other financial incentives for
20 agricultural harvesting equipment, heavy duty trucks, agricultural
21 pump engines, tractors, and other equipment used in agricultural
22 operations;

23 (vi) Grants, loans, or any financial incentives to food
24 processors to implement projects that reduce greenhouse gas
25 emissions;

26 (vii) Renewable energy projects;

27 (viii) Farmworker housing weatherization programs;

28 (ix) Dairy digester research and development;

29 (x) Alternative manure management; and

30 (xi) Eligible fund uses under RCW 89.08.615;

31 (g) Programs, activities, or projects that increase energy
32 efficiency in new and existing buildings, or that promote low carbon
33 architecture, including use of newly emerging alternative building
34 materials that result in a lower carbon footprint in the built
35 environment over the life cycle of the building and component
36 building materials;

37 (h) Programs, activities, or projects that promote the
38 electrification and decarbonization of new and existing buildings,
39 including residential, commercial, and industrial buildings;

1 (i) Programs, activities, or projects that improve energy
2 efficiency, including district energy, and investments in market
3 transformation of high efficiency electric appliances and equipment
4 for space and water heating;

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

10 (i) Programs, activities, or projects that directly improve
11 energy affordability and reduce the energy burden of people with
12 lower incomes, as well as the higher transportation fuel burden of
13 rural residents, such as bill assistance, energy efficiency, and
14 weatherization programs;

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

18 (iii) Programs, activities, or other worker-support projects for
19 bargaining unit and nonsupervisory fossil fuel workers who are
20 affected by the transition away from fossil fuels to a clean energy
21 economy. Worker support may include, but is not limited to: (A) Full
22 wage replacement, health benefits, and pension contributions for
23 every worker within five years of retirement; (B) full wage
24 replacement, health benefits, and pension contributions for every
25 worker with at least one year of service for each year of service up
26 to five years of service; (C) wage insurance for up to five years for
27 workers reemployed who have more than five years of service; (D) up
28 to two years of retraining costs, including tuition and related
29 costs, based on in-state community and technical college costs; (E)
30 peer counseling services during transition; (F) employment placement
31 services, prioritizing employment in the clean energy sector; and (G)
32 relocation expenses;

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

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

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

1 (v) Transportation, municipal service delivery, and technology
2 investments that increase a community's capacity for clean
3 manufacturing, with an emphasis on communities in greatest need of
4 job creation and economic development and potential for commute
5 reduction;

6 (k) Programs, activities, or projects that reduce emissions from
7 landfills and waste-to-energy facilities through diversion of organic
8 materials, methane capture or conversion strategies, installation of
9 gas collection devices and gas control systems, monitoring and
10 reporting of methane emissions, or other means, prioritizing funding
11 needed for any activities by local governments to comply with chapter
12 70A.540 RCW;

13 (l) Carbon dioxide removal projects, programs, and activities;
14 and

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

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

28 (3) During the 2023-2025 fiscal biennium, the legislature may
29 appropriate moneys from the climate commitment account for activities
30 related to environmental justice, including implementation of chapter
31 314, Laws of 2021.

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

34 NEW SECTION. **Sec. 23.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

--- **END** ---