

Purchasing Preference for Products not Containing Hydrofluorocarbons (HFCs)

Applies to: Any state office or activity of the executive branch of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016, [RCW 28B.10.016](#) and correctional and other types of institutions ([RCW 39.26.010\(1\)](#)) ([RCW 39.26.100](#)).

Authorizing sources:

- [Engrossed Second Substitute House Bill 1050](#) (2021 Legislative Session)
- State Law [RCW 39.26.310](#)
- State Law [RCW 39.26.160\(3\)\(d\)](#)
- Executive Order [Executive Order 04-01](#)
- [Executive Order Executive Order 20-01](#)

Related Authorizing Sources

- [State Law RCW 70A.60.060](#)
- [Washington Administrative Code, WAC 173-443-040](#)

Original effective date: March 9, 2020

Revised effective date: January 16, 2023

Sunset review date: *5 years from original effective date*

Approved by:  Tara C. Smith, Director

Reason for Policy

This policy establishes the purchasing preference authorized in RCW 39.26.310 for competitive purchases of products that do not contain hydrofluorocarbons (HFCs) or contain HFCs with a comparatively low global warming potential (GWP). The intent is to reduce greenhouse gas emissions that pose significant threats to the environment by incentivizing the State's contract suppliers to provide products that do not contain HFCs.

Scope of Policy

The following product categories are subject to this policy (reference [Environmental Protection Agency's \(EPA\) Significant New Alternatives Policy \(SNAP\)](#), and WAC 173-443-040.

- a. Refrigerants: Refrigeration and Air Conditioning, to include chillers, cold storage warehouses, commercial ice machines, household refrigerators and freezers, ice skating rinks, industrial process air conditioning, industrial process refrigeration, motor vehicle air conditioning, non-mechanical heat transfer systems, residential and light commercial air conditioning and heat pumps, residential dehumidifiers, refrigerated transport, vending machines, very low temperature refrigeration, and water coolers.

- i. Reclaimed refrigerant must meet the minimum quality requirements established in federal regulations adopted under 42 U.S.C. Sec. 7671 (g), in serving existing equipment.
- b. Foam contained in products, including, but not limited to: refrigerators and freezers, building materials and insulation, furniture, bedding, packaging, piping insulation, vending machines, coolers, marine floatation foam, automobiles, shoes, packaging materials.
- c. Cleaning Solvents used to remove oil, grease, solder flux, and other contaminants, to include metals, electronics, and precision cleaning.
- d. Fire suppression and explosion protection.
- e. Aerosols, to include solvents.
- f. Sterilants (substances used to kill microorganisms on medical equipment and devices).
- g. Adhesives, Coatings, and Inks.

Policy

1. In order to be considered responsive, bids for products identified in the Scope of this Policy, must meet the following requirements:

- a. Product(s) specifications are verified by the bidder to confirm that the product is not listed as a prohibited substitute within WAC 173-443-040.
- b. Product(s) are reviewed by the bidder using the EPA SNAP Program, to verify an acceptable listing status.

If these requirements are met, an appropriate preference may be applied, if the bids are otherwise responsive.

2. Agencies are required to apply a preference. In any competitive procurement for products identified in the Scope of this Policy, all responsive bids require agencies to apply a minimum 5% preference to each product bid when:

- a. The products do not contain HFCs; or, if products contain HFCs, the products contain a comparatively low GWP.
- b. The products are not designed to function only in conjunction with HFCs characterized by a comparatively high GWP.
- c. The products are not manufactured using HFCs, or products are manufactured using HFCs with a low GWP.
- d. Servicing existing refrigeration equipment with reclaimed refrigerant as identified in the Scope of this Policy.

- i. Agencies shall apply the preference to bids that service existing equipment with reclaimed refrigerant that meets the minimum quality requirements established in federal regulations adopted under 42 U.S.C. Sec. 7671(g).
- e. Agencies must state preference language in solicitations for applicable products issued after the effective date of this policy.
- f. Bidders may be required to provide written documentation to validate the use of acceptable substitute(s) for the replacement of ozone depleting and high GWP substances.

3. [Agencies are not required to apply a preference when:](#)

- a. Using a statewide contract or DES approved cooperative contract, as DES is responsible for applying the preference.
- b. A non-competitive procurement process is used.
- c. If there is no cost-effective and technologically feasible option available, and if the product(s) is allowed to be purchased in Washington State under RCW 70A.60.060(1). This exemption does not apply to reclaimed refrigerants (see Scope of Policy, Section a.i).

4. [Agencies required to complete environmental purchasing training](#)

- a. Within 6 months of the effective date of this policy, Personnel who are responsible for small purchases, competitive procurements, and contract management activities shall complete the mandatory Washington State Environmental Procurement Preference training provided by DES available in the Learning Management System (LMS).
- b. All employees responsible for competitive procurements, including new employees and employees assigned new responsibilities/duties must complete the training.

5. [Direct Buy Purchases](#)

Prior to purchasing refrigerant products under the direct buy policy, agencies shall consider products acceptable under Washington State law that do not contain HFCs or contain HFCs with comparatively low GWP.

6. [Agencies are required to document compliance with this Policy](#)

- a. Agencies shall update solicitation documents with language requiring bidders to provide:
 - i. Specifications and certifications for products listed as acceptable within the [EPA SNAP Program](#).
 - ii. Verification that the product(s) bid is not listed as a prohibited substitute within WAC 173-443-040.
 - iii. Use Washington's Electronic Business Solution (WEBS) to report HFC preferences in posted solicitations, and attributes included in the resulting awards.

- b. Preference is applied when the Agency has verified the bidder’s specification and certification of acceptable product(s) within the EPA SNAP Program, AND further confirmed that the product is not listed as a prohibited substitute within WAC 173-443-040.
- c. Agencies must document reasons for not applying a preference in the procurement file and in WEBS for:
 - i. Products that do not contain HFCs.
 - ii. Products that contain HFCs with a comparatively low global warming potential.
 - iii. Products that are not designed to function only with HFCs characterized by a high GWP.
 - iv. Products that are not manufactured using HFCs, or that are manufactured using HFCs with a low GWP.
- d. Agencies must document reasons for not applying a preference in the procurement file and in WEBS when:
 - i. Servicing existing refrigeration equipment without reclaimed refrigerant, as identified in the Scope of this Policy.
- e. Agencies will document and retain purchasing decisions that reflect compliance with RCW 39.26.310 and this Policy.
- f. Agencies are expected to exercise sound professional judgment in implementing this Policy.
- g. The agency’s record of compliance with this policy may be factored into an agency’s procurement risk assessment.

Procedures

Procedure: [Environmental Procurement Decision Tree](#) - provides guidance on which environmental requirements you need to apply to your specific procurement.

Procedure: [Hydrofluorocarbons Environmental Preference Desk Aid](#)

History

Adopted

August 1, 2020

Replaces

[Engrossed Second Substitute House Bill 1112](#) (2019 Legislative Session)

Prior version adopted August 1, 2020