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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1050**

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AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

**State of Washington**

**67th Legislature**

**2021 Regular Session**

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

READ FIRST TIME 02/15/21.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (a) January 1, 2020, for:

29 (i) Propellants;

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

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

36 (b) January 1, 2021, for:

37 (i) Refrigerated food processing and dispensing equipment;

38 (ii) Compact residential consumer refrigeration products;

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

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

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

6 (ii) Vending machines;

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

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

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

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

17 (3) The department may by rule:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (i) Equipment that meets applicable global warming potential  
13 requirements;

14 (ii) Refrigerants that meet applicable global warming potential  
15 requirements; and

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

18 (b) After the review required under (a) of this subsection, the  
19 department is encouraged to consider delaying the effective date of  
20 restrictions under this section in the event that the department  
21 determines that significant training or compliant equipment or  
22 refrigerant availability and affordability limitations are expected  
23 to occur.

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

1 refrigerant management program rules adopted by the department under  
2 this section.

3 (2) (a) The department shall exempt refrigeration and air  
4 conditioning equipment operations associated with de minimis  
5 emissions or with a de minimis charging capacity of less than 50  
6 pounds in a single system from registration, reporting, and leak  
7 detection requirements established in this section. The department  
8 shall exempt from the requirements established in this section  
9 equipment that uses refrigerants with a global warming potential of  
10 less than 150 and that are not class I or class II substances.

11 (b) The department may scale the requirements adopted under this  
12 section based on the size of the equipment, the facility containing  
13 the equipment, or the business operations of a person responsible for  
14 such emissions. The department may establish delayed effective dates  
15 of requirements applicable to persons and systems associated with  
16 lower emissions of refrigerants than other persons and systems  
17 regulated under this section.

18 (3) Each year, the owner or operator of a stationary  
19 refrigeration system or air conditioning system that exceeds a de  
20 minimis charge capacity of 50 pounds must register with the  
21 department. The department must phase in system registration  
22 requirements under this subsection in order to prioritize systems  
23 with the largest charge capacity or greatest potential for  
24 refrigerant emissions. Registration with the department must,  
25 consistent with rules adopted by the department, include the  
26 submission of information about the refrigeration system, including  
27 equipment type, refrigerant charge capacity, and the type of  
28 refrigerant used.

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

32 (5) The owner or operator of a registered stationary  
33 refrigeration system or air conditioning system must conduct periodic  
34 leak-detection inspections of the system. The department may require  
35 inspections to be conducted with relatively greater frequency for  
36 systems with larger volumes of refrigerants. The department may  
37 exempt systems that use refrigerants with low global warming  
38 potential or that have automatic leak-detection systems from the  
39 requirements of this subsection.

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

4 (7) The department must adopt rules that:

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

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

10 (c) Establish annual reporting requirements for owners or  
11 operators of refrigeration systems or air conditioning systems that  
12 include information about the system, including system service and  
13 leak repair conducted on the system over the preceding year, and  
14 information on the purchase and use of refrigerants in the covered  
15 system during the preceding year;

16 (d) Establish annual reporting requirement for refrigerant  
17 wholesalers, distributors, and reclaimers;

18 (e) Establish record retention requirements for operators of  
19 facilities and wholesalers, distributors, and reclaimers of  
20 refrigerants and substitutes;

21 (f) Apply leak rates and other regulatory thresholds that achieve  
22 greater emission reductions than the federal regulations adopted by  
23 the United States environmental protection agency, and that reflect  
24 levels of achievable superior performance established for the  
25 greenhill voluntary program implemented by the United States  
26 environmental protection agency; and

27 (g) To the maximum extent practicable while giving consideration  
28 to the goals of this chapter, establish recordkeeping and reporting  
29 requirements that are consistent with programs implemented by the  
30 federal environmental protection agency or in other states, and that  
31 minimize compliance costs and regulatory burdens for regulated  
32 parties.

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

34 (a) Service practices for stationary appliances, including both  
35 stationary refrigeration systems and air conditioning systems.  
36 Service practices established by the department may include requiring  
37 technicians certified under United States environmental protection  
38 agency standards to service refrigerant systems, requiring reporting  
39 and recordkeeping that identifies the technicians that have serviced  
40 appliances, prohibiting practices likely to result in releases to the

1 environment, requiring all practicable efforts to recover  
2 refrigerants from covered systems, and prohibiting the addition of  
3 refrigerants to systems known to have a leak; and

4 (b) A process for wholesalers, distributors, reclaimers, and  
5 refrigeration and air conditioning equipment operators to apply to  
6 the department for an exemption from some or all of the requirements  
7 of this section. Exemptions may be granted by the department on the  
8 basis of economic hardship, natural disaster, or after considering a  
9 calculation of lifecycle greenhouse gas emissions associated with the  
10 granting of an exemption that will allow an identified leak to go  
11 unrepaired for a finite period of time.

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

19 (10) By December 1, 2029, and every five years thereafter, the  
20 department must consider the greenhouse gas emissions reductions  
21 achieved under the program created in this section and the criteria  
22 of section 11(3) of this act, and make a determination whether to  
23 continue to implement the program for the following five years. The  
24 department must notify the appropriate committees of the house of  
25 representatives and the senate of its determination.

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

28 (1) The building code council shall adopt rules, including by  
29 amending existing rules as necessary, that permit the use of  
30 substitutes approved under RCW ((70.235.080)) 70A.45.080 (as  
31 recodified by this act) and that do not require the use of  
32 substitutes that are restricted under RCW ((70.235.080)) 70A.45.080  
33 (as recodified by this act). The building code council may not  
34 prohibit the use of a substitute refrigerant allowed pursuant to the  
35 United States environmental protection agency's significant new  
36 alternatives policy to implement 42 U.S.C. Sec. 7671k.

37 (2) The building code council shall adopt rules that allow the  
38 use of substitutes, as defined in section 2 of this act, with a lower  
39 global warming potential than alternative substances, in accordance



1 with nationally recognized, published standards that protect building  
2 occupant safety and reduce fire risks.

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

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

15 (5) Prior to the adoption of any rules by the building code  
16 council that affect the design or installation of refrigeration or  
17 air conditioning systems that facilitate the use of substitutes with  
18 a low global warming potential in air conditioning systems or  
19 equipment, the building code council must solicit input from  
20 organizations representing affected parties and parties with  
21 expertise in the substitutes or affected types of systems or  
22 equipment including, but not limited to:

23 (a) Manufacturers, distributors, and installers of refrigeration  
24 and air conditioning systems; and

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

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

32 (2) The department, in enforcing the requirements of this  
33 chapter, must adhere to the provisions applicable to the department  
34 under chapter 43.05 RCW regarding site inspections, technical  
35 assistance visits, notices of correction, and the issuance of civil  
36 penalties, to the extent that these provisions are not in conflict  
37 with federal requirements described in RCW 43.05.901.

38 (3) The department may elect to refrain from or cease  
39 administering or enforcing a requirement of this chapter if the

1 United States environmental protection agency adopts requirements  
2 that:

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

6 (b) Preempt state authority under this chapter.

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

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

15 (1) The air pollution control account is established in the state  
16 treasury. All receipts collected by or on behalf of the department  
17 from RCW 70A.15.2200(2), and receipts from nonpermit program sources  
18 under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from  
19 RCW 70A.15.5090 and 70A.15.5120 shall be deposited into the account.  
20 Moneys in the account may be spent only after appropriation.  
21 Expenditures from the account may be used only to develop and  
22 implement the provisions of this chapter, chapter 70A.25 RCW, and RCW  
23 70A.45.080 (as recodified by this act).

24 (2) The amounts collected and allocated in accordance with this  
25 section shall be expended upon appropriation except as otherwise  
26 provided in this section and in accordance with the following  
27 limitations:

28 Portions of moneys received by the department of ecology from the  
29 air pollution control account shall be distributed by the department  
30 to local authorities based on:

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

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

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

1 (3) The air operating permit account is created in the custody of  
2 the state treasurer. All receipts collected by or on behalf of the  
3 department from permit program sources under RCW 70A.15.2210(1),  
4 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into  
5 the account. Expenditures from the account may be used only for the  
6 activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270,  
7 and 70A.15.2230(7). Moneys in the account may be spent only after  
8 appropriation.

9 NEW SECTION. **Sec. 14.** (1) By December 1, 2021, the department  
10 of ecology must provide recommendations to the appropriate committees  
11 of the house of representatives and the senate regarding the optimal  
12 design of a program to address the end-of-life management and  
13 disposal of refrigerants including, but not limited to, ozone-  
14 depleting substances and hydrofluorocarbons. In developing the  
15 recommendations, the department must solicit feedback from  
16 potentially impacted parties and the public, and must consider  
17 actions taken by other jurisdictions to incentivize refrigerant reuse  
18 or reclamation. The recommendations may come in the form of draft  
19 legislation.

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

22 (a) The legal and financial obligations to support or participate  
23 in the program applicable to refrigerant manufacturers, importers,  
24 distributors, and retailers, and to refrigerant-using equipment  
25 owner-operators and service technicians;

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

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

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

35 (1) Any person who knowingly violates any of the provisions of  
36 this chapter or (~~chapter 70A.25 RCW, RCW 70A.45.080~~) chapters  
37 70A.25 and 70A.--- (the new chapter created in section 20 of this  
38 act) RCW, or any ordinance, resolution, or regulation in force

1 pursuant thereto is guilty of a gross misdemeanor and upon conviction  
2 thereof shall be punished by a fine of not more than ten thousand  
3 dollars, or by imprisonment in the county jail for up to three  
4 hundred sixty-four days, or by both for each separate violation.

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

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

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

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

28 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
29 43.05.150, and in addition to or as an alternate to any other penalty  
30 provided by law, any person who violates any of the provisions of  
31 this chapter, chapter 70A.25 (~~( $\oplus$ )~~), 70A.450, or 70A.--- (the new  
32 chapter created in section 20 of this act) RCW, (~~(RCW 70A.45.080,)~~)  
33 or any of the rules in force under such chapters or section may incur  
34 a civil penalty in an amount not to exceed ten thousand dollars per  
35 day for each violation. Each such violation shall be a separate and  
36 distinct offense, and in case of a continuing violation, each day's  
37 continuance shall be a separate and distinct violation.

38 (b) Any person who fails to take action as specified by an order  
39 issued pursuant to this chapter shall be liable for a civil penalty

1 of not more than ten thousand dollars for each day of continued  
2 noncompliance.

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

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

12 (3) Each act of commission or omission which procures, aids or  
13 abets in the violation shall be considered a violation under the  
14 provisions of this section and subject to the same penalty. The  
15 penalties provided in this section shall be imposed pursuant to RCW  
16 43.21B.300.

17 (4) ~~((All))~~ (a) Except as provided in (b) of this subsection, all  
18 penalties recovered under this section by the department shall be  
19 paid into the state treasury and credited to the air pollution  
20 control account established in RCW 70A.15.1010 or, if recovered by  
21 the authority, shall be paid into the treasury of the authority and  
22 credited to its funds. If a prior penalty for the same violation has  
23 been paid to a local authority, the penalty imposed by the department  
24 under subsection (1) of this section shall be reduced by the amount  
25 of the payment.

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

30 (5) To secure the penalty incurred under this section, the state  
31 or the authority shall have a lien on any vessel used or operated in  
32 violation of this chapter which shall be enforced as provided in RCW  
33 60.36.050.

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

38 (7) In addition to other penalties provided by this chapter,  
39 persons knowingly under-reporting emissions or other information used  
40 to set fees, or persons required to pay emission or permit fees who

1 are more than ninety days late with such payments may be subject to a  
2 penalty equal to three times the amount of the original fee owed.

3 (8) The department shall develop rules for excusing excess  
4 emissions from enforcement action if such excess emissions are  
5 unavoidable. The rules shall specify the criteria and procedures for  
6 the department and local air authorities to determine whether a  
7 period of excess emissions is excusable in accordance with the state  
8 implementation plan.

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

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

13 (a) By January 1, 2010, using methodologies consistent with those  
14 used by the Pacific Northwest electric power and conservation  
15 planning council in the most recently published regional power plan  
16 as it existed on June 12, 2014, or a subsequent date as may be  
17 provided by the department or the commission by rule, each qualifying  
18 utility shall identify its achievable cost-effective conservation  
19 potential through 2019. Nothing in the rule adopted under this  
20 subsection precludes a qualifying utility from using its utility  
21 specific conservation measures, values, and assumptions in  
22 identifying its achievable cost-effective conservation potential. At  
23 least every two years thereafter, the qualifying utility shall review  
24 and update this assessment for the subsequent ten-year period.

25 (b) Beginning January 2010, each qualifying utility shall  
26 establish and make publicly available a biennial acquisition target  
27 for cost-effective conservation consistent with its identification of  
28 achievable opportunities in (a) of this subsection, and meet that  
29 target during the subsequent two-year period. At a minimum, each  
30 biennial target must be no lower than the qualifying utility's pro  
31 rata share for that two-year period of its cost-effective  
32 conservation potential for the subsequent ten-year period.

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

1 (ii) Beginning January 1, 2014, a qualifying utility may use  
2 single large facility conservation savings in excess of its biennial  
3 target to meet up to an additional five percent of the immediately  
4 subsequent two biennial acquisition targets, such that no more than  
5 twenty-five percent of any biennial target may be met with excess  
6 conservation savings allowed under all of the provisions of this  
7 section combined. For the purposes of this subsection (1)(c)(ii),  
8 "single large facility conservation savings" means cost-effective  
9 conservation savings achieved in a single biennial period at the  
10 premises of a single customer of a qualifying utility whose annual  
11 electricity consumption prior to the conservation savings exceeded  
12 five average megawatts.

13 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
14 qualifying utility with an industrial facility located in a county  
15 with a population between ninety-five thousand and one hundred  
16 fifteen thousand that is directly interconnected with electricity  
17 facilities that are capable of carrying electricity at transmission  
18 voltage may use cost-effective conservation from that industrial  
19 facility in excess of its biennial acquisition target to help meet  
20 the immediately subsequent two biennial acquisition targets, such  
21 that no more than twenty-five percent of any biennial target may be  
22 met with excess conservation savings allowed under all of the  
23 provisions of this section combined.

24 (d) In meeting its conservation targets, a qualifying utility may  
25 count high-efficiency cogeneration owned and used by a retail  
26 electric customer to meet its own needs. High-efficiency cogeneration  
27 is the sequential production of electricity and useful thermal energy  
28 from a common fuel source, where, under normal operating conditions,  
29 the facility has a useful thermal energy output of no less than  
30 thirty-three percent of the total energy output. The reduction in  
31 load due to high-efficiency cogeneration shall be: (i) Calculated as  
32 the ratio of the fuel chargeable to power heat rate of the  
33 cogeneration facility compared to the heat rate on a new and clean  
34 basis of a best-commercially available technology combined-cycle  
35 natural gas-fired combustion turbine; and (ii) counted towards  
36 meeting the biennial conservation target in the same manner as other  
37 conservation savings.

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

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

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

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

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

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

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

21       (b) A qualifying utility may count distributed generation at  
22 double the facility's electrical output if the utility: (i) Owns or  
23 has contracted for the distributed generation and the associated  
24 renewable energy credits; or (ii) has contracted to purchase the  
25 associated renewable energy credits.

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

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



1 (e) A qualifying utility may use renewable energy credits to meet  
2 the requirements of this section, subject to the limitations of this  
3 subsection.

4 (i) A renewable energy credit from electricity generated by a  
5 resource other than freshwater may be used to meet a requirement  
6 applicable to the year in which the credit was created, the year  
7 before the year in which the credit was created, or the year after  
8 the year in which the credit was created.

9 (ii) A renewable energy credit from electricity generated by  
10 freshwater:

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

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

16 (iii) A renewable energy credit transferred to an investor-owned  
17 utility pursuant to the Bonneville power administration's residential  
18 exchange program may not be used by any utility other than the  
19 utility receiving the credit from the Bonneville power  
20 administration.

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

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

26 (i) Eligible renewable resources or distributed generation where  
27 the associated renewable energy credits are owned by a separate  
28 entity; or

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

32 (g) Where fossil and combustible renewable resources are cofired  
33 in one generating unit located in the Pacific Northwest where the  
34 cofiring commenced after March 31, 1999, the unit shall be considered  
35 to produce eligible renewable resources in direct proportion to the  
36 percentage of the total heat value represented by the heat value of  
37 the renewable resources.

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

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

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

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

8 (i) A qualifying utility shall be considered in compliance with  
9 an annual target in (a) of this subsection if events beyond the  
10 reasonable control of the utility that could not have been reasonably  
11 anticipated or ameliorated prevented it from meeting the renewable  
12 energy target. Such events include weather-related damage, mechanical  
13 failure, strikes, lockouts, and actions of a governmental authority  
14 that adversely affect the generation, transmission, or distribution  
15 of an eligible renewable resource under contract to a qualifying  
16 utility.

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

21 (ii) A qualifying utility may no longer use electricity and  
22 associated renewable energy credits from a qualified biomass energy  
23 facility if the associated industrial pulping or wood manufacturing  
24 facility ceases operation other than for purposes of maintenance or  
25 upgrade.

26 (k) An industrial facility that hosts a qualified biomass energy  
27 facility may only transfer or sell renewable energy credits  
28 associated with qualified biomass energy generated at its facility to  
29 the qualifying utility with which it is directly interconnected with  
30 facilities owned by such a qualifying utility and that are capable of  
31 carrying electricity at transmission voltage. The qualifying utility  
32 may only use an amount of renewable energy credits associated with  
33 qualified biomass energy that are equivalent to the proportionate  
34 amount of its annual targets under (a)(ii) and (iii) of this  
35 subsection that was created by the load of the industrial facility. A  
36 qualifying utility that owns a qualified biomass energy facility may  
37 not transfer or sell renewable energy credits associated with  
38 qualified biomass energy to another person, entity, or qualifying  
39 utility.

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

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

16 (3) Utilities that become qualifying utilities after December 31,  
17 2006, shall meet the requirements in this section on a time frame  
18 comparable in length to that provided for qualifying utilities as of  
19 December 7, 2006.

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

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

25 (2) The department must adopt application and reporting  
26 requirements for the incentive program. Building energy reporting for  
27 the incentive program must be consistent with the energy reporting  
28 requirements established under RCW 19.27A.210.

29 (3) Upon receiving documentation demonstrating that a building  
30 owner qualifies for an incentive under this section, the department  
31 must authorize each applicable entity administering incentive  
32 payments, as provided in RCW 19.27A.240, to make an incentive payment  
33 to the building owner. When a building is served by more than one  
34 entity offering incentives or more than one type of fuel, incentive  
35 payments must be proportional to the energy use intensity reduction  
36 of each specific fuel provided by each entity.

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

1 (a) The building is either: (i) A covered commercial building  
2 subject to the requirements of the standard established under RCW  
3 19.27A.210; or (ii) a multifamily residential building where the  
4 floor area exceeds fifty thousand gross square feet, excluding the  
5 parking garage area;

6 (b) The building's baseline energy use intensity exceeds its  
7 applicable energy use intensity target by at least fifteen energy use  
8 intensity units;

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

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

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

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

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

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

28 (b) The department must review each application and determine  
29 whether the applicant is eligible for the incentive program and if  
30 funds are available for the incentive payment within the limitation  
31 established in RCW 19.27A.230. If the department certifies an  
32 application, it must provide verification to the building owner and  
33 each entity participating as provided in RCW 19.27A.240 and providing  
34 service to the building owner.

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

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

4 (8) The department must establish requirements for the  
5 verification of energy consumption by the building owner and each  
6 participating electric utility, gas company, and thermal energy  
7 company.

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

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

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

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

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

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

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

28 (c) Are not designed to function only in conjunction with  
29 hydrofluorocarbons characterized by a comparatively high global  
30 warming potential; and

31 (d) Were not manufactured using hydrofluorocarbons or were  
32 manufactured using hydrofluorocarbons with a low global warming  
33 potential.

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

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

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

10          ~~((4))~~ (b) Nothing in subsection (3) of this section requires  
11 the department or any other state agency to breach an existing  
12 contract or dispose of stock that has been ordered or is in the  
13 possession of the department or other state agency as of July 28,  
14 2021.

15          (5) By December 1, 2020, and each December 1st of even-numbered  
16 years thereafter, the department must submit a status report to the  
17 appropriate committees of the house of representatives and senate  
18 regarding the implementation and compliance of the department and  
19 state agencies with this section.

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

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

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

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

31          NEW SECTION. Sec. 24. If any provision of this act or its  
32 application to any person or circumstance is held invalid, the

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

--- **END** ---