

# SENATE BILL 961

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By: **Senator Elfreth**

Introduced and read first time: February 14, 2022

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Projects – Global Warming Potential of Materials**  
3 **(Buy Clean Maryland Act)**

4 FOR the purpose of requiring the Department of General Services to establish a maximum  
5 acceptable global warming potential for certain categories of eligible materials used  
6 in certain eligible projects; requiring the Department to review the maximum  
7 acceptable global warming potential for each category of eligible materials and  
8 authorizing the Department to make certain adjustments according to a certain  
9 schedule; prohibiting the Department from increasing the maximum acceptable  
10 global warming potential for a category of eligible materials; requiring a unit of State  
11 government to specify the eligible materials that will be used in an eligible project  
12 in the solicitation for an eligible project; requiring a successful bidder or offeror of an  
13 eligible project to submit certain information about each eligible material proposed  
14 to be used in an eligible project; prohibiting a contractor from installing any eligible  
15 materials on an eligible project until the contractor submits the required information  
16 for the eligible material; authorizing the Department to waive certain requirements  
17 concerning the use of eligible materials on eligible projects under certain  
18 circumstances; providing that the Department shall strive to achieve a continuous  
19 reduction of greenhouse gas emissions over time; and generally relating to the global  
20 warming potential of materials in public projects.

21 BY adding to  
22 Article – State Finance and Procurement  
23 Section 4–901 through 4–905 to be under the new subtitle “Subtitle 9. Buy Clean  
24 Maryland Act”  
25 Annotated Code of Maryland  
26 (2021 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
28 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – State Finance and Procurement**2 **SUBTITLE 9. BUY CLEAN MARYLAND ACT.**3 **4–901.**

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (B) “ELIGIBLE MATERIAL” MEANS ANY OF THE FOLLOWING MATERIALS  
7 USED IN THE CONSTRUCTION OF A PUBLIC PROJECT:

8 (1) CEMENT AND CONCRETE MIXTURES;

9 (2) GLASS;

10 (3) POSTTENSION STEEL;

11 (4) REINFORCING STEEL;

12 (5) STRUCTURAL STEEL; AND

13 (6) WOOD STRUCTURAL ELEMENTS.

14 (C) (1) “ELIGIBLE PROJECT” MEANS A PUBLIC PROJECT AS DEFINED IN §  
15 3–602 OF THIS ARTICLE.

16 (2) “ELIGIBLE PROJECT” DOES NOT INCLUDE:

17 (I) ANY MAINTENANCE PROGRAM FOR THE UPKEEP OF A  
18 PUBLIC PROJECT;

19 (II) ANY ROAD OR HIGHWAY PROJECT; OR

20 (III) A PUBLIC PROJECT AT A PUBLIC SCHOOL, AS DEFINED IN §  
21 1–101 OF THE EDUCATION ARTICLE.

22 (D) “GLOBAL WARMING POTENTIAL” MEANS THE DEGREE THAT A GIVEN  
23 MASS OF A CHEMICAL CONTRIBUTES TO GLOBAL WARMING OVER A GIVEN TIME  
24 PERIOD WHEN COMPARED TO THE SAME MASS OF CARBON DIOXIDE.

25 (E) “GREENHOUSE GAS” HAS THE MEANING STATED IN § 2–1202 OF THE  
26 ENVIRONMENT ARTICLE.

1 4-902.

2 IN ADMINISTERING THIS SUBTITLE, THE DEPARTMENT SHALL STRIVE TO  
3 ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE GAS EMISSIONS OVER TIME.

4 4-903.

5 (A) ON OR BEFORE JANUARY 1, 2024, THE DEPARTMENT SHALL ESTABLISH  
6 A MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF  
7 ELIGIBLE MATERIALS USED IN AN ELIGIBLE PROJECT IN ACCORDANCE WITH THIS  
8 SECTION.

9 (B) THE DEPARTMENT SHALL:

10 (1) BASE THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL  
11 ON THE INDUSTRY AVERAGE OF GLOBAL WARMING POTENTIAL EMISSIONS FOR THAT  
12 MATERIAL;

13 (2) DETERMINE THE INDUSTRY AVERAGE OF GLOBAL WARMING  
14 POTENTIAL EMISSIONS, WHICH MAY INCLUDE TRANSPORTATION-RELATED  
15 EMISSIONS, BY CONSULTING NATIONALLY OR INTERNATIONALLY RECOGNIZED  
16 DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS; AND

17 (3) EXPRESS THE MAXIMUM ACCEPTABLE GLOBAL WARMING  
18 POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM ACCEPTABLE GLOBAL  
19 WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, CONSISTENT  
20 WITH CRITERIA IN AN ENVIRONMENTAL PRODUCT DECLARATION.

21 (C) THE DEPARTMENT MAY:

22 (1) ESTABLISH ADDITIONAL SUBCATEGORIES WITHIN EACH  
23 CATEGORY OF ELIGIBLE MATERIAL WITH DISTINCT MAXIMUM ACCEPTABLE GLOBAL  
24 WARMING POTENTIAL LIMITS;

25 (2) ESTABLISH A MAXIMUM ACCEPTABLE GLOBAL WARMING  
26 POTENTIAL FOR EACH MATERIAL CATEGORY IN THE AGGREGATE; AND

27 (3) CONSULT WITH ANY OTHER RELEVANT UNIT OF STATE  
28 GOVERNMENT WHEN ESTABLISHING A MAXIMUM ACCEPTABLE GLOBAL WARMING  
29 POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN AN ELIGIBLE  
30 PROJECT.

1           **(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BY JANUARY**  
2 **1, 2027, AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT SHALL REVIEW THE**  
3 **MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF**  
4 **ELIGIBLE MATERIALS AND MAY ADJUST THE POTENTIAL FOR ANY CATEGORY TO**  
5 **REFLECT INDUSTRY CONDITIONS.**

6           **(2) THE DEPARTMENT MAY NOT ADJUST THE GLOBAL WARMING**  
7 **POTENTIAL UPWARD FOR ANY CATEGORY OF ELIGIBLE MATERIAL.**

8           SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
9 as follows:

10                           **Article – State Finance and Procurement**

11 **4–904.**

12           **(A) (1) FOR ANY SOLICITATION FOR A CONTRACT FOR AN ELIGIBLE**  
13 **PROJECT, A UNIT OF STATE GOVERNMENT SHALL SPECIFY THE ELIGIBLE**  
14 **MATERIALS THAT WILL BE USED IN THE PROJECT AND THE REASONABLE MINIMUM**  
15 **USAGE THRESHOLDS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT**  
16 **APPLY.**

17           **(2) A UNIT OF STATE GOVERNMENT MAY INCLUDE IN A SOLICITATION**  
18 **FOR AN ELIGIBLE PROJECT A GLOBAL WARMING POTENTIAL FOR ANY ELIGIBLE**  
19 **MATERIAL THAT IS LOWER THAN THE MAXIMUM ACCEPTABLE GLOBAL WARMING**  
20 **POTENTIAL FOR THAT MATERIAL AS DETERMINED UNDER § 4–903 OF THIS**  
21 **SUBTITLE.**

22           **(B) THE DEPARTMENT SHALL REQUIRE A SUCCESSFUL BIDDER OR**  
23 **OFFEROR OF AN ELIGIBLE PROJECT TO SUBMIT, FOR EACH ELIGIBLE MATERIAL**  
24 **PROPOSED TO BE USED IN THE ELIGIBLE PROJECT:**

25           **(1) A CURRENT ENVIRONMENTAL PRODUCT DECLARATION, TYPE III,**  
26 **AS DEFINED BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION**  
27 **STANDARD 14025; OR**

28           **(2) A SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHOD THAT**  
29 **INCLUDES UNIFORM STANDARDS IN DATA COLLECTION.**

30           **(C) A CONTRACTOR MAY NOT INSTALL ANY ELIGIBLE MATERIALS ON THE**  
31 **ELIGIBLE PROJECT UNTIL THE CONTRACTOR SUBMITS A FACILITY–SPECIFIC**  
32 **ENVIRONMENTAL PRODUCT DECLARATION FOR THAT ELIGIBLE MATERIAL AS**  
33 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.**

1           **(D) IF AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR**  
2 **AN ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE UNIT AND USE AN**  
3 **ALTERNATIVE ELIGIBLE MATERIAL WITH AN ENVIRONMENTAL PRODUCT**  
4 **DECLARATION.**

5           **(E) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS SECTION**  
6 **IF IT DETERMINES THAT REQUIRING THE RELEVANT ELIGIBLE MATERIALS WOULD:**

7                   **(1) BE TECHNICALLY INFEASIBLE;**

8                   **(2) RESULT IN A SIGNIFICANT INCREASE IN PROJECT COST;**

9                   **(3) RESULT IN A SIGNIFICANT DELAY IN PROJECT COMPLETION; OR**

10                   **(4) RESULT IN ONLY ONE SOURCE OR MANUFACTURER BEING ABLE**  
11 **TO PROVIDE THE NECESSARY MATERIALS.**

12 **4-905.**

13           **(A) ON OR BEFORE DECEMBER 1, 2024, AND EACH YEAR THEREAFTER, THE**  
14 **DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT, IN ACCORDANCE WITH § 2-1257**  
15 **OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY THAT**  
16 **INCLUDES:**

17                   **(1) WHAT THE DEPARTMENT HAS LEARNED ABOUT HOW TO IDENTIFY**  
18 **AND QUANTIFY EMBODIED CARBON IN BUILDING MATERIALS, INCLUDING LIFE**  
19 **CYCLE COSTS; AND**

20                   **(2) ANY OBSTACLES THE DEPARTMENT, BIDDERS, OR OFFERORS**  
21 **HAVE ENCOUNTERED IN IDENTIFYING AND QUANTIFYING EMBODIED CARBON IN**  
22 **BUILDING MATERIALS.**

23           **(B) THE REPORT SUBMITTED ON OR BEFORE DECEMBER 1, 2024, SHALL**  
24 **INCLUDE A DESCRIPTION OF THE METHOD THAT THE DEPARTMENT USED TO**  
25 **DEVELOP THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH**  
26 **CATEGORY OF ELIGIBLE MATERIALS.**

27           SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,  
28 2022, the Maryland Green Building Council shall:

29                   (1) seek input from community and industry stakeholders on  
30 recommendations to implement the provisions of Sections 1 and 2 of this Act, including:

31                           (i) architects;

- 1 (ii) civil engineers;
- 2 (iii) environmental scientists;
- 3 (iv) institutions of higher education in the State;
- 4 (v) materials manufacturers; and
- 5 (vi) State contractors; and
- 6 (2) report the recommendations to the General Assembly, in accordance  
7 with § 2–1257 of the State Government Article.

8 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
9 effect July 1, 2024.

10 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section  
11 4 of this Act, this Act shall take effect July 1, 2022.