
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1050

State of Washington

67th Legislature

2021 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Ortiz-Self, Leavitt, Duerr, Chopp, Ramel, Peterson, Goodman, Ryu, Callan, Ramos, Ormsby, Pollet, Stonier, Fey, Macri, and Bergquist)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to reducing greenhouse gas emissions from
2 fluorinated gases; amending RCW 70A.15.6410, 70A.15.6420,
3 70A.15.6430, 70A.45.080, 19.27.580, 70A.15.1010, 70A.15.3150,
4 70A.15.3160, 19.285.040, 19.27A.220, and 39.26.310; reenacting and
5 amending RCW 70A.45.010; adding a new chapter to Title 70A RCW;
6 creating new sections; recodifying RCW 70A.45.080, 70A.15.6410,
7 70A.15.6420, and 70A.15.6430; and providing an effective date.

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

9 NEW SECTION. **Sec. 1.** (1) The legislature finds that
10 hydrofluorocarbons are air pollutants that pose significant threats
11 to our environment. Although hydrofluorocarbons currently represent a
12 small proportion of the state's greenhouse gas emissions, emissions
13 of hydrofluorocarbons have been rapidly increasing in the United
14 States and worldwide, and they are hundreds to thousands of times
15 more potent than carbon dioxide. In 2019, the legislature took a
16 significant step towards reducing greenhouse gas emissions from
17 hydrofluorocarbons by transitioning to the use of less damaging
18 hydrofluorocarbons or suitable substitutes in certain new foam,
19 aerosol, and refrigerant uses. However, significant sources of
20 hydrofluorocarbon emissions in Washington remain unaddressed by the
21 2019 legislation, including legacy uses of hydrofluorocarbons as a

1 refrigerant in infrastructure that was installed prior to the
2 effective dates of the restrictions in the 2019 law, and from sources
3 like stationary air conditioners and heat pumps that were not covered
4 by the 2019 law.

5 (2) Therefore, it is the intent of the legislature to reduce
6 hydrofluorocarbon emissions, including by:

7 (a) Authorizing the establishment of a maximum global warming
8 potential threshold for hydrofluorocarbons used as a refrigerant;

9 (b) Authorizing the regulation of hydrofluorocarbons in air
10 conditioning and heat pumps;

11 (c) Applying the same basic emission control requirements to
12 hydrofluorocarbons that have long applied to ozone-depleting
13 substances used as refrigerants;

14 (d) Establishing a program to reduce leaks and encourage
15 refrigerant recovery from large refrigeration and air conditioning
16 systems;

17 (e) Directing the state building code council to adopt codes that
18 are consistent with the goal of reducing greenhouse gas emissions
19 associated with hydrofluorocarbons;

20 (f) Establishing a state procurement preference for recycled
21 refrigerants; and

22 (g) Allowing consideration of the global warming potential of
23 refrigerants used in equipment incentivized under utility
24 conservation programs.

25 (3) Furthermore, it is the intent of the legislature that the ice
26 rink used by Seattle's newest hockey franchise, the Seattle Kraken,
27 should be as cold as possible, but also should be refrigerated using
28 climate-friendly refrigerants, so that on opening night of the
29 2021-2022 National Hockey League season, as many fans as possible can
30 simultaneously yell the Pacific Northwest's favorite new phrase:
31 'Release the Kraken!'

32 NEW SECTION. **Sec. 2.** (1)(a) "Air conditioning" means the
33 process of treating air to meet the requirements of a conditioned
34 space by controlling its temperature, humidity, cleanliness, or
35 distribution.

36 (b)(i) "Air conditioning" includes chillers, except for purposes
37 of section 8 of this act.

38 (ii) "Air conditioning" includes heat pumps.

1 (c) "Air conditioning" applies to stationary air conditioning
2 equipment and does not apply to mobile air conditioning, including
3 those used in motor vehicles, rail and trains, aircraft, watercraft,
4 recreational vehicles, recreational trailers, and campers.

5 (2) "Class I substance" and "class II substance" means those
6 substances listed in 42 U.S.C. Sec. 7671a, as of November 15, 1990,
7 or those substances listed in Appendix A or B of Subpart A of 40
8 C.F.R. Part 82, as of January 3, 2017.

9 (3) "Department" means the department of ecology.

10 (4) "Hydrofluorocarbons" means a class of greenhouse gases that
11 are saturated organic compounds containing hydrogen, fluorine, and
12 carbon.

13 (5) "Ice rink" means a frozen body of water, hardened chemicals,
14 or both, including, but not limited to, professional ice skating
15 rinks and those used by the general public for recreational purposes.

16 (6) "Manufacturer" includes any person, firm, association,
17 partnership, corporation, governmental entity, organization, or joint
18 venture that produces any product that contains or uses
19 hydrofluorocarbons or is an importer or domestic distributor of such
20 a product.

21 (7) "Person" means an individual, partnership, franchise holder,
22 association, corporation, a state, a city, a county, or any
23 subdivision or instrumentality of the state.

24 (8) "Refrigeration equipment" or "refrigeration system" means any
25 stationary device that is designed to contain and use refrigerant.
26 "Refrigeration equipment" includes refrigeration equipment used in
27 retail food, cold storage, industrial process refrigeration and
28 cooling that does not use a chiller, ice rinks, and other
29 refrigeration applications.

30 (9) "Regulated refrigerant" means a class I or class II substance
31 as listed in Title VI of section 602 of the federal clean air act
32 amendments of November 15, 1990.

33 (10) "Residential consumer refrigeration products" has the same
34 meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part
35 430 (2017).

36 (11) "Retrofit" has the same meaning as defined in section 152 of
37 Subpart F of 40 C.F.R. Part 82, as that section existed as of January
38 3, 2017.

39 (12) "Substitute" means a chemical, product, or alternative
40 manufacturing process, whether existing or new, that is used to

1 perform a function previously performed by a class I substance or
2 class II substance and any chemical, product, or alternative
3 manufacturing process subsequently developed, adapted, or adopted to
4 perform that function including, but not limited to,
5 hydrofluorocarbons. "Substitute" does not include 2-BTP or any
6 compound as applied to its use in aerospace fire extinguishing
7 systems.

8 **Sec. 3.** RCW 70A.45.010 and 2020 c 79 s 5 are each reenacted and
9 amended to read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Carbon dioxide equivalents" means a metric measure used to
13 compare the emissions from various greenhouse gases based upon their
14 global warming potential.

15 (2) "Carbon sequestration" means the process of capturing and
16 storing atmospheric carbon dioxide through biologic, chemical,
17 geologic, or physical processes.

18 (3) (~~"Class I substance" and "class II substance" means those~~
19 ~~substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15,~~
20 ~~1990, or those substances listed in Appendix A or B of Subpart A of~~
21 ~~40 C.F.R. Part 82, as those read on January 3, 2017.~~

22 ~~(4))~~ (4) "Climate advisory team" means the stakeholder group formed
23 in response to executive order 07-02.

24 ~~((5))~~ (4) "Climate impacts group" means the University of
25 Washington's climate impacts group.

26 ~~((6))~~ (5) "Department" means the department of ecology.

27 ~~((7))~~ (6) "Director" means the director of the department.

28 ~~((8))~~ (7) "Greenhouse gas" and "greenhouse gases" includes
29 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
30 perfluorocarbons, sulfur hexafluoride, and any other gas or gases
31 designated by the department by rule.

32 ~~((9) "Hydrofluorocarbons" means a class of greenhouse gases that~~
33 ~~are saturated organic compounds containing hydrogen, fluorine, and~~
34 ~~carbon.~~

35 ~~(10) "Manufacturer" includes any person, firm, association,~~
36 ~~partnership, corporation, governmental entity, organization, or joint~~
37 ~~venture that produces any product that contains or uses~~
38 ~~hydrofluorocarbons or is an importer or domestic distributor of such~~
39 ~~a product.~~

1 ~~(11))~~ (8) "Person" means an individual, partnership, franchise
2 holder, association, corporation, a state, a city, a county, or any
3 subdivision or instrumentality of the state.

4 ~~((12))~~ (9) "Program" means the department's climate change
5 program.

6 ~~((13) "Residential consumer refrigeration products" has the same
7 meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part
8 430 (2017)).~~

9 ~~(14) "Retrofit" has the same meaning as defined in section 152 of
10 Subpart F of 40 C.F.R. Part 82, as that section existed as of January
11 3, 2017.~~

12 ~~(15) "Substitute" means a chemical, product substitute, or
13 alternative manufacturing process, whether existing or new, that is
14 used to perform a function previously performed by a class I
15 substance or class II substance and any substitute subsequently
16 adopted to perform that function, including, but not limited to,
17 hydrofluorocarbons. "Substitute" does not include 2-BTP or any
18 compound as applied to its use in aerospace fire extinguishing
19 systems.~~

20 ~~(16))~~ (10) "Western climate initiative" means the collaboration
21 of states, Canadian provinces, Mexican states, and tribes to design a
22 multisector market-based mechanism as directed under the western
23 regional climate action initiative signed by the governor on February
24 22, 2007.

25 **Sec. 4.** RCW 70A.15.6410 and 1991 c 199 s 602 are each amended to
26 read as follows:

27 ~~(1) ((Regulated refrigerant means a class I or class II substance
28 as listed in Title VI of section 602 of the federal clean air act
29 amendments of November 15, 1990.~~

30 ~~(2))~~ A person who services or repairs or disposes of a motor
31 vehicle air conditioning system; commercial or industrial air
32 conditioning, heating, or refrigeration system; or consumer appliance
33 shall use refrigerant extraction equipment to recover regulated
34 refrigerants and substitutes that would otherwise be released into
35 the atmosphere. ~~((This subsection does not apply to off-road
36 commercial equipment.~~

37 ~~(3))~~ (2) Upon request, the department shall provide information
38 and assistance to persons interested in collecting, transporting, or
39 recycling regulated refrigerants and substitutes.

1 ~~((4))~~ (3) The willful release of regulated refrigerants and
2 substitutes from a source listed in subsection ~~((2))~~ (1) of this
3 section is prohibited.

4 **Sec. 5.** RCW 70A.15.6420 and 1991 c 199 s 603 are each amended to
5 read as follows:

6 No person may sell, offer for sale, or purchase any of the
7 following:

8 (1) A substitute with a global warming potential of greater than
9 150 or a regulated refrigerant in a container designed for consumer
10 recharge of a motor vehicle air conditioning system or consumer
11 appliance during repair or service~~((This subsection does not apply~~
12 ~~to a regulated refrigerant purchased for the recharge of the air~~
13 ~~conditioning system of off-road commercial or agricultural equipment~~
14 ~~and sold or offered for sale at an establishment which specializes in~~
15 ~~the sale of off-road commercial or agricultural equipment or parts or~~
16 ~~service for such equipment))~~);

17 (2) Nonessential consumer products that contain
18 hydrofluorocarbons with a global warming potential of greater than
19 150 and chlorofluorocarbons or other ozone-depleting chemicals, and
20 for which ~~((substitutes))~~ suitable alternatives are readily
21 available. Products affected under this subsection shall include, but
22 are not limited to, party streamers, tire inflators, air horns, noise
23 makers, and ~~((chlorofluorocarbon-containing))~~ cleaning sprays
24 designed for noncommercial or nonindustrial cleaning of electronic or
25 photographic equipment. Products and equipment subject to
26 restrictions on applications or end uses under RCW 70A.45.080 (as
27 recodified by this act) are not nonessential products for which
28 hydrofluorocarbons are restricted under this section.

29 **Sec. 6.** RCW 70A.15.6430 and 2020 c 20 s 1160 are each amended to
30 read as follows:

31 The department shall adopt rules to implement RCW 70A.15.6410 and
32 70A.15.6420 (as recodified by this act). Rules shall include but not
33 be limited to minimum performance specifications for refrigerant
34 extraction equipment, procedures under which owners or operators of
35 stationary refrigeration equipment and air conditioning equipment
36 subject to the requirements of section 9 of this act must provide the
37 department with information related to their use of regulated
38 refrigerants and substitutes, as well as procedures for enforcing RCW

1 70A.15.6410 and 70A.15.6420 (as recodified by this act) and section 8
2 of this act.

3 ~~((Enforcement provisions adopted by the department shall not~~
4 ~~include penalties or fines in areas where equipment to collect or~~
5 ~~recycle regulated refrigerants is not readily available.))~~

6 **Sec. 7.** RCW 70A.45.080 and 2020 c 20 s 1404 are each amended to
7 read as follows:

8 (1) A person may not offer any product or equipment for sale,
9 lease, or rent, or install or otherwise cause any equipment or
10 product to enter into commerce in Washington if that equipment or
11 product consists of, uses, or will use a substitute, as set forth in
12 appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on
13 January 3, 2017, for the applications or end uses restricted by
14 appendix U or V of the federal regulation, as those read on January
15 3, 2017, consistent with the deadlines established in subsection (2)
16 of this section. Except where existing equipment is retrofit, nothing
17 in this subsection requires a person that acquired a restricted
18 product or equipment prior to the effective date of the restrictions
19 in subsection (2) of this section to cease use of that product or
20 equipment. Products or equipment manufactured prior to the applicable
21 effective date of the restrictions specified in subsection (2) of
22 this section may be sold, imported, exported, distributed, installed,
23 and used after the specified effective date.

24 (2) The restrictions under subsection (1) of this section for the
25 following products and equipment identified in appendix U and V,
26 Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017,
27 take effect beginning:

28 (a) January 1, 2020, for:

29 (i) Propellants;

30 (ii) Rigid polyurethane applications and spray foam, flexible
31 polyurethane, integral skin polyurethane, flexible polyurethane foam,
32 polystyrene extruded sheet, polyolefin, phenolic insulation board,
33 and bunstock;

34 (iii) Supermarket systems, remote condensing units, and stand-
35 alone units (~~(, and vending machines)~~);

36 (b) January 1, 2021, for:

37 (i) Refrigerated food processing and dispensing equipment;

38 (ii) Compact residential consumer refrigeration products;

1 (iii) Polystyrene extruded boardstock and billet, and rigid
2 polyurethane low-pressure two component spray foam;

3 (c) January 1, 2022, for (~~residential~~):

4 (i) Residential consumer refrigeration products other than
5 compact and built-in residential consumer refrigeration products; and

6 (ii) Vending machines;

7 (d) January 1, 2023, for cold storage warehouses;

8 (e) January 1, 2023, for built-in residential consumer
9 refrigeration products;

10 (f) January 1, 2024, for centrifugal chillers and positive
11 displacement chillers; and

12 (g) On either January 1, 2020, or the effective date of the
13 restrictions identified in appendix U and V, Subpart G of 40 C.F.R.
14 Part 82, as those read on January 3, 2017, whichever comes later, for
15 all other applications and end uses for substitutes not covered by
16 the categories listed in (a) through (f) of this subsection.

17 (3) The department may by rule:

18 (a) Modify the effective date of a prohibition established in
19 subsection (2) of this section if the department determines that the
20 rule reduces the overall risk to human health or the environment and
21 reflects the earliest date that a substitute is currently or
22 potentially available;

23 (b) Prohibit the use of a substitute if the department determines
24 that the prohibition reduces the overall risk to human health or the
25 environment and that a lower risk substitute is currently or
26 potentially available;

27 (c) (i) Adopt a list of approved substitutes, use conditions, or
28 use limits, if any; and

29 (ii) Add or remove substitutes, use conditions, or use limits to
30 or from the list of approved substitutes if the department determines
31 those substitutes reduce the overall risk to human health and the
32 environment; and

33 (d) Designate acceptable uses of hydrofluorocarbons for medical
34 uses that are exempt from the requirements of subsection (2) of this
35 section.

36 (4) (~~(a) Within twelve months of another state's enactment or~~
37 ~~adoption of restrictions on substitutes applicable to new light duty~~
38 ~~vehicles, the department may adopt restrictions applicable to the~~
39 ~~sale, lease, rental, or other introduction into commerce by a~~
40 ~~manufacturer of new light duty vehicles consistent with the~~

1 ~~restrictions identified in appendix B, Subpart G of 40 C.F.R. Part~~
2 ~~82, as it read on January 3, 2017. The department may not adopt~~
3 ~~restrictions that take effect prior to the effective date of~~
4 ~~restrictions adopted or enacted in at least one other state.~~

5 ~~(b) If the United States environmental protection agency approves~~
6 ~~a previously prohibited hydrofluorocarbon blend with a global warming~~
7 ~~potential of seven hundred fifty or less for foam blowing of~~
8 ~~polystyrene extruded boardstock and billet and rigid polyurethane~~
9 ~~low-pressure two-component spray foam pursuant to the significant new~~
10 ~~alternatives policy program under section 7671(k) of the federal~~
11 ~~clean air act (42 U.S.C. Sec. 7401 et seq.), the department must~~
12 ~~expeditiously propose a rule consistent with RCW 34.05.320 to conform~~
13 ~~the requirements established under this section with that federal~~
14 ~~action.~~

15 ~~(5) A manufacturer must disclose the substitutes used in its~~
16 ~~products or equipment.)) The department shall adopt rules requiring~~
17 ~~that manufacturers disclose the substitutes used in their products or~~
18 ~~equipment or to disclose the compliance status of their products or~~
19 ~~equipment. That disclosure must take the form of:~~

20 (a) A label on the equipment or product. The label must meet
21 requirements designated by the department by rule. To the extent
22 feasible, the department must recognize existing labeling that
23 provides sufficient disclosure of the use of substitutes in the
24 product or equipment or of the compliance status of the products or
25 equipment.

26 (i) The department must consider labels required by state
27 building codes and other safety standards in its rule making; and

28 (ii) The department may not require labeling of aircraft and
29 aircraft components subject to certification requirements of the
30 federal aviation administration.

31 (b) Submitting information about the use of substitutes to the
32 department, upon request.

33 (i) By December 31, 2019, all manufacturers must notify the
34 department of the status of each product class utilizing
35 hydrofluorocarbons or other substitutes restricted under subsection
36 (1) of this section that the manufacturer sells, offers for sale,
37 leases, installs, or rents in Washington state. This status
38 notification must identify the substitutes used by products or
39 equipment in each product or equipment class in a manner determined
40 by rule by the department.

1 (ii) Within one hundred twenty days after the date of a
2 restriction put in place under this section, any manufacturer
3 affected by the restriction must provide an updated status
4 notification. This notification must indicate whether the
5 manufacturer has ceased the use of hydrofluorocarbons or substitutes
6 restricted under this section within each product class and, if not,
7 what hydrofluorocarbons or other restricted substitutes remain in
8 use.

9 (iii) After the effective date of a restriction put in place
10 under this section, any manufacturer must provide an updated status
11 notification when the manufacturer introduces a new or modified
12 product or piece of equipment that uses hydrofluorocarbons or changes
13 the type of hydrofluorocarbons utilized within a product class
14 affected by a restriction. Such a notification must occur within one
15 hundred twenty days of the introduction into commerce in Washington
16 of the product or equipment triggering this notification requirement.

17 ~~((+6))~~ (c) Alternative disclosure requirements to (a) of this
18 subsection, if the department determines that the inclusion of a
19 label denoting substitutes used or compliance status is not feasible
20 for a particular product or equipment.

21 (5) The department may adopt rules to administer, implement, and
22 enforce this section. If the department elects to adopt rules, the
23 department must seek, where feasible and appropriate, to adopt rules,
24 including rules under subsection (4) of this section, that are the
25 same or consistent with the regulatory standards, exemptions,
26 reporting obligations, disclosure requirements, and other compliance
27 requirements of other states or the federal government that have
28 adopted restrictions on the use of hydrofluorocarbons and other
29 substitutes. Prior to the adoption or update of a rule under this
30 section, the department must identify the sources of information it
31 relied upon, including peer-reviewed science.

32 ~~((+7))~~ (6) For the purposes of implementing the restrictions
33 specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read
34 on January 3, 2017, consistent with this section, the department must
35 interpret the term "aircraft maintenance" to mean activities to
36 support the production, fabrication, manufacture, rework, inspection,
37 maintenance, overhaul, or repair of commercial, civil, or military
38 aircraft, aircraft parts, aerospace vehicles, or aerospace
39 components.

1 ~~((8) The authority granted by this section to the department for~~
2 ~~restricting the use of substitutes is supplementary to the~~
3 ~~department's authority to control air pollution pursuant to chapter~~
4 ~~70A.15 RCW. Nothing in this section limits the authority of the~~
5 ~~department under chapter 70A.15 RCW.~~

6 ~~(9))~~ (7) Except where existing equipment is retrofit, the
7 restrictions of this section do not apply to or limit any use of
8 commercial refrigeration equipment that was installed or in use prior
9 to the effective date of the restrictions established in this
10 section.

11 NEW SECTION. **Sec. 8.** (1) Within 12 months of another state's
12 enactment or adoption of restrictions on substitutes applicable to
13 new light-duty vehicles, the department may adopt restrictions
14 applicable to the sale, lease, rental, or other introduction into
15 commerce by a manufacturer of new light-duty vehicles consistent with
16 the restrictions identified in appendix B, Subpart G of 40 C.F.R.
17 Part 82, as of January 3, 2017. The department may apply an effective
18 date to the restrictions adopted under this subsection that differs
19 from the effective date of the restrictions adopted by another state,
20 but the department may not adopt restrictions that take effect prior
21 to the effective date of restrictions adopted or enacted in at least
22 one other state.

23 (2) The department may adopt rules that establish a maximum
24 global warming potential of 750 for substitutes used in new
25 stationary air conditioning. Rules adopted under this subsection may
26 not take effect prior to:

27 (a) January 1, 2023, for dehumidifiers and room air conditioners;

28 (b) (i) January 1, 2025, for other types of stationary air
29 conditioning equipment, but only if before January 1, 2023, the state
30 building code council adopts the following safety standards into the
31 state building code as these standards existed as of the effective
32 date of this section:

33 (A) American society of heating, refrigerating, and air-
34 conditioning engineers standard 15;

35 (B) American society of heating, refrigerating, and air-
36 conditioning engineers standard 15.2;

37 (C) American society of heating, refrigerating, and air-
38 conditioning engineers standard 34; and

39 (D) Underwriters laboratories standard UL 60335-2-40 edition 4;

1 (ii) If the state building code council adopts the safety
2 standards referenced in (b)(i) of this subsection after January 1,
3 2023, the restrictions of this subsection may apply to refrigeration
4 equipment manufactured no earlier than 24 months after the adoption
5 of the safety standards; and

6 (c) January 1, 2026, for systems with variable refrigerant flow
7 or volume.

8 (3)(a) Consistent with the timeline established in (b) of this
9 subsection, the department may adopt rules to prohibit the use of
10 refrigerant substitutes that have a global warming potential of
11 greater than 150 for use in refrigeration equipment containing more
12 than 50 pounds of refrigerant;

13 (b)(i) The restrictions in (a) of this subsection must apply to
14 new refrigeration equipment manufactured after December 31, 2024, but
15 only if before January 1, 2023, the state building code council
16 adopts the following safety standards into the state building code,
17 as these standards existed as of the effective date of this section:

18 (A) American society of heating, refrigerating, and air-
19 conditioning engineers standard 15;

20 (B) American society of heating, refrigerating, and air-
21 conditioning engineers standard 34; and

22 (C) Underwriters laboratories standard UL 60335-2-89 edition 2;

23 (ii) If the state building code council adopts the safety
24 standards referenced in (b)(i) of this subsection after January 1,
25 2023, the restrictions of (a) of this subsection may apply to
26 refrigeration equipment manufactured no earlier than 24 months after
27 the adoption of the safety standards.

28 (4) The department shall prohibit the use of refrigerant
29 substitutes that have a global warming potential of greater than 750
30 for use in new equipment manufactured after December 31, 2021, for
31 installation in ice rinks.

32 (5)(a) The department, in rules adopted to implement this
33 section, may establish reporting, labeling, and recordkeeping
34 requirements applicable to regulated facilities and persons. To the
35 extent practicable, rules adopted under this section must be
36 harmonized with reporting, labeling, or recordkeeping requirements
37 established under section 9 of this act.

38 (b) To the extent practicable, the department must adopt rules to
39 implement this section that are consistent with similar programs in
40 other states that reduce emissions from refrigerants.

1 (c) The department may adopt rules to grant variances from the
2 requirements of this section.

3 (d) Restrictions adopted by the department under this section are
4 additional to specific restrictions on applications and end uses
5 established in RCW 70A.45.080 (as recodified by this act).

6 (6) (a) Prior to adopting final rules to implement restrictions
7 under subsection (2) or (3) of this section, the department must
8 review the availability of:

9 (i) Equipment that meets applicable global warming potential
10 requirements; and

11 (ii) Appropriate training to utilize equipment that meets
12 applicable global warming potential requirements.

13 (b) After the review required under (a) of this subsection, the
14 department is encouraged to consider delaying the effective date of
15 restrictions under this section in the event that the department
16 determines that significant training or compliant equipment
17 availability limitations are expected to occur.

18 NEW SECTION. **Sec. 9.** (1) The department shall establish a
19 refrigerant management program designed to reduce emissions of
20 refrigerants, including regulated substances and their substitutes,
21 from activities or equipment responsible for significant volumes of
22 such emissions. The program must include, at minimum, larger
23 stationary refrigeration systems and larger commercial air
24 conditioning systems. The department must adopt rules to implement
25 and enforce the requirements of this section. The department may
26 require compliance with refrigerant management program requirements
27 beginning no earlier than January 1, 2024, and no earlier than the
28 adjournment of the regular legislative session following the
29 submission of a report to the appropriate committees of the
30 legislature by the department estimating leakage of refrigerants from
31 existing systems in Washington, and estimating a statewide rate of
32 leakage from the categories of systems that are subject to the
33 refrigerant management program rules adopted by the department under
34 this section.

35 (2) (a) The department shall exempt refrigeration and air
36 conditioning equipment operations associated with de minimis
37 emissions or with a de minimis charging capacity of less than 50
38 pounds at a single facility from registration, reporting, and leak
39 detection requirements established in this section. The department

1 shall exempt from the requirements established in this section
2 equipment that uses refrigerants with a global warming potential of
3 less than 150 and that are not class I or class II substances.

4 (b) The department may scale the requirements adopted under this
5 section based on the size of the equipment, the facility containing
6 the equipment, or the business operations of a person responsible for
7 such emissions. The department may establish delayed effective dates
8 of requirements applicable to persons and systems associated with
9 lower emissions of refrigerants than other persons and systems
10 regulated under this section.

11 (3) Each year, the owner or operator of a facility with
12 stationary refrigeration systems or air conditioning systems that
13 exceed a de minimis charge capacity of 50 pounds must register with
14 the department. The department must phase in system registration
15 requirements under this subsection in order to prioritize systems
16 with the largest charge capacity or greatest potential for
17 refrigerant emissions. Registration with the department must,
18 consistent with rules adopted by the department, include the
19 submission of information about the refrigeration system, including
20 equipment type, refrigerant charge capacity, and the type of
21 refrigerant used.

22 (4) Prior to the sale of a registered refrigeration or air
23 conditioning system, the owners or operators of the system must
24 provide leak rate documentation to the prospective purchaser.

25 (5) The owner or operator of a registered stationary
26 refrigeration system or air conditioning system must conduct periodic
27 leak-detection inspections of the system. The department may require
28 inspections to be conducted with relatively greater frequency for
29 systems with larger volumes of refrigerants. The department may
30 exempt systems that use refrigerants with low global warming
31 potential or that have automatic leak-detection systems from the
32 requirements of this subsection.

33 (6) The owner or operator of a registered stationary
34 refrigeration or air conditioning system must inspect for leaks each
35 time significant amounts of refrigerant are added to the system.

36 (7) The department must adopt rules that:

37 (a) Require refrigeration or air conditioning systems found to be
38 leaking to be repaired within a specified amount of time;

1 (b) Require the retrofit, replacement, or retirement of a
2 refrigeration or air conditioning system with a leak that is not
3 capable of being repaired;

4 (c) Establish annual reporting requirements for owners or
5 operators of refrigeration systems or air conditioning systems that
6 include information about the system, including system service and
7 leak repair conducted on the system over the preceding year, and
8 information on the purchase and use of refrigerants in the covered
9 system during the preceding year;

10 (d) Establish annual reporting requirement for refrigerant
11 wholesalers, distributors, and reclaimers;

12 (e) Establish record retention requirements for operators of
13 facilities and wholesalers, distributors, and reclaimers of
14 refrigerants and substitutes; and

15 (f) Apply leak rates and other regulatory thresholds that achieve
16 greater emission reductions than the federal regulations adopted by
17 the United States environmental protection agency, and that reflect
18 levels of achievable superior performance established for the
19 greenchill voluntary program implemented by the United States
20 environmental protection agency.

21 (8) The department may adopt rules to establish:

22 (a) Service practices for stationary appliances, including both
23 stationary refrigeration systems and air conditioning systems.
24 Service practices established by the department may include requiring
25 technicians certified under United States environmental protection
26 agency standards to service refrigerant systems, requiring reporting
27 and recordkeeping that identifies the technicians that have serviced
28 appliances, prohibiting practices likely to result in releases to the
29 environment, requiring all practicable efforts to recover
30 refrigerants from covered systems, and prohibiting the addition of
31 refrigerants to systems known to have a leak; and

32 (b) A process for wholesalers, distributors, reclaimers, and
33 refrigeration and air conditioning equipment operators to apply to
34 the department for an exemption from some or all of the requirements
35 of this section. Exemptions may be granted by the department on the
36 basis of economic hardship, natural disaster, or after considering a
37 calculation of lifecycle greenhouse gas emissions associated with the
38 granting of an exemption that will allow an identified leak to go
39 unrepaired for a finite period of time.

1 (9) The department may determine, assess, and collect annual fees
2 from the owners or operators of refrigeration and air conditioning
3 systems regulated under this section in an amount sufficient to cover
4 the direct and indirect costs of administering and enforcing the
5 provisions of this section. All fees collected under this subsection
6 must be deposited in the refrigerant emission management account
7 created in section 12 of this act.

8 **Sec. 10.** RCW 19.27.580 and 2019 c 284 s 7 are each amended to
9 read as follows:

10 (1) The building code council shall adopt rules that permit the
11 use of substitutes approved under RCW ((70.235.080)) 70A.45.080 (as
12 recodified by this act) and that do not require the use of
13 substitutes that are restricted under RCW ((70.235.080)) 70A.45.080
14 (as recodified by this act). The building code council may not
15 prohibit the use of a substitute refrigerant allowed pursuant to the
16 United States environmental protection agency's significant new
17 alternatives policy to implement 42 U.S.C. Sec. 7671k.

18 (2) The building code council shall adopt rules that allow the
19 use of substitutes, as defined in section 2 of this act, with a lower
20 global warming potential than alternative substances, to the maximum
21 extent practicable after soliciting stakeholder input regarding
22 building occupant safety and reviewing applicable provisions of the
23 fire code or best practices to reduce fire risks.

24 (3) The building code council may adopt rules that allow the use
25 of substitutes that are under review but have not yet been approved
26 by the United States environmental protection agency's significant
27 new alternatives policy to implement 42 U.S.C. Sec. 7671k for
28 products where no other substitutes have been approved.

29 (4) Any rules adopted by the building code council that affect
30 the design or installation of refrigeration or air conditioning
31 systems must be consistent with a goal of minimizing system leakage
32 of refrigerants.

33 (5) Prior to the adoption of any rules by the building code
34 council that affect the design or installation of refrigeration or
35 air conditioning systems or that facilitate the use of substitutes
36 with a low global warming potential in air conditioning systems or
37 equipment, the building code council must solicit input from affected
38 parties and parties with expertise in the substitutes or affected
39 types of systems or equipment including, but not limited to:

1 (a) Manufacturers, distributors, and installers of refrigeration
2 and air conditioning systems; and

3 (b) Refrigeration and air conditioning system contractors that
4 are small businesses or that primarily serve rural areas.

5 NEW SECTION. **Sec. 11.** (1) The authority granted by this chapter
6 to the department for restricting the use of substitutes is
7 supplementary to the department's authority to control air pollution
8 pursuant to chapter 70A.15 RCW. Nothing in this chapter limits the
9 authority of the department under chapter 70A.15 RCW.

10 (2) The department, in enforcing the requirements of this
11 chapter, must adhere to the provisions applicable to the department
12 under chapter 43.05 RCW regarding site inspections, technical
13 assistance visits, notices of correction, and the issuance of civil
14 penalties, to the extent that these provisions are not in conflict
15 with federal requirements described in RCW 43.05.901.

16 (3) The department may elect to refrain from or cease
17 administering or enforcing a requirement of this chapter if the
18 United States environmental protection agency adopts requirements
19 that:

20 (a) Are substantially duplicative of the requirements of this
21 chapter and that negate the additional emission reduction benefits of
22 state implementation of any requirement of this chapter; or

23 (b) Preempt state authority under this chapter.

24 NEW SECTION. **Sec. 12.** The refrigerant emission management
25 account is created in the state treasury. All receipts received by
26 the state from the fees imposed under section 9 of this act must be
27 deposited in the account. Moneys in the account may be spent only
28 after appropriation. Expenditures from the account may be used only
29 to develop and implement the provisions of section 9 of this act.

30 **Sec. 13.** RCW 70A.15.1010 and 2020 c 20 s 1080 are each amended
31 to read as follows:

32 (1) The air pollution control account is established in the state
33 treasury. All receipts collected by or on behalf of the department
34 from RCW 70A.15.2200(2), and receipts from nonpermit program sources
35 under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from
36 RCW 70A.15.5090 and 70A.15.5120 shall be deposited into the account.
37 Moneys in the account may be spent only after appropriation.

1 Expenditures from the account may be used only to develop and
2 implement the provisions of this chapter, chapter 70A.25 RCW, and RCW
3 70A.45.080 (as recodified by this act).

4 (2) The amounts collected and allocated in accordance with this
5 section shall be expended upon appropriation except as otherwise
6 provided in this section and in accordance with the following
7 limitations:

8 Portions of moneys received by the department of ecology from the
9 air pollution control account shall be distributed by the department
10 to local authorities based on:

11 (a) The level and extent of air quality problems within such
12 authority's jurisdiction;

13 (b) The costs associated with implementing air pollution
14 regulatory programs by such authority; and

15 (c) The amount of funding available to such authority from other
16 sources, whether state, federal, or local, that could be used to
17 implement such programs.

18 (3) The air operating permit account is created in the custody of
19 the state treasurer. All receipts collected by or on behalf of the
20 department from permit program sources under RCW 70A.15.2210(1),
21 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into
22 the account. Expenditures from the account may be used only for the
23 activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270,
24 and 70A.15.2230(7). Moneys in the account may be spent only after
25 appropriation.

26 NEW SECTION. **Sec. 14.** (1) By December 1, 2021, the department
27 of ecology must provide recommendations to the appropriate committees
28 of the house of representatives and the senate regarding the optimal
29 design of a program to address the end-of-life management and
30 disposal of refrigerants including, but not limited to, ozone-
31 depleting substances and hydrofluorocarbons. In developing the
32 recommendations, the department must solicit feedback from
33 potentially impacted parties and the public, and must consider
34 actions taken by other jurisdictions to incentivize refrigerant reuse
35 or reclamation. The recommendations may come in the form of draft
36 legislation.

37 (2) The recommendations must specifically include, at minimum,
38 the following program design considerations:

1 (a) The legal and financial obligations to support or participate
2 in the program applicable to refrigerant manufacturers, importers,
3 distributors, and retailers, and to refrigerant-using equipment
4 owner-operators and service technicians;

5 (b) A funding mechanism for refrigerant recovery and disposal
6 activities carried out by the program that will also provide a
7 financial incentive for the recovery and emission-reducing management
8 of refrigerants that are no longer of utility to a consumer; and

9 (c) Performance goals and operational standards for activities
10 carried out by the program to collect, transport, and recycle, reuse,
11 or dispose of refrigerants.

12 **Sec. 15.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
13 to read as follows:

14 (1) Any person who knowingly violates any of the provisions of
15 this chapter or (~~chapter 70A.25 RCW, RCW 70A.45.080~~) chapters
16 70A.25 and 70A.--- (the new chapter created in section 20 of this
17 act) RCW, or any ordinance, resolution, or regulation in force
18 pursuant thereto is guilty of a gross misdemeanor and upon conviction
19 thereof shall be punished by a fine of not more than ten thousand
20 dollars, or by imprisonment in the county jail for up to three
21 hundred sixty-four days, or by both for each separate violation.

22 (2) Any person who negligently releases into the ambient air any
23 substance listed by the department of ecology as a hazardous air
24 pollutant, other than in compliance with the terms of an applicable
25 permit or emission limit, and who at the time negligently places
26 another person in imminent danger of death or substantial bodily harm
27 is guilty of a gross misdemeanor and shall, upon conviction, be
28 punished by a fine of not more than ten thousand dollars, or by
29 imprisonment for up to three hundred sixty-four days, or both.

30 (3) Any person who knowingly releases into the ambient air any
31 substance listed by the department of ecology as a hazardous air
32 pollutant, other than in compliance with the terms of an applicable
33 permit or emission limit, and who knows at the time that he or she
34 thereby places another person in imminent danger of death or
35 substantial bodily harm, is guilty of a class C felony and shall,
36 upon conviction, be punished by a fine of not less than fifty
37 thousand dollars, or by imprisonment for not more than five years, or
38 both.

1 (4) Any person who knowingly fails to disclose a potential
2 conflict of interest under RCW 70A.15.2000 is guilty of a gross
3 misdemeanor, and upon conviction thereof shall be punished by a fine
4 of not more than five thousand dollars.

5 **Sec. 16.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
6 to read as follows:

7 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
8 43.05.150, and in addition to or as an alternate to any other penalty
9 provided by law, any person who violates any of the provisions of
10 this chapter, chapter 70A.25 ~~((of))~~, 70A.450, or 70A.--- ~~(the new~~
11 chapter created in section 20 of this act) RCW, ~~((RCW 70A.45.080,))~~
12 or any of the rules in force under such chapters or section may incur
13 a civil penalty in an amount not to exceed ten thousand dollars per
14 day for each violation. Each such violation shall be a separate and
15 distinct offense, and in case of a continuing violation, each day's
16 continuance shall be a separate and distinct violation.

17 (b) Any person who fails to take action as specified by an order
18 issued pursuant to this chapter shall be liable for a civil penalty
19 of not more than ten thousand dollars for each day of continued
20 noncompliance.

21 (2)(a) Penalties incurred but not paid shall accrue interest,
22 beginning on the ninety-first day following the date that the penalty
23 becomes due and payable, at the highest rate allowed by RCW 19.52.020
24 on the date that the penalty becomes due and payable. If violations
25 or penalties are appealed, interest shall not begin to accrue until
26 the thirty-first day following final resolution of the appeal.

27 (b) The maximum penalty amounts established in this section may
28 be increased annually to account for inflation as determined by the
29 state office of the economic and revenue forecast council.

30 (3) Each act of commission or omission which procures, aids or
31 abets in the violation shall be considered a violation under the
32 provisions of this section and subject to the same penalty. The
33 penalties provided in this section shall be imposed pursuant to RCW
34 43.21B.300.

35 (4) ~~((All))~~ (a) Except as provided in (b) of this subsection, all
36 penalties recovered under this section by the department shall be
37 paid into the state treasury and credited to the air pollution
38 control account established in RCW 70A.15.1010 or, if recovered by
39 the authority, shall be paid into the treasury of the authority and

1 credited to its funds. If a prior penalty for the same violation has
2 been paid to a local authority, the penalty imposed by the department
3 under subsection (1) of this section shall be reduced by the amount
4 of the payment.

5 (b) All penalties recovered for violations of chapter 70A.---
6 (the new chapter created in section 20 of this act) RCW must be paid
7 into the state treasury and credited to the refrigerant emission
8 management account created in section 12 of this act.

9 (5) To secure the penalty incurred under this section, the state
10 or the authority shall have a lien on any vessel used or operated in
11 violation of this chapter which shall be enforced as provided in RCW
12 60.36.050.

13 (6) Public or private entities that are recipients or potential
14 recipients of department grants, whether for air quality related
15 activities or not, may have such grants rescinded or withheld by the
16 department for failure to comply with provisions of this chapter.

17 (7) In addition to other penalties provided by this chapter,
18 persons knowingly under-reporting emissions or other information used
19 to set fees, or persons required to pay emission or permit fees who
20 are more than ninety days late with such payments may be subject to a
21 penalty equal to three times the amount of the original fee owed.

22 (8) The department shall develop rules for excusing excess
23 emissions from enforcement action if such excess emissions are
24 unavoidable. The rules shall specify the criteria and procedures for
25 the department and local air authorities to determine whether a
26 period of excess emissions is excusable in accordance with the state
27 implementation plan.

28 **Sec. 17.** RCW 19.285.040 and 2019 c 288 s 29 are each amended to
29 read as follows:

30 (1) Each qualifying utility shall pursue all available
31 conservation that is cost-effective, reliable, and feasible.

32 (a) By January 1, 2010, using methodologies consistent with those
33 used by the Pacific Northwest electric power and conservation
34 planning council in the most recently published regional power plan
35 as it existed on June 12, 2014, or a subsequent date as may be
36 provided by the department or the commission by rule, each qualifying
37 utility shall identify its achievable cost-effective conservation
38 potential through 2019. Nothing in the rule adopted under this
39 subsection precludes a qualifying utility from using its utility

1 specific conservation measures, values, and assumptions in
2 identifying its achievable cost-effective conservation potential. At
3 least every two years thereafter, the qualifying utility shall review
4 and update this assessment for the subsequent ten-year period.

5 (b) Beginning January 2010, each qualifying utility shall
6 establish and make publicly available a biennial acquisition target
7 for cost-effective conservation consistent with its identification of
8 achievable opportunities in (a) of this subsection, and meet that
9 target during the subsequent two-year period. At a minimum, each
10 biennial target must be no lower than the qualifying utility's pro
11 rata share for that two-year period of its cost-effective
12 conservation potential for the subsequent ten-year period.

13 (c) (i) Except as provided in (c) (ii) and (iii) of this
14 subsection, beginning on January 1, 2014, cost-effective conservation
15 achieved by a qualifying utility in excess of its biennial
16 acquisition target may be used to help meet the immediately
17 subsequent two biennial acquisition targets, such that no more than
18 twenty percent of any biennial target may be met with excess
19 conservation savings.

20 (ii) Beginning January 1, 2014, a qualifying utility may use
21 single large facility conservation savings in excess of its biennial
22 target to meet up to an additional five percent of the immediately
23 subsequent two biennial acquisition targets, such that no more than
24 twenty-five percent of any biennial target may be met with excess
25 conservation savings allowed under all of the provisions of this
26 section combined. For the purposes of this subsection (1)(c)(ii),
27 "single large facility conservation savings" means cost-effective
28 conservation savings achieved in a single biennial period at the
29 premises of a single customer of a qualifying utility whose annual
30 electricity consumption prior to the conservation savings exceeded
31 five average megawatts.

32 (iii) Beginning January 1, 2012, and until December 31, 2017, a
33 qualifying utility with an industrial facility located in a county
34 with a population between ninety-five thousand and one hundred
35 fifteen thousand that is directly interconnected with electricity
36 facilities that are capable of carrying electricity at transmission
37 voltage may use cost-effective conservation from that industrial
38 facility in excess of its biennial acquisition target to help meet
39 the immediately subsequent two biennial acquisition targets, such
40 that no more than twenty-five percent of any biennial target may be

1 met with excess conservation savings allowed under all of the
2 provisions of this section combined.

3 (d) In meeting its conservation targets, a qualifying utility may
4 count high-efficiency cogeneration owned and used by a retail
5 electric customer to meet its own needs. High-efficiency cogeneration
6 is the sequential production of electricity and useful thermal energy
7 from a common fuel source, where, under normal operating conditions,
8 the facility has a useful thermal energy output of no less than
9 thirty-three percent of the total energy output. The reduction in
10 load due to high-efficiency cogeneration shall be: (i) Calculated as
11 the ratio of the fuel chargeable to power heat rate of the
12 cogeneration facility compared to the heat rate on a new and clean
13 basis of a best-commercially available technology combined-cycle
14 natural gas-fired combustion turbine; and (ii) counted towards
15 meeting the biennial conservation target in the same manner as other
16 conservation savings.

17 (e) The commission may determine if a conservation program
18 implemented by an investor-owned utility is cost-effective based on
19 the commission's policies and practice.

20 (f) In addition to the requirements of RCW 19.280.030(3), in
21 assessing the cost-effective conservation required under this
22 section, a qualifying utility is encouraged to promote the adoption
23 of air conditioning, as defined in section 2 of this act, with
24 refrigerants not exceeding a global warming potential of 750 and the
25 replacement of stationary refrigeration systems that contain ozone-
26 depleting substances or hydrofluorocarbon refrigerants with a high
27 global warming potential.

28 (g) The commission may rely on its standard practice for review
29 and approval of investor-owned utility conservation targets.

30 (2)(a) Except as provided in (j) of this subsection, each
31 qualifying utility shall use eligible renewable resources or acquire
32 equivalent renewable energy credits, or any combination of them, to
33 meet the following annual targets:

34 (i) At least three percent of its load by January 1, 2012, and
35 each year thereafter through December 31, 2015;

36 (ii) At least nine percent of its load by January 1, 2016, and
37 each year thereafter through December 31, 2019; and

38 (iii) At least fifteen percent of its load by January 1, 2020,
39 and each year thereafter.

1 (b) A qualifying utility may count distributed generation at
2 double the facility's electrical output if the utility: (i) Owns or
3 has contracted for the distributed generation and the associated
4 renewable energy credits; or (ii) has contracted to purchase the
5 associated renewable energy credits.

6 (c) In meeting the annual targets in (a) of this subsection, a
7 qualifying utility shall calculate its annual load based on the
8 average of the utility's load for the previous two years.

9 (d) A qualifying utility shall be considered in compliance with
10 an annual target in (a) of this subsection if: (i) The utility's
11 weather-adjusted load for the previous three years on average did not
12 increase over that time period; (ii) after December 7, 2006, the
13 utility did not commence or renew ownership or incremental purchases
14 of electricity from resources other than coal transition power or
15 renewable resources other than on a daily spot price basis and the
16 electricity is not offset by equivalent renewable energy credits; and
17 (iii) the utility invested at least one percent of its total annual
18 retail revenue requirement that year on eligible renewable resources,
19 renewable energy credits, or a combination of both.

20 (e) A qualifying utility may use renewable energy credits to meet
21 the requirements of this section, subject to the limitations of this
22 subsection.

23 (i) A renewable energy credit from electricity generated by a
24 resource other than freshwater may be used to meet a requirement
25 applicable to the year in which the credit was created, the year
26 before the year in which the credit was created, or the year after
27 the year in which the credit was created.

28 (ii) A renewable energy credit from electricity generated by
29 freshwater:

30 (A) May only be used to meet a requirement applicable to the year
31 in which the credit was created; and

32 (B) Must be acquired by the qualifying utility through ownership
33 of the generation facility or through a transaction that conveyed
34 both the electricity and the nonpower attributes of the electricity.

35 (iii) A renewable energy credit transferred to an investor-owned
36 utility pursuant to the Bonneville power administration's residential
37 exchange program may not be used by any utility other than the
38 utility receiving the credit from the Bonneville power
39 administration.

1 (iv) Each renewable energy credit may only be used once to meet
2 the requirements of this section and must be retired using procedures
3 of the renewable energy credit tracking system.

4 (f) In complying with the targets established in (a) of this
5 subsection, a qualifying utility may not count:

6 (i) Eligible renewable resources or distributed generation where
7 the associated renewable energy credits are owned by a separate
8 entity; or

9 (ii) Eligible renewable resources or renewable energy credits
10 obtained for and used in an optional pricing program such as the
11 program established in RCW 19.29A.090.

12 (g) Where fossil and combustible renewable resources are cofired
13 in one generating unit located in the Pacific Northwest where the
14 cofiring commenced after March 31, 1999, the unit shall be considered
15 to produce eligible renewable resources in direct proportion to the
16 percentage of the total heat value represented by the heat value of
17 the renewable resources.

18 (h)(i) A qualifying utility that acquires an eligible renewable
19 resource or renewable energy credit may count that acquisition at one
20 and two-tenths times its base value:

21 (A) Where the eligible renewable resource comes from a facility
22 that commenced operation after December 31, 2005; and

23 (B) Where the developer of the facility used apprenticeship
24 programs approved by the council during facility construction.

25 (ii) The council shall establish minimum levels of labor hours to
26 be met through apprenticeship programs to qualify for this extra
27 credit.

28 (i) A qualifying utility shall be considered in compliance with
29 an annual target in (a) of this subsection if events beyond the
30 reasonable control of the utility that could not have been reasonably
31 anticipated or ameliorated prevented it from meeting the renewable
32 energy target. Such events include weather-related damage, mechanical
33 failure, strikes, lockouts, and actions of a governmental authority
34 that adversely affect the generation, transmission, or distribution
35 of an eligible renewable resource under contract to a qualifying
36 utility.

37 (j)(i) Beginning January 1, 2016, only a qualifying utility that
38 owns or is directly interconnected to a qualified biomass energy
39 facility may use qualified biomass energy to meet its compliance
40 obligation under this subsection.

1 (ii) A qualifying utility may no longer use electricity and
2 associated renewable energy credits from a qualified biomass energy
3 facility if the associated industrial pulping or wood manufacturing
4 facility ceases operation other than for purposes of maintenance or
5 upgrade.

6 (k) An industrial facility that hosts a qualified biomass energy
7 facility may only transfer or sell renewable energy credits
8 associated with qualified biomass energy generated at its facility to
9 the qualifying utility with which it is directly interconnected with
10 facilities owned by such a qualifying utility and that are capable of
11 carrying electricity at transmission voltage. The qualifying utility
12 may only use an amount of renewable energy credits associated with
13 qualified biomass energy that are equivalent to the proportionate
14 amount of its annual targets under (a)(ii) and (iii) of this
15 subsection that was created by the load of the industrial facility. A
16 qualifying utility that owns a qualified biomass energy facility may
17 not transfer or sell renewable energy credits associated with
18 qualified biomass energy to another person, entity, or qualifying
19 utility.

20 (l) Beginning January 1, 2020, a qualifying utility may use
21 eligible renewable resources as identified under RCW 19.285.030(12)
22 (g) and (h) to meet its compliance obligation under this subsection
23 (2). A qualifying utility may not transfer or sell these eligible
24 renewable resources to another utility for compliance purposes under
25 this chapter.

26 (m) Beginning January 1, 2030, a qualifying utility is considered
27 to be in compliance with an annual target in (a) of this subsection
28 if the utility uses electricity from: (i) Renewable resources and
29 renewable energy credits as defined in RCW 19.285.030; and (ii)
30 nonemitting electric generation as defined in RCW 19.405.020, in an
31 amount equal to one hundred percent of the utility's average annual
32 retail electric load. Nothing in this subsection relieves the
33 requirements of a qualifying utility to comply with subsection (1) of
34 this section.

35 (3) Utilities that become qualifying utilities after December 31,
36 2006, shall meet the requirements in this section on a time frame
37 comparable in length to that provided for qualifying utilities as of
38 December 7, 2006.

1 **Sec. 18.** RCW 19.27A.220 and 2019 c 285 s 4 are each amended to
2 read as follows:

3 (1) The department must establish a state energy performance
4 standard early adoption incentive program consistent with the
5 requirements of this section.

6 (2) The department must adopt application and reporting
7 requirements for the incentive program. Building energy reporting for
8 the incentive program must be consistent with the energy reporting
9 requirements established under RCW 19.27A.210.

10 (3) Upon receiving documentation demonstrating that a building
11 owner qualifies for an incentive under this section, the department
12 must authorize each applicable entity administering incentive
13 payments, as provided in RCW 19.27A.240, to make an incentive payment
14 to the building owner. When a building is served by more than one
15 entity offering incentives or more than one type of fuel, incentive
16 payments must be proportional to the energy use intensity reduction
17 of each specific fuel provided by each entity.

18 (4) An eligible building owner may receive an incentive payment
19 in the amounts specified in subsection (6) of this section only if
20 the following requirements are met:

21 (a) The building is either: (i) A covered commercial building
22 subject to the requirements of the standard established under RCW
23 19.27A.210; or (ii) a multifamily residential building where the
24 floor area exceeds fifty thousand gross square feet, excluding the
25 parking garage area;

26 (b) The building's baseline energy use intensity exceeds its
27 applicable energy use intensity target by at least fifteen energy use
28 intensity units;

29 (c) At least one electric utility, gas company, or thermal energy
30 company providing or delivering energy to the covered commercial
31 building is participating in the incentive program by administering
32 incentive payments as provided in RCW 19.27A.240; and

33 (d) The building owner complies with any other requirements
34 established by the department.

35 (5) (a) An eligible building owner who meets the requirements of
36 subsection (4) of this section may submit an application to the
37 department for an incentive payment in a form and manner prescribed
38 by the department. The application must be submitted in accordance
39 with the following schedule:

1 (i) For a building with more than two hundred twenty thousand
2 gross square feet, beginning July 1, 2021, through June 1, 2025;

3 (ii) For a building with more than ninety thousand gross square
4 feet but less than two hundred twenty thousand and one gross square
5 feet, beginning July 1, 2021, through June 1, 2026; and

6 (iii) For a building with more than fifty thousand gross square
7 feet but less than ninety thousand and one gross square feet,
8 beginning July 1, 2021, through June 1, 2027.

9 (b) The department must review each application and determine
10 whether the applicant is eligible for the incentive program and if
11 funds are available for the incentive payment within the limitation
12 established in RCW 19.27A.230. If the department certifies an
13 application, it must provide verification to the building owner and
14 each entity participating as provided in RCW 19.27A.240 and providing
15 service to the building owner.

16 (6) An eligible building owner that demonstrates early compliance
17 with the applicable energy use intensity target under the standard
18 established under RCW 19.27A.210 may receive a base incentive payment
19 of eighty-five cents per gross square foot of floor area, excluding
20 parking, unconditioned, or semiconditioned spaces.

21 (7) The incentives provided in subsection (6) of this section are
22 subject to the limitations and requirements of this section,
23 including any rules or procedures implementing this section.

24 (8) The department must establish requirements for the
25 verification of energy consumption by the building owner and each
26 participating electric utility, gas company, and thermal energy
27 company.

28 (9) The department must provide an administrative process for an
29 eligible building owner to appeal a determination of an incentive
30 eligibility or amount.

31 (10) By September 30, 2025, and every two years thereafter, the
32 department must report to the appropriate committees of the
33 legislature on the results of the incentive program under this
34 section and may provide recommendations to improve the effectiveness
35 of the program. The 2025 report to the legislature must include
36 recommendations for aligning the incentive program established under
37 this section consistent with a goal of reducing greenhouse gas
38 emissions from substitutes, as defined in section 2 of this act.

39 (11) The department may adopt rules to implement this section.

1 **Sec. 19.** RCW 39.26.310 and 2019 c 284 s 9 are each amended to
2 read as follows:

3 (1) The department shall establish purchasing and procurement
4 policies that provide a preference for products that:

5 (a) Are not restricted under RCW (~~(70.235.080)~~) 70A.45.080 (as
6 recodified by this act);

7 (b) Do not contain hydrofluorocarbons or contain
8 hydrofluorocarbons with a comparatively low global warming potential;

9 (c) Are not designed to function only in conjunction with
10 hydrofluorocarbons characterized by a comparatively high global
11 warming potential; and

12 (d) Were not manufactured using hydrofluorocarbons or were
13 manufactured using hydrofluorocarbons with a low global warming
14 potential.

15 (2) No agency may knowingly purchase products that are not
16 accorded a preference in the purchasing and procurement policies
17 established by the department pursuant to subsection (1) of this
18 section, unless there is no cost-effective and technologically
19 feasible option that is accorded a preference.

20 (3) (~~Nothing in~~) The department shall establish a purchasing
21 and procurement policy that provides a preference, in serving
22 existing equipment, for a reclaimed refrigerant that meets the
23 minimum quality requirement established in federal regulations
24 adopted under 42 U.S.C. Sec. 7671(g).

25 (4)(a) Nothing in subsection (1) of this section requires the
26 department or any other state agency to breach an existing contract
27 or dispose of stock that has been ordered or is in the possession of
28 the department or other state agency as of July 28, 2019.

29 (~~(4)~~) (b) Nothing in subsection (3) of this section requires
30 the department or any other state agency to breach an existing
31 contract or dispose of stock that has been ordered or is in the
32 possession of the department or other state agency as of July 28,
33 2021.

34 (5) By December 1, 2020, and each December 1st of even-numbered
35 years thereafter, the department must submit a status report to the
36 appropriate committees of the house of representatives and senate
37 regarding the implementation and compliance of the department and
38 state agencies with this section.

1 NEW SECTION. **Sec. 20.** Sections 1, 2, 8, 9, 11, and 12 of this
2 act constitute a new chapter in Title 70A RCW.

3 NEW SECTION. **Sec. 21.** RCW 70A.45.080, 70A.15.6410, 70A.15.6420,
4 and 70A.15.6430 are each recodified as sections in chapter 70A.---
5 RCW (the new chapter created in section 20 of this act).

6 NEW SECTION. **Sec. 22.** Section 8 of this act takes effect
7 January 1, 2022.

8 NEW SECTION. **Sec. 23.** If specific funding for the purposes of
9 this act, referencing this act by bill or chapter number, is not
10 provided by June 30, 2021, in the omnibus appropriations act, this
11 act is null and void.

12 NEW SECTION. **Sec. 24.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

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