

E2SHB 1050 - S COMM AMD

By Committee on Environment, Energy & Technology

OUT OF ORDER 04/07/2021

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that
4 hydrofluorocarbons are air pollutants that pose significant threats
5 to our environment. Although hydrofluorocarbons currently represent a
6 small proportion of the state's greenhouse gas emissions, emissions
7 of hydrofluorocarbons have been rapidly increasing in the United
8 States and worldwide, and they are hundreds to thousands of times
9 more potent than carbon dioxide. In 2019, the legislature took a
10 significant step towards reducing greenhouse gas emissions from
11 hydrofluorocarbons by transitioning to the use of less damaging
12 hydrofluorocarbons or suitable substitutes in certain new foam,
13 aerosol, and refrigerant uses. However, significant sources of
14 hydrofluorocarbon emissions in Washington remain unaddressed by the
15 2019 legislation, including legacy uses of hydrofluorocarbons as a
16 refrigerant in infrastructure that was installed prior to the
17 effective dates of the restrictions in the 2019 law, and from sources
18 like stationary air conditioners and heat pumps that were not covered
19 by the 2019 law.

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

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

24 (b) Authorizing the regulation of hydrofluorocarbons in air
25 conditioning and heat pumps;

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

29 (d) Establishing a program to reduce leaks and encourage
30 refrigerant recovery from large refrigeration and air conditioning
31 systems;

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

4 (f) Establishing a state procurement preference for recycled
5 refrigerants; and

6 (g) Allowing consideration of the global warming potential of
7 refrigerants used in equipment incentivized under utility
8 conservation programs.

9 (3) Furthermore, it is the intent of the legislature that the ice
10 rink used by Seattle's newest hockey franchise, the Seattle Kraken,
11 should be as cold as possible, but also should be refrigerated using
12 climate-friendly refrigerants, so that on opening night of the
13 2021-2022 National Hockey League season, as many fans as possible can
14 simultaneously yell the Pacific Northwest's favorite new phrase:
15 'Release the Kraken!'

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

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

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

23 (c) "Air conditioning" applies to stationary air conditioning
24 equipment and does not apply to mobile air conditioning, including
25 those used in motor vehicles, rail and trains, aircraft, watercraft,
26 recreational vehicles, recreational trailers, and campers.

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

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

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

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

38 (6) "Manufacturer" includes any person, firm, association,
39 partnership, corporation, governmental entity, organization, or joint

1 venture that produces any product that contains or uses
2 hydrofluorocarbons or is an importer or domestic distributor of such
3 a product.

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

7 (8) "Refrigeration equipment" or "refrigeration system" means any
8 stationary device that is designed to contain and use refrigerant.
9 "Refrigeration equipment" includes refrigeration equipment used in
10 retail food, cold storage, industrial process refrigeration and
11 cooling that does not use a chiller, ice rinks, and other
12 refrigeration applications.

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

16 (10) "Residential consumer refrigeration products" has the same
17 meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part
18 430 (2017).

19 (11) "Retrofit" has the same meaning as defined in section 152 of
20 Subpart F of 40 C.F.R. Part 82, as that section existed as of January
21 3, 2017.

22 (12) "Substitute" means a chemical, product, or alternative
23 manufacturing process, whether existing or new, that is used to
24 perform a function previously performed by a class I substance or
25 class II substance and any chemical, product, or alternative
26 manufacturing process subsequently developed, adapted, or adopted to
27 perform that function including, but not limited to,
28 hydrofluorocarbons. "Substitute" does not include 2-BTP or any
29 compound as applied to its use in aerospace fire extinguishing
30 systems.

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

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

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

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

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

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

10 ~~((5))~~ (4) "Climate impacts group" means the University of
11 Washington's climate impacts group.

12 ~~((6))~~ (5) "Department" means the department of ecology.

13 ~~((7))~~ (6) "Director" means the director of the department.

14 ~~((8))~~ (7) "Greenhouse gas" and "greenhouse gases" includes
15 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
16 perfluorocarbons, sulfur hexafluoride, and any other gas or gases
17 designated by the department by rule.

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

21 ~~(10) "Manufacturer" includes any person, firm, association,~~
22 ~~partnership, corporation, governmental entity, organization, or joint~~
23 ~~venture that produces any product that contains or uses~~
24 ~~hydrofluorocarbons or is an importer or domestic distributor of such~~
25 ~~a product.~~

26 ~~(11))~~ (8) "Person" means an individual, partnership, franchise
27 holder, association, corporation, a state, a city, a county, or any
28 subdivision or instrumentality of the state.

29 ~~((12))~~ (9) "Program" means the department's climate change
30 program.

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

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

37 ~~(15) "Substitute" means a chemical, product substitute, or~~
38 ~~alternative manufacturing process, whether existing or new, that is~~
39 ~~used to perform a function previously performed by a class I~~
40 ~~substance or class II substance and any substitute subsequently~~

1 ~~adopted to perform that function, including, but not limited to,~~
2 ~~hydrofluorocarbons. "Substitute" does not include 2-BTP or any~~
3 ~~compound as applied to its use in aerospace fire extinguishing~~
4 ~~systems.~~

5 ~~(16))~~ (10) "Western climate initiative" means the collaboration
6 of states, Canadian provinces, Mexican states, and tribes to design a
7 multisector market-based mechanism as directed under the western
8 regional climate action initiative signed by the governor on February
9 22, 2007.

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

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

15 ~~(2))~~ A person who services or repairs or disposes of a motor
16 vehicle air conditioning system; commercial or industrial air
17 conditioning, heating, or refrigeration system; or consumer appliance
18 shall use refrigerant extraction equipment to recover regulated
19 refrigerants and substitutes that would otherwise be released into
20 the atmosphere. ~~((This subsection does not apply to off-road~~
21 ~~commercial equipment.~~

22 ~~(3))~~ (2) Upon request, the department shall provide information
23 and assistance to persons interested in collecting, transporting, or
24 recycling regulated refrigerants and substitutes.

25 ~~((4))~~ (3) The willful release of regulated refrigerants and
26 substitutes from a source listed in subsection ~~((2))~~ (1) of this
27 section is prohibited.

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

30 No person may sell, offer for sale, or purchase any of the
31 following:

32 (1) A substitute with a global warming potential of greater than
33 150 or a regulated refrigerant in a container designed for consumer
34 recharge of a motor vehicle air conditioning system or consumer
35 appliance during repair or service~~((This subsection does not apply~~
36 ~~to a regulated refrigerant purchased for the recharge of the air~~
37 ~~conditioning system of off-road commercial or agricultural equipment~~
38 ~~and sold or offered for sale at an establishment which specializes in~~

1 ~~the sale of off-road commercial or agricultural equipment or parts or~~
2 ~~service for such equipment));~~

3 (2) Nonessential consumer products that contain
4 hydrofluorocarbons with a global warming potential of greater than
5 150 and chlorofluorocarbons or other ozone-depleting chemicals, and
6 for which ~~((substitutes))~~ suitable alternatives are readily
7 available. Products affected under this subsection shall include, but
8 are not limited to, party streamers, tire inflators, air horns, noise
9 makers, and ~~((chlorofluorocarbon-containing))~~ cleaning sprays
10 designed for noncommercial or nonindustrial cleaning of electronic or
11 photographic equipment. Products and equipment subject to
12 restrictions on applications or end uses under RCW 70A.45.080 (as
13 recodified by this act) are not nonessential products for which
14 hydrofluorocarbons are restricted under this section.

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

17 The department shall adopt rules to implement RCW 70A.15.6410 and
18 70A.15.6420 (as recodified by this act). Rules shall include but not
19 be limited to minimum performance specifications for refrigerant
20 extraction equipment, procedures under which owners or operators of
21 stationary refrigeration equipment and air conditioning equipment
22 subject to the requirements of section 9 of this act must provide the
23 department with information related to their use of regulated
24 refrigerants and substitutes, as well as procedures for enforcing RCW
25 70A.15.6410 and 70A.15.6420 (as recodified by this act) and section 8
26 of this act.

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

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

32 (1) A person may not offer any product or equipment for sale,
33 lease, or rent, or install or otherwise cause any equipment or
34 product to enter into commerce in Washington if that equipment or
35 product consists of, uses, or will use a substitute, as set forth in
36 appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on
37 January 3, 2017, for the applications or end uses restricted by
38 appendix U or V of the federal regulation, as those read on January

1 3, 2017, consistent with the deadlines established in subsection (2)
2 of this section. Except where existing equipment is retrofit, nothing
3 in this subsection requires a person that acquired a restricted
4 product or equipment prior to the effective date of the restrictions
5 in subsection (2) of this section to cease use of that product or
6 equipment. Products or equipment manufactured prior to the applicable
7 effective date of the restrictions specified in subsection (2) of
8 this section may be sold, imported, exported, distributed, installed,
9 and used after the specified effective date.

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

14 (a) January 1, 2020, for:

15 (i) Propellants;

16 (ii) Rigid polyurethane applications and spray foam, flexible
17 polyurethane, integral skin polyurethane, flexible polyurethane foam,
18 polystyrene extruded sheet, polyolefin, phenolic insulation board,
19 and bunstock;

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

22 (b) January 1, 2021, for:

23 (i) Refrigerated food processing and dispensing equipment;

24 (ii) Compact residential consumer refrigeration products;

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

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

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

30 (ii) Vending machines;

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

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

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

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

1 (3) The department may by rule:

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

7 (b) Prohibit the use of a substitute if the department determines
8 that the prohibition reduces the overall risk to human health or the
9 environment and that a lower risk substitute is currently or
10 potentially available;

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

13 (ii) Add or remove substitutes, use conditions, or use limits to
14 or from the list of approved substitutes if the department determines
15 those substitutes reduce the overall risk to human health and the
16 environment; and

17 (d) Designate acceptable uses of hydrofluorocarbons for medical
18 uses that are exempt from the requirements of subsection (2) of this
19 section.

20 ~~(4) ((a) Within twelve months of another state's enactment or
21 adoption of restrictions on substitutes applicable to new light duty
22 vehicles, the department may adopt restrictions applicable to the
23 sale, lease, rental, or other introduction into commerce by a
24 manufacturer of new light duty vehicles consistent with the
25 restrictions identified in appendix B, Subpart G of 40 C.F.R. Part
26 82, as it read on January 3, 2017. The department may not adopt
27 restrictions that take effect prior to the effective date of
28 restrictions adopted or enacted in at least one other state.~~

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

39 ~~(5) A manufacturer must disclose the substitutes used in its
40 products or equipment.)~~ The department shall adopt rules requiring

1 that manufacturers disclose the substitutes used in their products or
2 equipment or to disclose the compliance status of their products or
3 equipment. That disclosure must take the form of:

4 (a) A label on the equipment or product. The label must meet
5 requirements designated by the department by rule. To the extent
6 feasible, the department must recognize existing labeling that
7 provides sufficient disclosure of the use of substitutes in the
8 product or equipment or of the compliance status of the products or
9 equipment.

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

12 (ii) The department may not require labeling of aircraft and
13 aircraft components subject to certification requirements of the
14 federal aviation administration.

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

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

25 (ii) Within one hundred twenty days after the date of a
26 restriction put in place under this section, any manufacturer
27 affected by the restriction must provide an updated status
28 notification. This notification must indicate whether the
29 manufacturer has ceased the use of hydrofluorocarbons or substitutes
30 restricted under this section within each product class and, if not,
31 what hydrofluorocarbons or other restricted substitutes remain in
32 use.

33 (iii) After the effective date of a restriction put in place
34 under this section, any manufacturer must provide an updated status
35 notification when the manufacturer introduces a new or modified
36 product or piece of equipment that uses hydrofluorocarbons or changes
37 the type of hydrofluorocarbons utilized within a product class
38 affected by a restriction. Such a notification must occur within one
39 hundred twenty days of the introduction into commerce in Washington
40 of the product or equipment triggering this notification requirement.

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

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

16 ~~((7))~~ (6) For the purposes of implementing the restrictions
17 specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read
18 on January 3, 2017, consistent with this section, the department must
19 interpret the term "aircraft maintenance" to mean activities to
20 support the production, fabrication, manufacture, rework, inspection,
21 maintenance, overhaul, or repair of commercial, civil, or military
22 aircraft, aircraft parts, aerospace vehicles, or aerospace
23 components.

24 ~~((8) The authority granted by this section to the department for~~
25 ~~restricting the use of substitutes is supplementary to the~~
26 ~~department's authority to control air pollution pursuant to chapter~~
27 ~~70A.15 RCW. Nothing in this section limits the authority of the~~
28 ~~department under chapter 70A.15 RCW.~~

29 ~~(9))~~ (7) Except where existing equipment is retrofit, the
30 restrictions of this section do not apply to or limit any use of
31 commercial refrigeration equipment that was installed or in use prior
32 to the effective date of the restrictions established in this
33 section.

34 NEW SECTION. Sec. 8. (1) Within 12 months of another state's
35 enactment or adoption of restrictions on substitutes applicable to
36 new light-duty vehicles, the department may adopt restrictions
37 applicable to the sale, lease, rental, or other introduction into
38 commerce by a manufacturer of new light-duty vehicles consistent with
39 the restrictions identified in appendix B, Subpart G of 40 C.F.R.

1 Part 82, as of January 3, 2017. The department may apply an effective
2 date to the restrictions adopted under this subsection that differs
3 from the effective date of the restrictions adopted by another state,
4 but the department may not adopt restrictions that take effect prior
5 to the effective date of restrictions adopted or enacted in at least
6 one other state.

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

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

12 (b)(i) January 1, 2025, for other types of stationary air
13 conditioning equipment, but only if before January 1, 2023, the state
14 building code council adopts the following safety standards into the
15 state building code as these standards existed as of the effective
16 date of this section:

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

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

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

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

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

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

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

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

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

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

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

6 (ii) If the state building code council adopts the safety
7 standards referenced in (b)(i) of this subsection after January 1,
8 2023, the restrictions of (a) of this subsection may apply to
9 refrigeration equipment manufactured no earlier than 24 months after
10 the adoption of the safety standards.

11 (4) The department shall prohibit the use of refrigerant
12 substitutes that have a global warming potential of greater than:

13 (a) One hundred fifty for use in new equipment manufactured after
14 December 31, 2023, for installation in new ice rinks; and

15 (b) Seven hundred fifty for use in new equipment manufactured
16 after December 31, 2023, for installation in existing ice rinks.

17 (5)(a) The department, in rules adopted to implement this
18 section, may establish reporting, labeling, and recordkeeping
19 requirements applicable to regulated facilities and persons. To the
20 extent practicable, rules adopted under this section must be
21 harmonized with reporting, labeling, or recordkeeping requirements
22 established under section 9 of this act.

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

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

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

31 (6)(a) Prior to adopting final rules to implement restrictions
32 under subsection (2) or (3) of this section, the department must
33 review the availability and affordability of:

34 (i) Equipment that meets applicable global warming potential
35 requirements;

36 (ii) Refrigerants that meet applicable global warming potential
37 requirements; and

38 (iii) Appropriate training to utilize equipment that meets
39 applicable global warming potential requirements.

1 (b) After the review required under (a) of this subsection, the
2 department is encouraged to consider delaying the effective date of
3 restrictions under this section in the event that the department
4 determines that significant training or compliant equipment or
5 refrigerant availability and affordability limitations are expected
6 to occur.

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

24 (2)(a) The department shall exempt refrigeration and air
25 conditioning equipment operations associated with de minimis
26 emissions or with a de minimis charging capacity of less than 50
27 pounds in a single system from registration, reporting, and leak
28 detection requirements established in this section. The department
29 shall exempt from the requirements established in this section
30 equipment that uses refrigerants with a global warming potential of
31 less than 150 and that are not class I or class II substances.

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

1 (3) Each year, the owner or operator of a stationary
2 refrigeration system or air conditioning system that exceeds a de
3 minimis charge capacity of 50 pounds must register with the
4 department. The department must phase in system registration
5 requirements under this subsection in order to prioritize systems
6 with the largest charge capacity or greatest potential for
7 refrigerant emissions. Registration with the department must,
8 consistent with rules adopted by the department, include the
9 submission of information about the refrigeration system, including
10 equipment type, refrigerant charge capacity, and the type of
11 refrigerant used.

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

15 (5) The owner or operator of a registered stationary
16 refrigeration system or air conditioning system must conduct periodic
17 leak-detection inspections of the system. The department may require
18 inspections to be conducted with relatively greater frequency for
19 systems with larger volumes of refrigerants. The department may
20 exempt systems that use refrigerants with low global warming
21 potential or that have automatic leak-detection systems from the
22 requirements of this subsection.

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

26 (7) The department must adopt rules that:

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

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

32 (c) Establish annual reporting requirements for owners or
33 operators of refrigeration systems or air conditioning systems that
34 include information about the system, including system service and
35 leak repair conducted on the system over the preceding year, and
36 information on the purchase and use of refrigerants in the covered
37 system during the preceding year;

38 (d) Establish annual reporting requirement for refrigerant
39 wholesalers, distributors, and reclaimers;

1 (e) Establish record retention requirements for operators of
2 facilities and wholesalers, distributors, and reclaimers of
3 refrigerants and substitutes;

4 (f) Apply leak rates and other regulatory thresholds that achieve
5 greater emission reductions than the federal regulations adopted by
6 the United States environmental protection agency, and that reflect
7 levels of achievable superior performance established for the
8 greenchill voluntary program implemented by the United States
9 environmental protection agency; and

10 (g) To the maximum extent practicable while giving consideration
11 to the goals of this chapter, establish recordkeeping and reporting
12 requirements that are consistent with programs implemented by the
13 federal environmental protection agency or in other states, and that
14 minimize compliance costs and regulatory burdens for regulated
15 parties.

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

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

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

35 (9) The department may determine, assess, and collect annual fees
36 from the owners or operators of refrigeration and air conditioning
37 systems regulated under this section in an amount sufficient to cover
38 the direct and indirect costs of administering and enforcing the
39 provisions of this section. All fees collected under this subsection

1 must be deposited in the refrigerant emission management account
2 created in section 12 of this act.

3 (10) By December 1, 2029, and every five years thereafter, the
4 department must consider the greenhouse gas emissions reductions
5 achieved under the program created in this section and the criteria
6 of section 11(3) of this act, and make a determination whether to
7 continue to implement the program for the following five years. The
8 department must notify the appropriate committees of the house of
9 representatives and the senate of its determination.

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

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

21 (2) The building code council shall adopt rules that allow the
22 use of substitutes, as defined in section 2 of this act, with a lower
23 global warming potential than alternative substances, in accordance
24 with nationally recognized, published standards that protect building
25 occupant safety and reduce fire risks.

26 (3) The building code council may adopt rules that allow the use
27 of substitutes, as defined in section 2 of this act, that are under
28 review but have not yet been approved by the United States
29 environmental protection agency's significant new alternatives policy
30 to implement 42 U.S.C. Sec. 7671k, if the substitutes have a lower
31 global warming potential than alternative substances and meet
32 nationally recognized, published standards that protect building
33 occupant safety and reduce fire risks.

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

38 (5) Prior to the adoption of any rules by the building code
39 council that affect the design or installation of refrigeration or

1 air conditioning systems or that facilitate the use of substitutes
2 with a low global warming potential in air conditioning systems or
3 equipment, the building code council may solicit input from affected
4 parties and parties with expertise in the substitutes or affected
5 types of systems or equipment including, but not limited to:

6 (a) Manufacturers, distributors, and installers of refrigeration
7 and air conditioning systems; and

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

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

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

21 (3) The department may elect to refrain from or cease
22 administering or enforcing a requirement of this chapter if the
23 United States environmental protection agency adopts requirements
24 that:

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

28 (b) Preempt state authority under this chapter.

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

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

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

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

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

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

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

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

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

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

1 actions taken by other jurisdictions to incentivize refrigerant reuse
2 or reclamation. The recommendations may come in the form of draft
3 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 addition to the requirements of RCW 19.280.030(3), in
26 assessing the cost-effective conservation required under this
27 section, a qualifying utility is encouraged to promote the adoption
28 of air conditioning, as defined in section 2 of this act, with
29 refrigerants not exceeding a global warming potential of 750 and the
30 replacement of stationary refrigeration systems that contain ozone-
31 depleting substances or hydrofluorocarbon refrigerants with a high
32 global warming potential.

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

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

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

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

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

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

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

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

24 (e) A qualifying utility may use renewable energy credits to meet
25 the requirements of this section, subject to the limitations of this
26 subsection.

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

32 (ii) A renewable energy credit from electricity generated by
33 freshwater:

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

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

39 (iii) A renewable energy credit transferred to an investor-owned
40 utility pursuant to the Bonneville power administration's residential

1 exchange program may not be used by any utility other than the
2 utility receiving the credit from the Bonneville power
3 administration.

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

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

9 (i) Eligible renewable resources or distributed generation where
10 the associated renewable energy credits are owned by a separate
11 entity; or

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

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

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

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

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

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

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

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

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

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

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

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

39 (3) Utilities that become qualifying utilities after December 31,
40 2006, shall meet the requirements in this section on a time frame

1 comparable in length to that provided for qualifying utilities as of
2 December 7, 2006.

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

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

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

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

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

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

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

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

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

37 (5) (a) An eligible building owner who meets the requirements of
38 subsection (4) of this section may submit an application to the
39 department for an incentive payment in a form and manner prescribed

1 by the department. The application must be submitted in accordance
2 with the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (~~(4)~~) (b) Nothing in subsection (3) of this section requires
31 the department or any other state agency to breach an existing
32 contract or dispose of stock that has been ordered or is in the
33 possession of the department or other state agency as of July 28,
34 2021.

35 (5) By December 1, 2020, and each December 1st of even-numbered
36 years thereafter, the department must submit a status report to the
37 appropriate committees of the house of representatives and senate
38 regarding the implementation and compliance of the department and
39 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."

E2SHB 1050 - S COMM AMD

By Committee on Environment, Energy & Technology

OUT OF ORDER 04/07/2021

16 On page 1, line 2 of the title, after "gases;" strike the
17 remainder of the title and insert "amending RCW 70A.15.6410,
18 70A.15.6420, 70A.15.6430, 70A.45.080, 19.27.580, 70A.15.1010,
19 70A.15.3150, 70A.15.3160, 19.285.040, 19.27A.220, and 39.26.310;
20 reenacting and amending RCW 70A.45.010; adding a new chapter to Title
21 70A RCW; creating new sections; recodifying RCW 70A.45.080,
22 70A.15.6410, 70A.15.6420, and 70A.15.6430; and providing an effective
23 date."

EFFECT: Modifies the maximum global warming potential of 750 for
substitutes used in new equipment for ice rinks to apply it to
existing ice rinks and delays the effective date to January 1, 2024,
and establishes a maximum global warming potential of 150 for
substitutes used in new equipment for new ice rinks that takes effect
on January 1, 2024.

Specifies that prior to adopting rules to implement the global
warming potential maximums on air conditioning and refrigeration
equipment, the Department of Ecology must additionally consider the

availability of refrigerants that meet the requirements, and the affordability of equipment, refrigerants, and training to use equipment that meets the requirements.

Following the availability and affordability review, additionally encourages the department to consider delaying the effective date of restrictions if there are significant refrigerant availability limitations, or affordability limitations as applied to equipment, training, or refrigerants.

Requires the department to exempt refrigeration and air conditioning equipment operations associated with a de minimis charging capacity of less than 50 pounds on a system basis, rather than a facility basis, from refrigerant management program requirements.

Directs the department to adopt rules that to the maximum extent practicable while giving consideration to the goals of state ozone-depleting substitute regulation, establish recordkeeping and reporting requirements that are consistent with programs implemented by the federal Environmental Protection Agency (EPA) or in other states, and that minimize compliance costs and regulatory burdens for regulated parties.

By December 1, 2029, and every five years thereafter, requires the department to consider the greenhouse gas emissions reductions achieved under the refrigerant management program and criteria for ceasing requirements based on the duplicity of or preemption by EPA regulations, and make a determination whether to continue to the program for the next five years.

Specifies that the building code council shall adopt rules, including by amending existing rules as necessary, that permit the use of substitutes approved under state law requirements for product manufacture and sale, and that do not require the use of substitutes that are restricted under the same laws.

Directs the building code council to adopt rules that allow the use of low global warming potential substitutes in accordance with nationally recognized, published standards that protect building occupant safety and reduce fire risks, as opposed to adopting rules after soliciting stakeholder input and reviewing applicable fire code provisions or best practices on the same topics.

Authorizes the building code council to adopt rules that allow the use of substitutes that are under review but have not yet been approved by the EPA's Significant New Alternatives Policy, if the substitutes have a lower global warming potential than alternative substances and meet nationally recognized, published standards that protect building occupant safety and reduce fire risks.

Provides that the building code council may, rather than must, solicit input from affected parties and parties with expertise, prior to adoption of rules that affect the design or installation of refrigeration or air conditioning systems or that facilitate the use of low global warming potential substitutes.

--- END ---