

<u>PTACs, PTHPs, and other types of air conditioning equipment (new) used in residential and nonresidential applications</u>	<u>Refrigerants with a GWP of 750 or more</u>	<u>Facilities with new refrigeration equipment with approved building permit applications before the effective date.</u>
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WAC 173-443-060 Requirements applicable to refrigeration and air conditioning, aerosol propellants, and foam end-uses listed in WAC 173-443-040, Table 1. Prohibitions.

(1) Prohibitions. No person may offer for sale, lease, rent, install, or otherwise cause to enter into Washington commerce any product or equipment that contains or uses ~~or will use~~ HFCs or other substitutes prohibited for an end-use in WAC 173-443-040 unless an exemption is provided for in WAC 173-443-050.

(2) Sell through provisions.

(a) Products and equipment manufactured prior to the applicable effective date of a prohibition in WAC 173-443-040 may be sold, leased, rented, imported, exported, distributed, installed, used, or otherwise introduced into Washington commerce after the date of prohibition.

~~(a) For products and equipment imported from outside the United States, the date of import may be considered the date of manufacture.~~

~~(b) For refrigeration equipment and chillers, the date the manufacturer affixed an equipment label indicating the equipment's date of manufacture is the date of manufacture.~~

~~(e)~~(a) Polyurethane foam systems manufactured (blended) before an applicable prohibition date and not yet applied on site may be used after the prohibition date.

~~(2)~~(3) Other allowances. Except where an existing system is retrofit, nothing in this chapter requires a person that acquired a product or equipment containing or using a prohibited substitute prior to the effective date of a prohibition in WAC 173-443-040 to cease use of that product or equipment.

~~(3)~~(4) Product labeling and disclosure.

(a) Except for products and equipment that use prohibited substitutes for an ~~acceptable exempt~~ use listed in WAC 173-443-050, a manufacturer must disclose the substitutes contained or used ~~or to be used~~ in its products or equipment applicable to the end-uses listed in WAC 173-443-040, Table 1.

(b) This disclosure must occur no later than one year following an applicable prohibition date, or no later than January 10, 2021, whichever is later ~~one year following the effective date of this chapter~~.

WAC 173-443-070 Requirements applicable to new stationary air conditioning end-uses listed in WAC 173-443-040, Table 3.

- (1) Prohibitions. No person shall offer for sale, lease, rent, install, or other entry into Washington commerce any air conditioning equipment manufactured after the effective date that does not comply with the requirements of WAC-443-040, Table 3, unless an exemption is provided for in WAC 173-443-050.
- (2) Product labeling and disclosure. As of the effective date of this chapter, a manufacturer of any air conditioning equipment listed in WAC 173-443-040, Table 3, intended for sale or other entry into Washington commerce, must disclose the refrigerants contained or used in its equipment. The disclosure must be in the form of an on-product label that displays the following information:

 - (a) The type of refrigerant;
 - (b) Where available, the refrigerant charge size in either ounces, pounds, or kilograms;
 - (c) The date of manufacture; and
 - (d) Existing labels meeting the above requirements may be used.
- (3) Record keeping. As of the effective date of this chapter, a manufacturer of any air conditioning equipment listed in WAC 173-443-040, Table 3, must maintain for a minimum of five years, and make available upon request by ecology, a copy of the following records:

 - (a) Name and address of the person purchasing the equipment;
 - (b) Telephone number and email address of the person purchasing the equipment, if provided to the manufacturer;
 - (c) Model and serial number of the equipment;
 - (d) Date of manufacture of the equipment;
 - (e) Date of sale of the equipment;
 - (f) Refrigerant type the equipment is designed to use; and
 - (g) Refrigerant and full capacity of the equipment, where available.

WAC 173-443-075 Requirements applicable to small containers of automotive refrigerant and nonessential consumer products end-uses listed in WAC 173-443-040, Table 4.

- (1) Prohibitions. No person shall sell, offer for sale, or purchase any product after the effective date that does not comply with the requirements of WAC 173-443-040, Table 4, unless an exemption of provided for in WAC 173-443-050.

WAC 173-443-080 Petition for variance.

- (1) An applicant may submit a request to the ecology HFC program for a variance from the requirements of WAC 173-443-040, Table 2 or Table 3. Ecology may grant a variance if it determines that the request meets the conditions identified in subsection (2) of this section and the applicant has complied with all requirements identified in subsection (3) this section.
- (2) Types of variances. Ecology may grant a variance for any of the following:
 - (a) Impossibility. The applicant cannot comply with the requirements, and the applicant can demonstrate all of the following:
 - (i) A lower risk substitute is not currently or potentially available;
 - (ii) A variance will not increase the overall risk to human health or the environment; and
 - (iii) The applicant has made a good faith effort to anticipate and address any potential noncompliance.
 - (b) Force Majeure. The applicant cannot comply with the requirements, and the applicant can demonstrate all of the following:
 - (i) Noncompliance is due to a force majeure event; and
 - (ii) The applicant has made a good faith effort to anticipate and address any force majeure event.
- (3) Application process. To apply for a variance, the applicant must submit an application that addresses (a) through (k) of this subsection:
 - (a) Applicant name, ownership status, address, telephone number, and email address;
 - (b) Description of business activity or product description;
 - (c) Relationship to the product;
 - (d) The specific section(s) for which a variance is requested;
 - (e) An explanation and description of the reasons for seeking a variance;

- (f) Evidence demonstrating how the variance request meets the criteria identified in (2)(a) or (2)(b) of this section;
- (g) Length of variance requested and the earliest date when compliance will be achieved;
- (h) A description of the damage or harm that will result from having to comply with the requirements within the required timeframe;
- (i) A compliance plan describing in detail how, if a variance is granted, compliance will be achieved as soon as possible, including all of the following:
 - (i) The method by which compliance will be achieved;
 - (ii) Milestone achievements; and
 - (iii) Milestone dates.
- (j) A mitigation plan to demonstrate how the applicant will reduce greenhouse gas emissions equal to or greater than would be emitted from granting the variant. The mitigation plan must include all calculations used to determine emissions estimates.
- (k) The application may be submitted in writing to either of the following addresses:

Ecology Air Quality Program
Attention: HFC Unit Supervisor
PO Box 47600
Olympia, WA 98504-7600; or

By email to:
HFC@ecology.wa.gov
Attention: HFC Unit Supervisor

(+)4) Approval and disapproval process.

- (a) Ecology will determine whether the application is complete and will notify the applicant within thirty (30) days of receipt of the application. Only complete applications will be considered.
- (b) Within forty five days of determining that the application is complete, ecology will post a notice of the variance application on ecology's HFC webpage and ecology's public events and input webpage; and, will invite the public to comment on the application for thirty (30) days from the date information about the application is posted.
- (c) When making a decision on the application, ecology will consider all comments submitted during the public comment period.

- (d) Ecology will approve or disapprove the variance application within sixty (60) days after close of the public comment period.
- (e) Ecology will notify the applicant of the decision in writing, and if approved, will specify the terms and conditions of the variance in a letter to the applicant.
- (f) Ecology will grant a variance only to the applicant, and the variance is nontransferable.
- (g) Ecology will not approve a variance retroactively to any date prior to receipt of the application.
- (h) Ecology may expeditiously approve a variance application prior to the close of the public comment period for a force majeure event meeting the criteria identified in (2)(b) of this section.
- (5) Failure to comply with the terms of an approved variance.

 - (a) An applicant must comply with the terms of an approved variance in order to maintain its approved status.
 - (b) Ecology may revoke or modify the variance approval if it determines that an applicant no longer meets the criteria specified in the variance approval letter.
 - (a)(c) An applicant adversely affected by an ecology decision to revoke or modify an approved variance may seek review of ecology's decision by the pollution control hearings board in accordance with chapter 43.21B RCW and chapter 371-08 WAC.

WAC 173-443-100 Refrigerant management program.
[See separate table of draft RMP requirements]

WAC 173-443-XXX Enforcement.
[Placeholder]

WAC 173-443-110-XXX Severability. If any provision of this chapter or its application is held invalid, the remainder of the chapter or application of the provision is not affected.