
SUBSTITUTE HOUSE BILL 1050

State of Washington

67th Legislature

2021 Regular Session

By House Environment & Energy (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 01/28/21.

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 a new section; 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 NEW SECTION. **Sec. 2.** (1)(a) "Air conditioning" means the
26 process of treating air to meet the requirements of a conditioned
27 space by controlling its temperature, humidity, cleanliness, or
28 distribution.

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

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

32 (c) "Air conditioning" applies to stationary air conditioning
33 equipment and does not apply to mobile air conditioning, including
34 those used in motor vehicles, rail and trains, aircraft, watercraft,
35 recreational vehicles, recreational trailers, and campers.

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

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

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

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

8 (6) "Manufacturer" includes any person, firm, association,
9 partnership, corporation, governmental entity, organization, or joint
10 venture that produces any product that contains or uses
11 hydrofluorocarbons or is an importer or domestic distributor of such
12 a product.

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

16 (8) "Refrigeration equipment" or "refrigeration system" means any
17 stationary device that is designed to contain and use refrigerant.
18 "Refrigeration equipment" includes refrigeration equipment used in
19 retail food, cold storage, industrial process refrigeration and
20 cooling that does not use a chiller, ice rinks, and other
21 refrigeration applications.

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

25 (10) "Residential consumer refrigeration products" has the same
26 meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part
27 430 (2017).

28 (11) "Retrofit" has the same meaning as defined in section 152 of
29 Subpart F of 40 C.F.R. Part 82, as that section existed as of January
30 3, 2017.

31 (12) "Substitute" means a chemical, product, or alternative
32 manufacturing process, whether existing or new, that is used to
33 perform a function previously performed by a class I substance or
34 class II substance and any chemical, product, or alternative
35 manufacturing process subsequently developed, adapted, or adopted to
36 perform that function including, but not limited to,
37 hydrofluorocarbons. "Substitute" does not include 2-BTP or any
38 compound as applied to its use in aerospace fire extinguishing
39 systems.

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

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

11 ~~(3) ("Class I substance" and "class II substance" means those~~
12 ~~substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15,~~
13 ~~1990, or those substances listed in Appendix A or B of Subpart A of~~
14 ~~40 C.F.R. Part 82, as those read on January 3, 2017.~~

15 ~~(4))~~ (4) "Climate advisory team" means the stakeholder group formed
16 in response to executive order 07-02.

17 ~~((5))~~ (4) "Climate impacts group" means the University of
18 Washington's climate impacts group.

19 ~~((6))~~ (5) "Department" means the department of ecology.

20 ~~((7))~~ (6) "Director" means the director of the department.

21 ~~((8))~~ (7) "Greenhouse gas" and "greenhouse gases" includes
22 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
23 perfluorocarbons, sulfur hexafluoride, and any other gas or gases
24 designated by the department by rule.

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

28 ~~(10) "Manufacturer" includes any person, firm, association,~~
29 ~~partnership, corporation, governmental entity, organization, or joint~~
30 ~~venture that produces any product that contains or uses~~
31 ~~hydrofluorocarbons or is an importer or domestic distributor of such~~
32 ~~a product.~~

33 ~~(11))~~ (8) "Person" means an individual, partnership, franchise
34 holder, association, corporation, a state, a city, a county, or any
35 subdivision or instrumentality of the state.

36 ~~((12))~~ (9) "Program" means the department's climate change
37 program.

38 ~~((13) "Residential consumer refrigeration products" has the same~~
39 ~~meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part~~
40 ~~430 (2017).~~

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

4 ~~(15) "Substitute" means a chemical, product substitute, or~~
5 ~~alternative manufacturing process, whether existing or new, that is~~
6 ~~used to perform a function previously performed by a class I~~
7 ~~substance or class II substance and any substitute subsequently~~
8 ~~adopted to perform that function, including, but not limited to,~~
9 ~~hydrofluorocarbons. "Substitute" does not include 2-BTP or any~~
10 ~~compound as applied to its use in aerospace fire extinguishing~~
11 ~~systems.~~

12 ~~(16))~~ (10) "Western climate initiative" means the collaboration
13 of states, Canadian provinces, Mexican states, and tribes to design a
14 multisector market-based mechanism as directed under the western
15 regional climate action initiative signed by the governor on February
16 22, 2007.

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

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

22 ~~(2))~~ A person who services or repairs or disposes of a motor
23 vehicle air conditioning system; commercial or industrial air
24 conditioning, heating, or refrigeration system; or consumer appliance
25 shall use refrigerant extraction equipment to recover regulated
26 refrigerants and substitutes that would otherwise be released into
27 the atmosphere. ~~((This subsection does not apply to off-road~~
28 ~~commercial equipment.~~

29 ~~(3))~~ (2) Upon request, the department shall provide information
30 and assistance to persons interested in collecting, transporting, or
31 recycling regulated refrigerants and substitutes.

32 ~~((4))~~ (3) The willful release of regulated refrigerants and
33 substitutes from a source listed in subsection ~~((2))~~ (1) of this
34 section is prohibited.

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

37 No person may sell, offer for sale, or purchase any of the
38 following:

1 (1) A substitute with a global warming potential of greater than
2 150 or a regulated refrigerant in a container designed for consumer
3 recharge of a motor vehicle air conditioning system or consumer
4 appliance during repair or service~~((. This subsection does not apply~~
5 ~~to a regulated refrigerant purchased for the recharge of the air~~
6 ~~conditioning system of off-road commercial or agricultural equipment~~
7 ~~and sold or offered for sale at an establishment which specializes in~~
8 ~~the sale of off-road commercial or agricultural equipment or parts or~~
9 ~~service for such equipment))~~);

10 (2) Nonessential consumer products that contain
11 hydrofluorocarbons with a global warming potential of greater than
12 150 and chlorofluorocarbons or other ozone-depleting chemicals, and
13 for which ((substitutes)) suitable alternatives are readily
14 available. Products affected under this subsection shall include, but
15 are not limited to, party streamers, tire inflators, air horns, noise
16 makers, and ((chlorofluorocarbon-containing)) cleaning sprays
17 designed for noncommercial or nonindustrial cleaning of electronic or
18 photographic equipment. Products and equipment subject to
19 restrictions on applications or end uses under RCW 70A.45.080 (as
20 recodified by this act) are not nonessential products for which
21 hydrofluorocarbons are restricted under this section.

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

24 The department shall adopt rules to implement RCW 70A.15.6410 and
25 70A.15.6420 (as recodified by this act). Rules shall include but not
26 be limited to minimum performance specifications for refrigerant
27 extraction equipment, procedures under which owners or operators of
28 stationary refrigeration equipment and air conditioning equipment
29 subject to the requirements of section 9 of this act must provide the
30 department with information related to their use of regulated
31 refrigerants and substitutes, as well as procedures for enforcing RCW
32 70A.15.6410 and 70A.15.6420 (as recodified by this act) and section 8
33 of this act.

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

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

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

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

21 (a) January 1, 2020, for:

22 (i) Propellants;

23 (ii) Rigid polyurethane applications and spray foam, flexible
24 polyurethane, integral skin polyurethane, flexible polyurethane foam,
25 polystyrene extruded sheet, polyolefin, phenolic insulation board,
26 and bunstock;

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

29 (b) January 1, 2021, for:

30 (i) Refrigerated food processing and dispensing equipment;

31 (ii) Compact residential consumer refrigeration products;

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

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

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

37 (ii) Vending machines;

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

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

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

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

8 (3) The department may by rule:

9 (a) Modify the effective date of a prohibition established in
10 subsection (2) of this section if the department determines that the
11 rule reduces the overall risk to human health or the environment and
12 reflects the earliest date that a substitute is currently or
13 potentially available;

14 (b) Prohibit the use of a substitute if the department determines
15 that the prohibition reduces the overall risk to human health or the
16 environment and that a lower risk substitute is currently or
17 potentially available;

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

20 (ii) Add or remove substitutes, use conditions, or use limits to
21 or from the list of approved substitutes if the department determines
22 those substitutes reduce the overall risk to human health and the
23 environment; and

24 (d) Designate acceptable uses of hydrofluorocarbons for medical
25 uses that are exempt from the requirements of subsection (2) of this
26 section.

27 ~~(4) ((a) Within twelve months of another state's enactment or~~
28 ~~adoption of restrictions on substitutes applicable to new light duty~~
29 ~~vehicles, the department may adopt restrictions applicable to the~~
30 ~~sale, lease, rental, or other introduction into commerce by a~~
31 ~~manufacturer of new light duty vehicles consistent with the~~
32 ~~restrictions identified in appendix B, Subpart G of 40 C.F.R. Part~~
33 ~~82, as it read on January 3, 2017. The department may not adopt~~
34 ~~restrictions that take effect prior to the effective date of~~
35 ~~restrictions adopted or enacted in at least one other state.~~

36 ~~(b) If the United States environmental protection agency approves~~
37 ~~a previously prohibited hydrofluorocarbon blend with a global warming~~
38 ~~potential of seven hundred fifty or less for foam blowing of~~
39 ~~polystyrene extruded boardstock and billet and rigid polyurethane~~
40 ~~low-pressure two-component spray foam pursuant to the significant new~~

1 ~~alternatives policy program under section 7671(k) of the federal~~
2 ~~clean air act (42 U.S.C. Sec. 7401 et seq.), the department must~~
3 ~~expeditiously propose a rule consistent with RCW 34.05.320 to conform~~
4 ~~the requirements established under this section with that federal~~
5 ~~action.~~

6 ~~(5) A manufacturer must disclose the substitutes used in its~~
7 ~~products or equipment.)~~ The department shall adopt rules requiring
8 that manufacturers disclose the substitutes used in their products or
9 equipment or to disclose the compliance status of their products or
10 equipment. That disclosure must take the form of:

11 (a) A label on the equipment or product. The label must meet
12 requirements designated by the department by rule. To the extent
13 feasible, the department must recognize existing labeling that
14 provides sufficient disclosure of the use of substitutes in the
15 product or equipment or of the compliance status of the products or
16 equipment.

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

19 (ii) The department may not require labeling of aircraft and
20 aircraft components subject to certification requirements of the
21 federal aviation administration.

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

24 (i) By December 31, 2019, all manufacturers must notify the
25 department of the status of each product class utilizing
26 hydrofluorocarbons or other substitutes restricted under subsection
27 (1) of this section that the manufacturer sells, offers for sale,
28 leases, installs, or rents in Washington state. This status
29 notification must identify the substitutes used by products or
30 equipment in each product or equipment class in a manner determined
31 by rule by the department.

32 (ii) Within one hundred twenty days after the date of a
33 restriction put in place under this section, any manufacturer
34 affected by the restriction must provide an updated status
35 notification. This notification must indicate whether the
36 manufacturer has ceased the use of hydrofluorocarbons or substitutes
37 restricted under this section within each product class and, if not,
38 what hydrofluorocarbons or other restricted substitutes remain in
39 use.

1 (iii) After the effective date of a restriction put in place
2 under this section, any manufacturer must provide an updated status
3 notification when the manufacturer introduces a new or modified
4 product or piece of equipment that uses hydrofluorocarbons or changes
5 the type of hydrofluorocarbons utilized within a product class
6 affected by a restriction. Such a notification must occur within one
7 hundred twenty days of the introduction into commerce in Washington
8 of the product or equipment triggering this notification requirement.

9 ~~((6))~~ (c) Alternative disclosure requirements to (a) of this
10 subsection, if the department determines that the inclusion of a
11 label denoting substitutes used or compliance status is not feasible
12 for a particular product or equipment.

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

24 ~~((7))~~ (6) For the purposes of implementing the restrictions
25 specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read
26 on January 3, 2017, consistent with this section, the department must
27 interpret the term "aircraft maintenance" to mean activities to
28 support the production, fabrication, manufacture, rework, inspection,
29 maintenance, overhaul, or repair of commercial, civil, or military
30 aircraft, aircraft parts, aerospace vehicles, or aerospace
31 components.

32 ~~((8) The authority granted by this section to the department for~~
33 ~~restricting the use of substitutes is supplementary to the~~
34 ~~department's authority to control air pollution pursuant to chapter~~
35 ~~70A.15 RCW. Nothing in this section limits the authority of the~~
36 ~~department under chapter 70A.15 RCW.~~

37 ~~(9))~~ (7) Except where existing equipment is retrofit, the
38 restrictions of this section do not apply to or limit any use of
39 commercial refrigeration equipment that was installed or in use prior

1 to the effective date of the restrictions established in this
2 section.

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

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

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

20 (b)(i) January 1, 2025, for other types of stationary air
21 conditioning equipment, but only if before January 1, 2023, the state
22 building code council adopts the following safety standards into the
23 state building code as these standards existed as of the effective
24 date of this section:

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

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

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

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

32 (ii) If the state building code council adopts the safety
33 standards referenced in (b)(i) of this subsection after January 1,
34 2023, the restrictions of this subsection may apply to refrigeration
35 equipment manufactured no earlier than 24 months after the adoption
36 of the safety standards; and

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

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

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

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

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

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

16 (ii) If the state building code council adopts the safety
17 standards referenced in (b) (i) of this subsection after January 1,
18 2023, the restrictions of (a) of this subsection may apply to
19 refrigeration equipment manufactured no earlier than 24 months after
20 the adoption of the safety standards.

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

25 (5) (a) The department, in rules adopted to implement this
26 section, may establish reporting, labeling, and recordkeeping
27 requirements applicable to regulated facilities and persons. To the
28 extent practicable, rules adopted under this section must be
29 harmonized with reporting, labeling, or recordkeeping requirements
30 established under section 9 of this act.

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

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

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

1 NEW SECTION. **Sec. 9.** (1) The department shall establish a
2 refrigerant management program designed to reduce emissions of
3 refrigerants, including regulated substances and their substitutes,
4 from activities or equipment responsible for significant volumes of
5 such emissions. The program must include, at minimum, larger
6 stationary refrigeration systems and larger commercial air
7 conditioning systems. The department must adopt rules to implement
8 and enforce the requirements of this section. The department may
9 require compliance with refrigerant management program requirements
10 beginning no earlier than July 1, 2023, and no earlier than the
11 adjournment of the regular legislative session following the
12 submission of a report to the appropriate committees of the
13 legislature by the department providing data on leakage of
14 refrigerants from existing systems in Washington, and estimating a
15 statewide rate of leakage from the categories of systems that are
16 subject to the refrigerant management program rules adopted by the
17 department under this section.

18 (2) (a) The department shall exempt refrigeration and air
19 conditioning equipment operations associated with de minimis
20 emissions or with a de minimis charging capacity of less than 50
21 pounds at a single facility from some or all of the requirements
22 established in this section. The department shall exempt from the
23 requirements established in this section equipment that uses
24 refrigerants with a global warming potential of less than 150 and
25 that are not class I or class II substances.

26 (b) The department may scale the requirements adopted under this
27 section based on the size of the equipment, the facility containing
28 the equipment, or the business operations of a person responsible for
29 such emissions. The department may establish delayed effective dates
30 of requirements applicable to persons and systems associated with
31 lower emissions of refrigerants than other persons and systems
32 regulated under this section.

33 (3) Each year, the owner or operator of a facility with
34 stationary refrigeration systems or air conditioning systems that
35 exceed a de minimis charge capacity of 50 pounds must register with
36 the department. The department must phase in system registration
37 requirements under this subsection in order to prioritize systems
38 with the largest charge capacity or greatest potential for
39 refrigerant emissions. Registration with the department must,
40 consistent with rules adopted by the department, include the

1 submission of information about the refrigeration system, including
2 equipment type, refrigerant charge capacity, and the type of
3 refrigerant used.

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

7 (5) The owner or operator of a registered stationary
8 refrigeration system or air conditioning system must conduct periodic
9 leak-detection inspections of the system. The department may require
10 inspections to be conducted with relatively greater frequency for
11 systems with larger volumes of refrigerants. The department may
12 exempt systems that use refrigerants with low global warming
13 potential or that have automatic leak-detection systems from the
14 requirements of this subsection.

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

18 (7) The department must adopt rules that:

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

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

24 (c) Establish annual reporting requirements for owners or
25 operators of refrigeration systems or air conditioning systems that
26 include information about the system, including system service and
27 leak repair conducted on the system over the preceding year, and
28 information on the purchase and use of refrigerants in the covered
29 system during the preceding year;

30 (d) Establish annual reporting requirement for refrigerant
31 wholesalers, distributors, and reclaimers;

32 (e) Establish record retention requirements for operators of
33 facilities and wholesalers, distributors, and reclaimers of
34 refrigerants and substitutes; and

35 (f) Apply leak rates and other regulatory thresholds that achieve
36 greater emission reductions than the federal regulations adopted by
37 the United States environmental protection agency, and that reflect
38 levels of achievable superior performance established for the
39 greenhill voluntary program implemented by the United States
40 environmental protection agency.

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

2 (a) Service practices for stationary appliances, including both
3 stationary refrigeration systems and air conditioning systems.
4 Service practices established by the department may include requiring
5 technicians certified under United States environmental protection
6 agency standards to service refrigerant systems, requiring reporting
7 and recordkeeping that identifies the technicians that have serviced
8 appliances, prohibiting practices likely to result in releases to the
9 environment, requiring all practicable efforts to recover
10 refrigerants from covered systems, and prohibiting the addition of
11 refrigerants to systems known to have a leak; and

12 (b) A process for wholesalers, distributors, reclaimers, and
13 refrigeration and air conditioning equipment operators to apply to
14 the department for an exemption from some or all of the requirements
15 of this section. Exemptions may be granted by the department on the
16 basis of economic hardship, natural disaster, or after considering a
17 calculation of lifecycle greenhouse gas emissions associated with the
18 granting of an exemption that will allow an identified leak to go
19 unrepaired for a finite period of time.

20 (9) The department may determine, assess, and collect annual fees
21 from the owners or operators of refrigeration and air conditioning
22 systems regulated under this section in an amount sufficient to cover
23 the direct and indirect costs of administering and enforcing the
24 provisions of this section. All fees collected under this subsection
25 must be deposited in the refrigerant emission management account
26 created in section 12 of this act.

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

29 (1) The building code council shall adopt rules that permit the
30 use of substitutes approved under RCW ((70.235.080)) 70A.45.080 (as
31 recodified by this act) and that do not require the use of
32 substitutes that are restricted under RCW ((70.235.080)) 70A.45.080
33 (as recodified by this act).

34 (2) The building code council shall adopt rules that allow the
35 use of substitutes, as defined in section 2 of this act, with a lower
36 global warming potential than alternative substances, to the maximum
37 extent practicable and only if the substitutes do not present a risk
38 to building occupant safety and are not in conflict with applicable
39 provisions of the fire code or best practices to reduce fire risks.

1 (3) The building code council may adopt rules that allow the use
2 of substitutes not yet approved by the United States environmental
3 protection agency's significant new alternatives policy to implement
4 42 U.S.C. Sec. 7671k for products where no other substitutes have
5 been approved.

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

10 (b) Prior to the adoption of any rules by the building code
11 council that affect the design or installation of refrigeration or
12 air conditioning systems or that facilitate the use of substitutes
13 with a low global warming potential in air conditioning systems or
14 equipment, the building code council must solicit input from affected
15 parties and parties with expertise in the substitutes or affected
16 types of systems or equipment including, but not limited to:

17 (i) Manufacturers, distributors, and installers of refrigeration
18 and air conditioning systems; and

19 (ii) Refrigeration and air conditioning system contractors that
20 are small businesses or that primarily serve rural areas.

21 NEW SECTION. Sec. 11. (1) The authority granted by this chapter
22 to the department for restricting the use of substitutes is
23 supplementary to the department's authority to control air pollution
24 pursuant to chapter 70A.15 RCW. Nothing in this chapter limits the
25 authority of the department under chapter 70A.15 RCW.

26 (2) The department, in enforcing the requirements of this
27 chapter, must adhere to the provisions applicable to the department
28 under chapter 43.05 RCW regarding site inspections, technical
29 assistance visits, notices of correction, and the issuance of civil
30 penalties, to the extent that these provisions are not in conflict
31 with federal requirements described in RCW 43.05.901.

32 NEW SECTION. Sec. 12. The refrigerant emission management
33 account is created in the state treasury. All receipts received by
34 the state from the fees imposed under section 9 of this act must be
35 deposited in the account. Moneys in the account may be spent only
36 after appropriation. Expenditures from the account may be used only
37 to develop and implement the provisions of section 9 of this act.

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

3 (1) The air pollution control account is established in the state
4 treasury. All receipts collected by or on behalf of the department
5 from RCW 70A.15.2200(2), and receipts from nonpermit program sources
6 under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from
7 RCW 70A.15.5090 and 70A.15.5120 shall be deposited into the account.
8 Moneys in the account may be spent only after appropriation.
9 Expenditures from the account may be used only to develop and
10 implement the provisions of this chapter, chapter 70A.25 RCW, and RCW
11 70A.45.080 (as recodified by this act).

12 (2) The amounts collected and allocated in accordance with this
13 section shall be expended upon appropriation except as otherwise
14 provided in this section and in accordance with the following
15 limitations:

16 Portions of moneys received by the department of ecology from the
17 air pollution control account shall be distributed by the department
18 to local authorities based on:

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

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

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

26 (3) The air operating permit account is created in the custody of
27 the state treasurer. All receipts collected by or on behalf of the
28 department from permit program sources under RCW 70A.15.2210(1),
29 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into
30 the account. Expenditures from the account may be used only for the
31 activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270,
32 and 70A.15.2230(7). Moneys in the account may be spent only after
33 appropriation.

34 NEW SECTION. **Sec. 14.** (1) By December 1, 2021, the department
35 of ecology must provide recommendations to the appropriate committees
36 of the house of representatives and the senate regarding the optimal
37 design of a program to address the end-of-life management and
38 disposal of refrigerants including, but not limited to, ozone-
39 depleting substances and hydrofluorocarbons. In developing the

1 recommendations, the department must solicit feedback from
2 potentially impacted parties and the public. The recommendations may
3 come in the form of draft legislation.

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

6 (a) The legal and financial obligations to support or participate
7 in the program applicable to refrigerant manufacturers, importers,
8 distributors, and retailers, and to refrigerant-using equipment
9 owner-operators and service technicians;

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

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

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

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

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

35 (3) Any person who knowingly releases into the ambient air any
36 substance listed by the department of ecology as a hazardous air
37 pollutant, other than in compliance with the terms of an applicable
38 permit or emission limit, and who knows at the time that he or she
39 thereby places another person in imminent danger of death or

1 substantial bodily harm, is guilty of a class C felony and shall,
2 upon conviction, be punished by a fine of not less than fifty
3 thousand dollars, or by imprisonment for not more than five years, or
4 both.

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

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

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

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

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

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

34 (3) Each act of commission or omission which procures, aids or
35 abets in the violation shall be considered a violation under the
36 provisions of this section and subject to the same penalty. The
37 penalties provided in this section shall be imposed pursuant to RCW
38 43.21B.300.

1 (4) (~~All~~) (a) Except as provided in (b) of this subsection, all
2 penalties recovered under this section by the department shall be
3 paid into the state treasury and credited to the air pollution
4 control account established in RCW 70A.15.1010 or, if recovered by
5 the authority, shall be paid into the treasury of the authority and
6 credited to its funds. If a prior penalty for the same violation has
7 been paid to a local authority, the penalty imposed by the department
8 under subsection (1) of this section shall be reduced by the amount
9 of the payment.

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

14 (5) To secure the penalty incurred under this section, the state
15 or the authority shall have a lien on any vessel used or operated in
16 violation of this chapter which shall be enforced as provided in RCW
17 60.36.050.

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

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

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

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

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

37 (a) By January 1, 2010, using methodologies consistent with those
38 used by the Pacific Northwest electric power and conservation
39 planning council in the most recently published regional power plan

1 as it existed on June 12, 2014, or a subsequent date as may be
2 provided by the department or the commission by rule, each qualifying
3 utility shall identify its achievable cost-effective conservation
4 potential through 2019. Nothing in the rule adopted under this
5 subsection precludes a qualifying utility from using its utility
6 specific conservation measures, values, and assumptions in
7 identifying its achievable cost-effective conservation potential. At
8 least every two years thereafter, the qualifying utility shall review
9 and update this assessment for the subsequent ten-year period.

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

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

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

37 (iii) Beginning January 1, 2012, and until December 31, 2017, a
38 qualifying utility with an industrial facility located in a county
39 with a population between ninety-five thousand and one hundred
40 fifteen thousand that is directly interconnected with electricity

1 facilities that are capable of carrying electricity at transmission
2 voltage may use cost-effective conservation from that industrial
3 facility in excess of its biennial acquisition target to help meet
4 the immediately subsequent two biennial acquisition targets, such
5 that no more than twenty-five percent of any biennial target may be
6 met with excess conservation savings allowed under all of the
7 provisions of this section combined.

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

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

25 (f) In assessing the conservation required under this section, a
26 qualifying utility is encouraged to consider structuring conservation
27 efforts so as to reduce the greenhouse gas emissions from
28 refrigerants used in incentivized products and equipment.

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

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

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

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

39 (iii) At least fifteen percent of its load by January 1, 2020,
40 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 any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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