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**SECOND SUBSTITUTE HOUSE BILL 1050**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

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

READ FIRST TIME 02/15/21.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (i) Equipment that meets applicable global warming potential  
5 requirements; and

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

8 (b) After the review required under (a) of this subsection, the  
9 department is encouraged to consider delaying the effective date of  
10 restrictions under this section in the event that the department  
11 determines that significant training or compliant equipment  
12 availability limitations are expected to occur.

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

30 (2) (a) The department shall exempt refrigeration and air  
31 conditioning equipment operations associated with de minimis  
32 emissions or with a de minimis charging capacity of less than 50  
33 pounds at a single facility from registration, reporting, and leak  
34 detection requirements established in this section. The department  
35 shall exempt from the requirements established in this section  
36 equipment that uses refrigerants with a global warming potential of  
37 less than 150 and that are not class I or class II substances.

38 (b) The department may scale the requirements adopted under this  
39 section based on the size of the equipment, the facility containing

1 the equipment, or the business operations of a person responsible for  
2 such emissions. The department may establish delayed effective dates  
3 of requirements applicable to persons and systems associated with  
4 lower emissions of refrigerants than other persons and systems  
5 regulated under this section.

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

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

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

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

31 (7) The department must adopt rules that:

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

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

37 (c) Establish annual reporting requirements for owners or  
38 operators of refrigeration systems or air conditioning systems that  
39 include information about the system, including system service and  
40 leak repair conducted on the system over the preceding year, and

1 information on the purchase and use of refrigerants in the covered  
2 system during the preceding year;

3 (d) Establish annual reporting requirement for refrigerant  
4 wholesalers, distributors, and reclaimers;

5 (e) Establish record retention requirements for operators of  
6 facilities and wholesalers, distributors, and reclaimers of  
7 refrigerants and substitutes; and

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

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

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

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

33 (9) The department may determine, assess, and collect annual fees  
34 from the owners or operators of refrigeration and air conditioning  
35 systems regulated under this section in an amount sufficient to cover  
36 the direct and indirect costs of administering and enforcing the  
37 provisions of this section. All fees collected under this subsection  
38 must be deposited in the refrigerant emission management account  
39 created in section 12 of this act.

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

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

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

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

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

26       (5) Prior to the adoption of any rules by the building code  
27 council that affect the design or installation of refrigeration or  
28 air conditioning systems or that facilitate the use of substitutes  
29 with a low global warming potential in air conditioning systems or  
30 equipment, the building code council must solicit input from affected  
31 parties and parties with expertise in the substitutes or affected  
32 types of systems or equipment including, but not limited to:

33       (a) Manufacturers, distributors, and installers of refrigeration  
34 and air conditioning systems; and

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

37       NEW SECTION. Sec. 11. (1) The authority granted by this chapter  
38 to the department for restricting the use of substitutes is  
39 supplementary to the department's authority to control air pollution



1 pursuant to chapter 70A.15 RCW. Nothing in this chapter limits the  
2 authority of the department under chapter 70A.15 RCW.

3 (2) The department, in enforcing the requirements of this  
4 chapter, must adhere to the provisions applicable to the department  
5 under chapter 43.05 RCW regarding site inspections, technical  
6 assistance visits, notices of correction, and the issuance of civil  
7 penalties, to the extent that these provisions are not in conflict  
8 with federal requirements described in RCW 43.05.901.

9 (3) The department may elect to refrain from or cease  
10 administering or enforcing a requirement of this chapter if the  
11 United States environmental protection agency adopts requirements  
12 that:

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

16 (b) Preempt state authority under this chapter.

17 NEW SECTION. **Sec. 12.** The refrigerant emission management  
18 account is created in the state treasury. All receipts received by  
19 the state from the fees imposed under section 9 of this act must be  
20 deposited in the account. Moneys in the account may be spent only  
21 after appropriation. Expenditures from the account may be used only  
22 to develop and implement the provisions of section 9 of this act.

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

25 (1) The air pollution control account is established in the state  
26 treasury. All receipts collected by or on behalf of the department  
27 from RCW 70A.15.2200(2), and receipts from nonpermit program sources  
28 under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from  
29 RCW 70A.15.5090 and 70A.15.5120 shall be deposited into the account.  
30 Moneys in the account may be spent only after appropriation.  
31 Expenditures from the account may be used only to develop and  
32 implement the provisions of this chapter, chapter 70A.25 RCW, and RCW  
33 70A.45.080 (as recodified by this act).

34 (2) The amounts collected and allocated in accordance with this  
35 section shall be expended upon appropriation except as otherwise  
36 provided in this section and in accordance with the following  
37 limitations:

1 Portions of moneys received by the department of ecology from the  
2 air pollution control account shall be distributed by the department  
3 to local authorities based on:

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

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

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

11 (3) The air operating permit account is created in the custody of  
12 the state treasurer. All receipts collected by or on behalf of the  
13 department from permit program sources under RCW 70A.15.2210(1),  
14 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into  
15 the account. Expenditures from the account may be used only for the  
16 activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270,  
17 and 70A.15.2230(7). Moneys in the account may be spent only after  
18 appropriation.

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

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

32 (a) The legal and financial obligations to support or participate  
33 in the program applicable to refrigerant manufacturers, importers,  
34 distributors, and retailers, and to refrigerant-using equipment  
35 owner-operators and service technicians;

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

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

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

6 (1) Any person who knowingly violates any of the provisions of  
7 this chapter or (~~chapter 70A.25 RCW, RCW 70A.45.080~~) chapters  
8 70A.25 and 70A.--- (the new chapter created in section 20 of this  
9 act) RCW, or any ordinance, resolution, or regulation in force  
10 pursuant thereto is guilty of a gross misdemeanor and upon conviction  
11 thereof shall be punished by a fine of not more than ten thousand  
12 dollars, or by imprisonment in the county jail for up to three  
13 hundred sixty-four days, or by both for each separate violation.

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

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

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

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

37 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
38 43.05.150, and in addition to or as an alternate to any other penalty

1 provided by law, any person who violates any of the provisions of  
2 this chapter, chapter 70A.25 ~~((~~or~~))~~, 70A.450, or 70A.--- (the new  
3 chapter created in section 20 of this act) RCW, ~~((RCW 70A.45.080,))~~  
4 or any of the rules in force under such chapters or section may incur  
5 a civil penalty in an amount not to exceed ten thousand dollars per  
6 day for each violation. Each such violation shall be a separate and  
7 distinct offense, and in case of a continuing violation, each day's  
8 continuance shall be a separate and distinct violation.

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

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

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

22 (3) Each act of commission or omission which procures, aids or  
23 abets in the violation shall be considered a violation under the  
24 provisions of this section and subject to the same penalty. The  
25 penalties provided in this section shall be imposed pursuant to RCW  
26 43.21B.300.

27 (4) ~~((All))~~ (a) Except as provided in (b) of this subsection, all  
28 penalties recovered under this section by the department shall be  
29 paid into the state treasury and credited to the air pollution  
30 control account established in RCW 70A.15.1010 or, if recovered by  
31 the authority, shall be paid into the treasury of the authority and  
32 credited to its funds. If a prior penalty for the same violation has  
33 been paid to a local authority, the penalty imposed by the department  
34 under subsection (1) of this section shall be reduced by the amount  
35 of the payment.

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

1 (5) To secure the penalty incurred under this section, the state  
2 or the authority shall have a lien on any vessel used or operated in  
3 violation of this chapter which shall be enforced as provided in RCW  
4 60.36.050.

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

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

14 (8) The department shall develop rules for excusing excess  
15 emissions from enforcement action if such excess emissions are  
16 unavoidable. The rules shall specify the criteria and procedures for  
17 the department and local air authorities to determine whether a  
18 period of excess emissions is excusable in accordance with the state  
19 implementation plan.

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

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

24 (a) By January 1, 2010, using methodologies consistent with those  
25 used by the Pacific Northwest electric power and conservation  
26 planning council in the most recently published regional power plan  
27 as it existed on June 12, 2014, or a subsequent date as may be  
28 provided by the department or the commission by rule, each qualifying  
29 utility shall identify its achievable cost-effective conservation  
30 potential through 2019. Nothing in the rule adopted under this  
31 subsection precludes a qualifying utility from using its utility  
32 specific conservation measures, values, and assumptions in  
33 identifying its achievable cost-effective conservation potential. At  
34 least every two years thereafter, the qualifying utility shall review  
35 and update this assessment for the subsequent ten-year period.

36 (b) Beginning January 2010, each qualifying utility shall  
37 establish and make publicly available a biennial acquisition target  
38 for cost-effective conservation consistent with its identification of  
39 achievable opportunities in (a) of this subsection, and meet that

1 target during the subsequent two-year period. At a minimum, each  
2 biennial target must be no lower than the qualifying utility's pro  
3 rata share for that two-year period of its cost-effective  
4 conservation potential for the subsequent ten-year period.

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

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

24 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
25 qualifying utility with an industrial facility located in a county  
26 with a population between ninety-five thousand and one hundred  
27 fifteen thousand that is directly interconnected with electricity  
28 facilities that are capable of carrying electricity at transmission  
29 voltage may use cost-effective conservation from that industrial  
30 facility in excess of its biennial acquisition target to help meet  
31 the immediately subsequent two biennial acquisition targets, such  
32 that no more than twenty-five percent of any biennial target may be  
33 met with excess conservation savings allowed under all of the  
34 provisions of this section combined.

35 (d) In meeting its conservation targets, a qualifying utility may  
36 count high-efficiency cogeneration owned and used by a retail  
37 electric customer to meet its own needs. High-efficiency cogeneration  
38 is the sequential production of electricity and useful thermal energy  
39 from a common fuel source, where, under normal operating conditions,  
40 the facility has a useful thermal energy output of no less than

1 thirty-three percent of the total energy output. The reduction in  
2 load due to high-efficiency cogeneration shall be: (i) Calculated as  
3 the ratio of the fuel chargeable to power heat rate of the  
4 cogeneration facility compared to the heat rate on a new and clean  
5 basis of a best-commercially available technology combined-cycle  
6 natural gas-fired combustion turbine; and (ii) counted towards  
7 meeting the biennial conservation target in the same manner as other  
8 conservation savings.

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

12 (f) In assessing the cost-effective conservation required under  
13 this section, a qualifying utility is encouraged to promote cost-  
14 effective energy conservation efforts that reduce overall greenhouse  
15 gas emissions, including through the adoption of air conditioning  
16 equipment with refrigerants not exceeding a global warming potential  
17 of 750.

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

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

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

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

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

30 (b) A qualifying utility may count distributed generation at  
31 double the facility's electrical output if the utility: (i) Owns or  
32 has contracted for the distributed generation and the associated  
33 renewable energy credits; or (ii) has contracted to purchase the  
34 associated renewable energy credits.

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

38 (d) A qualifying utility shall be considered in compliance with  
39 an annual target in (a) of this subsection if: (i) The utility's  
40 weather-adjusted load for the previous three years on average did not

1 increase over that time period; (ii) after December 7, 2006, the  
2 utility did not commence or renew ownership or incremental purchases  
3 of electricity from resources other than coal transition power or  
4 renewable resources other than on a daily spot price basis and the  
5 electricity is not offset by equivalent renewable energy credits; and  
6 (iii) the utility invested at least one percent of its total annual  
7 retail revenue requirement that year on eligible renewable resources,  
8 renewable energy credits, or a combination of both.

9 (e) A qualifying utility may use renewable energy credits to meet  
10 the requirements of this section, subject to the limitations of this  
11 subsection.

12 (i) A renewable energy credit from electricity generated by a  
13 resource other than freshwater may be used to meet a requirement  
14 applicable to the year in which the credit was created, the year  
15 before the year in which the credit was created, or the year after  
16 the year in which the credit was created.

17 (ii) A renewable energy credit from electricity generated by  
18 freshwater:

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

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

24 (iii) A renewable energy credit transferred to an investor-owned  
25 utility pursuant to the Bonneville power administration's residential  
26 exchange program may not be used by any utility other than the  
27 utility receiving the credit from the Bonneville power  
28 administration.

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

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

34 (i) Eligible renewable resources or distributed generation where  
35 the associated renewable energy credits are owned by a separate  
36 entity; or

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



1 (g) Where fossil and combustible renewable resources are cofired  
2 in one generating unit located in the Pacific Northwest where the  
3 cofiring commenced after March 31, 1999, the unit shall be considered  
4 to produce eligible renewable resources in direct proportion to the  
5 percentage of the total heat value represented by the heat value of  
6 the renewable resources.

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

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

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

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

17 (i) A qualifying utility shall be considered in compliance with  
18 an annual target in (a) of this subsection if events beyond the  
19 reasonable control of the utility that could not have been reasonably  
20 anticipated or ameliorated prevented it from meeting the renewable  
21 energy target. Such events include weather-related damage, mechanical  
22 failure, strikes, lockouts, and actions of a governmental authority  
23 that adversely affect the generation, transmission, or distribution  
24 of an eligible renewable resource under contract to a qualifying  
25 utility.

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

30 (ii) A qualifying utility may no longer use electricity and  
31 associated renewable energy credits from a qualified biomass energy  
32 facility if the associated industrial pulping or wood manufacturing  
33 facility ceases operation other than for purposes of maintenance or  
34 upgrade.

35 (k) An industrial facility that hosts a qualified biomass energy  
36 facility may only transfer or sell renewable energy credits  
37 associated with qualified biomass energy generated at its facility to  
38 the qualifying utility with which it is directly interconnected with  
39 facilities owned by such a qualifying utility and that are capable of  
40 carrying electricity at transmission voltage. The qualifying utility

1 may only use an amount of renewable energy credits associated with  
2 qualified biomass energy that are equivalent to the proportionate  
3 amount of its annual targets under (a)(ii) and (iii) of this  
4 subsection that was created by the load of the industrial facility. A  
5 qualifying utility that owns a qualified biomass energy facility may  
6 not transfer or sell renewable energy credits associated with  
7 qualified biomass energy to another person, entity, or qualifying  
8 utility.

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

15 (m) Beginning January 1, 2030, a qualifying utility is considered  
16 to be in compliance with an annual target in (a) of this subsection  
17 if the utility uses electricity from: (i) Renewable resources and  
18 renewable energy credits as defined in RCW 19.285.030; and (ii)  
19 nonemitting electric generation as defined in RCW 19.405.020, in an  
20 amount equal to one hundred percent of the utility's average annual  
21 retail electric load. Nothing in this subsection relieves the  
22 requirements of a qualifying utility to comply with subsection (1) of  
23 this section.

24 (3) Utilities that become qualifying utilities after December 31,  
25 2006, shall meet the requirements in this section on a time frame  
26 comparable in length to that provided for qualifying utilities as of  
27 December 7, 2006.

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

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

33 (2) The department must adopt application and reporting  
34 requirements for the incentive program. Building energy reporting for  
35 the incentive program must be consistent with the energy reporting  
36 requirements established under RCW 19.27A.210.

37 (3) Upon receiving documentation demonstrating that a building  
38 owner qualifies for an incentive under this section, the department  
39 must authorize each applicable entity administering incentive

1 payments, as provided in RCW 19.27A.240, to make an incentive payment  
2 to the building owner. When a building is served by more than one  
3 entity offering incentives or more than one type of fuel, incentive  
4 payments must be proportional to the energy use intensity reduction  
5 of each specific fuel provided by each entity.

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

9 (a) The building is either: (i) A covered commercial building  
10 subject to the requirements of the standard established under RCW  
11 19.27A.210; or (ii) a multifamily residential building where the  
12 floor area exceeds fifty thousand gross square feet, excluding the  
13 parking garage area;

14 (b) The building's baseline energy use intensity exceeds its  
15 applicable energy use intensity target by at least fifteen energy use  
16 intensity units;

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

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

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

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

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

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

36 (b) The department must review each application and determine  
37 whether the applicant is eligible for the incentive program and if  
38 funds are available for the incentive payment within the limitation  
39 established in RCW 19.27A.230. If the department certifies an  
40 application, it must provide verification to the building owner and

1 each entity participating as provided in RCW 19.27A.240 and providing  
2 service to the building owner.

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

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

11 (8) The department must establish requirements for the  
12 verification of energy consumption by the building owner and each  
13 participating electric utility, gas company, and thermal energy  
14 company.

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

18 (10) By September 30, 2025, and every two years thereafter, the  
19 department must report to the appropriate committees of the  
20 legislature on the results of the incentive program under this  
21 section and may provide recommendations to improve the effectiveness  
22 of the program. The 2025 report to the legislature must include  
23 recommendations for aligning the incentive program established under  
24 this section consistent with a goal of reducing greenhouse gas  
25 emissions from substitutes, as defined in section 2 of this act.

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

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

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

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

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

35 (c) Are not designed to function only in conjunction with  
36 hydrofluorocarbons characterized by a comparatively high global  
37 warming potential; and

1 (d) Were not manufactured using hydrofluorocarbons or were  
2 manufactured using hydrofluorocarbons with a low global warming  
3 potential.

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

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

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

18 ~~((4))~~ (b) Nothing in subsection (3) of this section requires  
19 the department or any other state agency to breach an existing  
20 contract or dispose of stock that has been ordered or is in the  
21 possession of the department or other state agency as of July 28,  
22 2021.

23 (5) By December 1, 2020, and each December 1st of even-numbered  
24 years thereafter, the department must submit a status report to the  
25 appropriate committees of the house of representatives and senate  
26 regarding the implementation and compliance of the department and  
27 state agencies with this section.

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

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

33 NEW SECTION. Sec. 22. Section 8 of this act takes effect  
34 January 1, 2022.

35 NEW SECTION. Sec. 23. If specific funding for the purposes of  
36 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2021, in the omnibus appropriations act, this  
2 act is null and void.

3 NEW SECTION. **Sec. 24.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

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