



Washington State Department of
Enterprise Services

**RCW 39.26.310 Products
Containing Hydrofluorocarbons
Progress and Impact Report**

December 2020

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REPORT HIGHLIGHTS

- The Department of Enterprise Services (DES) implemented Revised Code of Washington (RCW) 39.26.310 Products Containing Hydrofluorocarbons (HFCs) in a staged, prioritized manner. Accordingly, our recommendation is to begin with competitive goods and services procurements and consider applying RCW 39.26.310 to other categories of purchases in the future.
- The DES established and released on August 1, 2020, Policy Number POL-DES-310-00 Purchasing Preference Products That Do Not Contain Hydrofluorocarbons (HFCs) to be effective February 1, 2021.
- Since July 28, 2019, when RCW 39.26.310 Products Containing HFCs became law, DES has implemented enhancements within the online system Washington Electronic Business Solutions (WEBS) where agencies are required to post solicitation opportunities to track solicitations with HFC preference language.
- DES has created a [Hydrofluorocarbons \(HFCs\) Environments Preference \(EP\) Desk Aid](#) for agencies to refer to, with HFCs considerations, sample contract language, and contact information.

BACKGROUND

RCW 39.26.310 requires that DES establish purchasing and procurement policies that provide a preference for products that do not contain HFCs, that are not designed to function only in conjunction with high global warming potential HFCs, and were not manufactured using HFCs.

RCW 39.26.310 requires that no agency may knowingly purchase products that are out of compliance with the DES policy for HFCs unless there are no cost-effective and technologically feasible options.

Climate change is a major concern, and Washington seeks to be responsible stewards of public dollars. Agencies shall make every effort to implement RCW 39.26.310 by eliminating spend with products containing HFCs to the best of their ability as well as give preference through procurement to products that do not contain HFCs.

This report covers the actions DES has taken toward implementation since RCW 39.26.310 became law on July 28, 2019.

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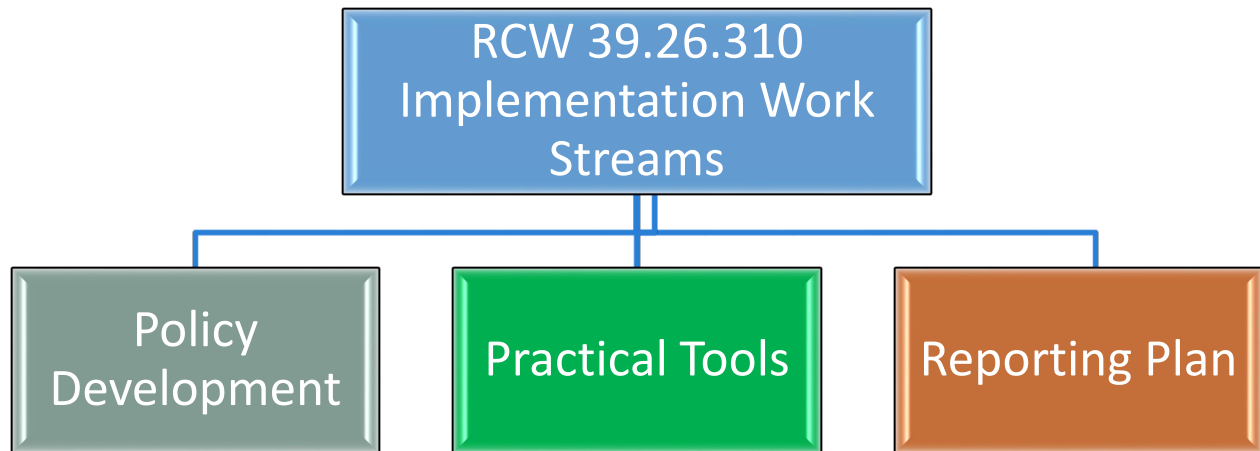
IMPLEMENTATION TIMELINE

The timeline outlines the steps the DES took to effectively communicate, collaborate, and create value. First by working directly with agency stakeholders to develop and build operationally efficient tools that drive change and also build a viable procurement bridge between customer agencies and innovative vendors.



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RCW 39.26.310 WORK STREAMS



DES identified 3 work streams to accomplish 3 primary goals:

- **Policy Development:** Establish best practices and consistent application of RCW 39.26.310. This will be a DES procurement policy.
- **Practical Tools:** Practical tools and recommendations for competitive procurements and purchases.
- **Reporting:** A plan to increase the odds of success, keep transaction costs low, and easily measure the impact of RCW 39.26.310.

POLICY DEVELOPMENT

DES worked alongside stakeholders to identify and develop elements of a procurement policy that enables covered agencies to implement RCW 39.26.310. The policy prescribes that preference should be a minimum of 5% for products that do not contain HFCs or contain HFCs with a comparatively low global warming potential for specified products.

The policy sets the stage and addresses: Impacted product categories, scope, training, sample contract language, and bidder certification environment preference form. *Appendix A* is the policy that DES has set to be effective on February 1, 2021.

PRACTICAL TOOLS

The goal with the creation of practical tools was to identify and develop common, flexible tools to empower agencies. Ease of implementation is the goal. Providing agencies with solicitation and contract provisions, as well as certification templates, have been created

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to assist agencies in being successful with the implementation of RCW 39.26.310 Products Containing Hydrofluorocarbons. Competitive procurements offer an opportunity to differentiate contractors, while the opportunity is substantially less for direct buy purchases, which is why the initial focus is on competitive procurements. The [HFCs Environmental Preference Desk Aid](#) contains the tools developed, with stakeholder collaboration.

REPORTING

Measuring the effectiveness of RCW 39.26.310 is crucial to determining success. DES will report biannually on the success of RCW 39.26.310 by measuring the number of solicitations containing language addressing the preference as well as measuring and reporting the competitive procurement awards and contractor agreement to the priority as set forth in the solicitation and by the State reported through the WEBS system.

The lack of a single e-procurement system creates reporting challenges. Taking into consideration that One Washington is underway, DES made modifications to WEBS on July 27, 2020, to capture meaningful metrics around RCW 39.26.310 and will report on behalf of agencies the previously stated metrics. In the following fiscal year, DES will explore whether it is possible to expand RCW 39.26.310 to include non-competitive procurements.

It is important to note that a significant percentage of spend is via DES's Master Contracts and DES will report on the progress as it pertains to agencies' Master Contract purchases.

TRAINING

All Washington State employees who are responsible for the pre-award process of procurements are required to complete RCW 39.26.310 HFCs Preference Training by February 1, 2021 when the policy becomes effective. Employees who are new to these responsibilities will be required to take the RCW 39.26.310 HFCs Preference Training within 6 months of acquiring those responsibilities. The training and assessment are available on the Washington State Learning Center.

In addition to the above mentioned RCW 39.26.310 Hydrofluorocarbons Preference Training and assessment available in the Learning Center, a desk aid, a short training video, and the above mentioned tools are always available on the DES [Environmental Procurement Preferences page](#) for all Washington State employees as well as vendors.

PROGRESS

DES implemented the reporting enhancements in WEBS on July 27, 2020. The policy goes into effect February 1, 2021, no agency has yet been required to include HFCs preference from the time the tracking enhancement was implemented in WEBS on July 27, 2020; however, some agencies have been proactive in their efforts with HFCs. The table below outlines the total solicitations posted on WEBS between July 27, 2020

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and December 30, 2020, compared to how many of those solicitations were identified as having HFCs language.

Total Solicitations (All Agencies) with HFCs Purchasing Preference
(Between 7/27/20 - 12/30/2020)

Total Solicitations	Total Goods & Services	Total with Preference	Total Non-Preference
449	363	80	283

The below table shows based on the 80 solicitations identified as having HFCs preference language, the total vendors responded to the solicitation, and how many vendors were awarded meeting the preference requirement compared to the vendors who do not meet the preference requirement.

Number of Vendors Responded and Awarded by HFCs Purchasing Preference
(Between 7/27/2020 - 12/30/2020)

Total Vendors Responded to HFCs Solicitations	Total Vendors Awarded with HFCs Preference	Total Vendors Awarded without Meeting HFCs Preference
62	0	18

It is important to note some solicitations are still open or are in the evaluation stage. Of the 80 solicitations, 8 are currently posted in WEBS meaning vendors have not yet responded, 48 solicitations are closed but no evaluation has been completed of the vendors, 24 have been archived meaning the evaluation has been completed and either there were awards or the solicitation was cancelled. Out of the 24 solicitations that have been completed, there were 0 vendors awarded with HFCs preference. These numbers are anticipated to change as the evaluation process is completed for these solicitations.