

FINAL BILL REPORT

2ESHB 1282

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Synopsis as Enacted

Brief Description: Requiring environmental and labor reporting for public building construction and renovation material.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Duerr, Hackney, Berry, Ramel, Doglio, Reed and Pollet; by request of Department of Commerce).

House Committee on Capital Budget
Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means

Background:

Environmental Product Declarations.

An Environmental Product Declaration (EPD) is a document that presents environmental information on the lifecycle of a product, including measurements of embodied greenhouse gas emissions of construction material and products. The EPDs are created according to internationally recognized standards, are third-party verified or self-declared, and may be based on industry averages or be specific to individual products or facilities. The International Organization for Standardization (ISO) has published specifications for developing EPDs.

Health Product Declarations.

The Health Product Declaration Open Standard (HPDOS) is a standardized format for reporting building product content and associated health information. The HPDOS is managed by the Health Product Declaration Collaborative, a nonprofit member organization whose membership includes industry and advocacy representatives.

Office of Minority and Women's Business Enterprises.

The state Office of Minority and Women's Business Enterprises (OMWBE) certifies small businesses owned and controlled by minority, women, and socially and economically disadvantaged persons. State agencies and educational institutions must consult with the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

OMWBE to afford minority- and women-owned businesses the maximum practicable opportunity to participate in public contracts for public works, goods, and services.

Buy Clean Pilots and Database.

In 2018 the Department of Commerce (COM) began coordinating with the University of Washington College of Built Environments (UW) to test proposed methods and availability of EPDs and working condition information for manufacturing facilities that are primary producers of covered products for pilot projects. The COM has also contracted with the UW to create a database and reporting system to track building materials used for state-funded construction projects.

Summary:

Reporting Requirements.

Reporting requirements for building materials and working conditions take effect July 1, 2025, for new construction contracts for covered projects larger than 100,000 gross square feet and on July 1, 2027, for all new construction contracts for covered projects and products. Beginning on these dates, awarding authorities must require the construction contractor to:

1. report, prior to substantial project completion:
 - the quantity of covered products; and
 - the following supplier-reported data for at least 90 percent of the cost of each of the covered products used in the project:
 - a current Environmental Product Declaration (EPD);
 - a Health Product Declaration (HPD), if any, for the product;
 - the manufacturer name and location;
 - supplier code of conduct, if any; and
 - Office of Minority and Women's Business Enterprise Certification, if any; and
2. ask suppliers to report, for at least 90 percent of the cost of each covered product used in the project, and prior to substantial completion:
 - names and locations of actual production facilities; and
 - working conditions at the actual production facilities for all employees. (If the supplier does not have this information, the selected firm must ask the supplier to report on steps taken to reasonably obtain the data and provide suppliers' self-reports to the awarding authority).

Awarding authorities must include data collection and reporting requirements in specifications for bids for covered projects. By July 1, 2025, and to the extent practicable, specifications for a bid or proposal for a project contract may only include performance-based specifications for concrete used as a structural material. An awarding authority may continue to use prescriptive specifications on structural elements to support special designs and emerging technology implementation.

Exceptions.

If a supply chain specific EPD is not available, a product and facility specific report may be submitted.

If the awarding authority determines that the data collection and reporting requirements for a covered product would cause a significant delay in completion, significant increase in overall project cost, or result in only one product supplier being able to provide the covered product, the reporting requirements do not apply.

Definitions.

Awarding Authority.

An awarding authority is a state agency or institution of higher education that receives funding from the capital budget and contracts directly for public works projects.

Covered Project.

A covered project is a:

- construction project larger than 50,000 gross square feet; or
- building renovation project where the cost is greater than 50 percent of the assessed value and the project is larger than 50,000 gross square feet of occupied or conditioned space.

Covered Product.

Covered products are certain structural concrete products, reinforcing steel products, structural steel products, and engineered wood products.

Environmental Product Declarations.

An EPD means a type III EPD, as defined by International Organization for Standardization (ISO) standard 14025 or similarly robust life-cycle assessment method. When available, the EPD must be supply chain specific.

Supply chain specific means an EPD that includes supply chain specific data for production processes that contribute 70 percent or more of a product's cradle-to-gate global warming potential, as defined by ISO standard 21930.

A product and facility specific report means an EPD whereby the environmental impacts can be attributed to a single manufacturer and a specific manufacturing or production facility.

Health Product Declaration.

An HPD means a supply chain specific health product declaration as defined by the HPD Collaborative, that has robust methods for product manufacturers and their ingredient suppliers to uniformly report and disclose information about product contents and associated health information.

Actual Production Facilities.

Actual production facilities means the final manufacturing facility and the facilities at which production processes occur that contribute to 70 percent or more of the product's cradle-to-gate global warming potential, as reflected in the EPD.

Working Conditions.

Working conditions means the average number of full time, part time, and temporary employees.

Other Provisions.

Financial Assistance.

Subject to funds appropriated for this specific purpose, the Department of Commerce (COM) may provide financial assistance to small businesses to offset costs of producing EPDs.

Database.

The COM must continue to develop the publicly accessible database created in conjunction with the University of Washington College of Built Environments (UW) for construction firms to report data. The COM may consult with the UW and contract for the use of a nationally or internationally recognized database of EPDs. By July 1, 2025, the COM must:

- further elaborate covered product definitions using applicable industry standards;
- develop measurement and reporting standards;
- create model language for specifications, bid documents, and contracts; and
- produce an educational brief that describes embodied carbon, the appropriate use of EPDs, reporting requirements and standards, instructions for using the database, and lists applicable product category rules for covered products.

Technical Work Group.

By December 1, 2024, the COM must convene a technical work group (Work Group) to identify opportunities and barriers for using and producing low-carbon materials, promote high labor standards in manufacturing, and preserve and expand low carbon material manufacturing in Washington.

Work Group members must include representatives from industry, Washington manufacturers, specified state agencies, environmental groups, labor unions, the minority- and women-owned business community, the UW, and other agencies and experts as necessary to meet Work Group objectives.

The Work Group must submit two reports to the Legislature and Governor:

1. by September 1, 2025, a low carbon materials manufacturing plan, recommendations for consistent treatment in the reporting for covered products, and consideration of how additional information relevant to reducing embodied carbon could be incorporated into future reporting; and
2. by September 1, 2026, policy recommendations and any needed statutory changes.

This report must consider policies to expand the use and production of low carbon materials, preserve and expand low carbon materials manufacturing, and support living wage manufacturing jobs.

The COM may update reporting standards and requirements based on input from the Work Group and must provide updated guidance on reporting standards by January 1, 2027.

The Work Group expires on January 1, 2028.

Other.

The Office of Financial Management must include information about building material and working condition reporting requirements in future capital budget instructions for state agencies.

A short title establishes the Buy Clean and Buy Fair Washington Act.

Votes on Final Passage:

House	57	40	
House	58	39	
Senate	28	20	(Senate amended)
House	57	39	(House concurred)

Effective: June 6, 2024