
SENATE BILL 5659

State of Washington

67th Legislature

2022 Regular Session

By Senators Wellman and Lovelett

Prefiled 01/05/22.

1 AN ACT Relating to establishing climate and labor standards for
2 building materials used in state public works projects; and adding a
3 new chapter to Title 39 RCW.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that while the
6 state has done much work to address the operational carbon emissions
7 attributed to the building sector, such as through the adoption of
8 clean buildings standards and the clean energy transformation act to
9 decarbonize the grid, much can still be done to reduce emissions from
10 embodied carbon. Embodied carbon refers to the greenhouse gas
11 emissions from the manufacturing and other life-cycle stages of
12 building material, including transportation, installation,
13 maintenance, and disposal of material used in the construction of
14 buildings, roads, and other infrastructure. Approximately 40 percent
15 of all global carbon emissions are attributed to the building sector,
16 with around 10 percent resulting from the manufacturing of
17 construction materials.

18 (2) As stated in the Paris climate accords, in order to avoid an
19 irreversible and catastrophic climate change trajectory, average
20 global temperatures must not rise more than two degrees Celsius.
21 Since emissions accumulate in the atmosphere and there is limited

1 time remaining before the arrival of this tipping point, emissions
2 released now may be more critical than emissions released later.
3 Policies to reduce embodied carbon can help achieve short-term
4 climate targets, since the majority of a building's total embodied
5 carbon is released upfront in the product stage at the beginning of a
6 building's life. Further, unless action is taken soon, these
7 emissions will only continue to increase due to rising global demand
8 for construction materials to accommodate population growth and
9 replacement of aging infrastructure.

10 (3) While reducing embodied carbon starts with action in the
11 manufacturing sector, the construction industry can play a key role
12 by creating a market demand for lower carbon products. Further,
13 public policy can send a signal to manufacturers that it is time to
14 invest in short-term and long-term solutions. Using its extensive
15 purchasing power, the state can employ buy clean policies, such as
16 procurement policies that incorporate low-carbon construction
17 materials purchasing requirements, to accelerate the adoption of
18 lower carbon materials in the wider construction materials sector.

19 (4) The legislature further finds that buy clean policies have
20 the potential to result in large emissions reductions. The state of
21 Washington spent approximately \$94,000,000,000 on construction
22 between the years of 2008 and 2018, which translated to approximately
23 39,000,000 metric tons of carbon dioxide equivalent. The amount of
24 carbon is equivalent to the energy used by all the homes in the state
25 for more than two years, or the annual impact of 8,400,000 passenger
26 vehicles.

27 (5) Furthermore, these strategies have already been used
28 successfully on public sector projects to achieve significant
29 emissions reductions. The Helen Sommers building used a procurement
30 approach similar to buy clean to lower the carbon footprint of the
31 concrete used on the project by 27 percent compared to the Pacific
32 Northwest average, saving over 1,300 metric tons of greenhouse gas
33 emissions.

34 (6) In addition, procurement policies can be used not only to
35 achieve climate goals, but also to promote a fair economy by
36 incorporating high labor standards into procurement decisions.
37 Incorporating emissions information and high labor standards will
38 acknowledge those companies that have invested in emissions reduction
39 technologies and practices and reward responsible manufacturers that
40 are promoting and protecting a modern workforce through livable

1 wages, benefits, and workforce training. Further, such policies will
2 encourage other companies to take action to reduce emissions and
3 improve labor practices to become more competitive in the Washington
4 contracting process.

5 (7) Therefore, the legislature intends to establish climate and
6 labor standards as part of the state procurement process to achieve
7 significant carbon reductions and promote fair labor practices in
8 state public works projects. In doing so, the legislature also
9 intends to leverage the purchasing power of the state to encourage
10 these practices in the broader construction materials market.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1) "Awarding authority" includes any of the following:

15 (a) A state agency for a contract for a public works project that
16 is subject to chapter 39.04 or 39.10 RCW; or

17 (b) The governing boards of the institutions of higher education
18 as defined in RCW 28B.10.016 for a public works project that is
19 subject to chapter 39.04 or 39.10 RCW.

20 (2) "Department" means the department of commerce.

21 (3) "Eligible product" includes any of the following:

22 (a) Structural concrete, specifically ready mix, shotcrete,
23 precast, and concrete masonry units;

24 (b) Reinforcing steel, specifically rebar and posttensioning
25 tendons;

26 (c) Structural steel, specifically hot rolled sections, hollow
27 sections, plate, and cold formed; and

28 (d) Engineered wood, specifically composite lumber and mass
29 timber.

30 (4) "Eligible project" means a project that the awarding
31 authority determines will require eligible materials.

32 (5) "Environmental product declaration" means a supply chain
33 specific type III environmental product declaration as defined by the
34 international organization for standardization standard 14025 as that
35 standard existed as of January 1, 2022, or similarly robust life-
36 cycle assessment methods that have uniform standards in data
37 collection consistent with the international organization for
38 standardization standard 14025, industry acceptance, and integrity,
39 as those standards existed as of January 1, 2022.

1 (6) "Greenhouse gas" has the same meaning as defined in RCW
2 70A.45.010.

3 (7) "State agency" includes any state board, commission, bureau,
4 committee, department, institution, division, or tribunal in the
5 legislative, executive, or judicial branch of state government.

6 (8) "Supply chain specific" means an environmental product
7 declaration that includes supply chain specific data for production
8 processes that contribute to 80 percent or more of a product's
9 cradle-to-gate global warming potential, as defined in international
10 organization for standardization standard 21930, and reports the
11 overall percentage of supply chain specific data included. For
12 engineered wood products, "supply chain specific" also means an
13 environmental product declaration that reports:

14 (a) Any chain of custody certification;

15 (b) Percent volume contribution to wood sourcing with forest
16 management certification;

17 (c) Percent volume contribution to wood sourcing by state or
18 province and country; and

19 (d) Percent volume contribution to wood sourcing by owner type.
20 For example: Federal, state, private, or other.

21 NEW SECTION. **Sec. 3.** (1) By January 1, 2024, the department, in
22 consultation with the department of ecology, must establish, and
23 publish in guidance for awarding authorities, a maximum acceptable
24 global warming potential for each eligible product in accordance with
25 the following requirements:

26 (a) The department must set the maximum acceptable global warming
27 potential at the 20th percentile value of global warming potential
28 for each eligible product category, whereby 20 percent of products
29 meeting the specifications for the category are achieving a value
30 lower than this threshold. The department must determine this value
31 by consulting nationally or internationally recognized databases of
32 environmental product declarations of like performance and quality
33 materials and may rely on the data in these databases or published
34 evaluations of that data for purposes of identifying industry
35 averages, ranges, and variations, and for establishing the maximum
36 acceptable global warming potentials for eligible products. The
37 department may establish a phase-in period of not more than two years
38 for each eligible product to achieve the maximum acceptable global
39 warming potential; and

1 (b) The department must maintain a list of relevant product
2 category rules for each eligible product and express the maximum
3 acceptable global warming potential as a number that states the
4 maximum acceptable global warming potential for each eligible product
5 by product category rule.

6 (2) By January 1, 2024, the department must submit a report to
7 the legislature that describes the method that the department used to
8 develop the maximum acceptable global warming potential for each
9 eligible product pursuant to subsection (1) of this section. The
10 report required by this subsection must be submitted in compliance
11 with RCW 43.01.036.

12 (3) By January 1, 2027, and every three years thereafter, the
13 department must review the maximum acceptable global warming
14 potential for each eligible product established pursuant to
15 subsection (1) of this section, and may adjust that number downward
16 for any eligible product to reflect industry improvements if the
17 department, based on the process described in subsection (1)(a) of
18 this section, determines that the industry average has changed, but
19 the department must not adjust that number upward for any eligible
20 product. At that time, the department must update guidance to reflect
21 that adjustment.

22 NEW SECTION. **Sec. 4.** (1) An awarding authority must require the
23 successful bidder for a contract described in subsection (2) of this
24 section to submit a current environmental product declaration for
25 each eligible product to be used.

26 (2) An awarding authority must include in a specification for
27 bids for an eligible project that the global warming potential for
28 any eligible product does not exceed the maximum acceptable global
29 warming potential for that product determined pursuant to section 3
30 of this act. An awarding authority may include in a specification for
31 bids for an eligible project a global warming potential for any
32 eligible product that is lower than the maximum acceptable global
33 warming potential for that product determined pursuant to section 3
34 of this act.

35 (3) A successful bidder for a contract described in subsection
36 (2) of this section may not install any eligible product on the
37 project until that bidder submits an environmental product
38 declaration for that product pursuant to subsection (1) of this
39 section.

1 (4) This section only applies to a contract entered into on or
2 after July 1, 2024.

3 (5) This section does not apply to an eligible product for a
4 particular contract if the awarding authority determines, upon
5 written justification published on its internet website, that
6 requiring those eligible products to comply would be technically
7 infeasible, would result in a significant increase in the project
8 cost or a significant delay in completion, or would result in only
9 one source or manufacturer being able to provide the type of product
10 needed by the state.

11 (6) (a) The requirements of this section may be waived if the
12 awarding authority determines that an emergency exists.

13 (b) For the purposes of this section, "emergency" means a sudden,
14 unexpected occurrence that poses a clear and imminent danger,
15 requiring immediate action to prevent or mitigate the loss or
16 impairment of life, health, property, or essential public services.

17 (7) Compliance with the requirements of this section may not be
18 used as a basis for a waiver from apprenticeship utilization
19 requirements in any other statute, regulation, or law.

20 NEW SECTION. **Sec. 5.** In carrying out its duties under this
21 chapter, an awarding authority must strive to achieve a continuous
22 reduction of emissions over time.

23 NEW SECTION. **Sec. 6.** (1) Beginning July 1, 2024, an awarding
24 authority must require the successful bidder for a contract for an
25 eligible project to report on their suppliers for eligible products'
26 compliance with the international labor organization's core labor
27 standards as those standards existed as of January 1, 2022.

28 (2) Successful bidders for a contract for an eligible project may
29 meet the requirements of subsection (1) of this section in one of two
30 ways:

31 (a) Providing supplier codes of conduct from manufacturers that
32 they are procuring eligible products from; or

33 (b) In cases in which a supplier does not have a code of conduct,
34 the successful bidder for a contract for an eligible project must ask
35 suppliers to provide a report on their measures taken to comply with
36 the international labor organization's core labor standards and
37 provide suppliers' self-reports to the awarding authority.

1 (3) Beginning July 1, 2022, until June 30, 2024, awarding
2 authorities must encourage, but may not require, successful bidders
3 to comply with the requirements of subsection (1) of this section.

4 NEW SECTION. **Sec. 7.** Any standards referenced or utilized for
5 the purposes of this chapter may be updated by the department by
6 rule.

7 NEW SECTION. **Sec. 8.** By July 1, 2026, the department must
8 submit a report to the legislature on any obstacles to the
9 implementation of this chapter, the effectiveness of this chapter in
10 reducing the embodied emissions from public works, and the compliance
11 of suppliers of eligible products for public works with the labor
12 standards referenced in section 6 of this act. The report required by
13 this section must be submitted in compliance with RCW 43.01.036.

14 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act
15 constitute a new chapter in Title 39 RCW.

--- END ---