

117TH CONGRESS
1ST SESSION

H. R. 5698

To direct the Administrator of the Environmental Agency to establish a program to enhance the transparency, quality, and availability of life-cycle assessment data, and harmonize life-cycle assessment approaches to calculating greenhouse gas emissions and other environmental factors, in the production of products made primarily of eligible materials through environmental product declarations or a similar mechanism as determined appropriate by the Administrator, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2021

Mr. LAMB introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Reform, and Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Administrator of the Environmental Agency to establish a program to enhance the transparency, quality, and availability of life-cycle assessment data, and harmonize life-cycle assessment approaches to calculating greenhouse gas emissions and other environmental factors, in the production of products made primarily of eligible materials through environmental product declarations or a similar mechanism as determined appropriate by the Administrator, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Manufacturing Assist-
5 ance to Determine Emissions Act” or the “MADE Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Environ-
10 mental Protection Agency.

11 (2) ELIGIBLE MATERIAL.—The term “eligible
12 material” means any material (or groups of mate-
13 rials) on the list in effect under section 3(b).

14 (3) EMBODIED EMISSIONS.—The term “em-
15 bodied emissions” means the quantity of greenhouse
16 gas emissions, measured in kilograms of carbon di-
17 oxide-equivalent, accounting for all stages of produc-
18 tion including upstream processing and extraction of
19 fuels and feedstocks, emitted to the atmosphere due
20 to the production of a product per unit of such prod-
21 uct.

22 (4) ENVIRONMENTAL PRODUCT DECLARA-
23 TION.—The term “environmental product declara-
24 tion” means a document that includes—

1 (A) product-specific measurement of the
2 embodied emissions of a product on a mass
3 basis and per functional unit that—

4 (i) is in accordance with international
5 standards, such as a Type III environ-
6 mental product declaration, as defined by
7 the International Organization for Stand-
8 ardization standard 14025;

9 (ii) is calculated for a specific facility;

10 (iii) communicates transparent and
11 comparable information;

12 (iv) includes all stages of manufac-
13 turing required by the product;

14 (v) is verified by an independent third
15 party; and

16 (vi) is developed in accordance with
17 the criteria specified in the appropriate
18 product category rule designated by the
19 Administration under section 3(c); and

20 (B) is valid for no more than 5 years.

21 (5) FEDERAL CONTRACTING AGENCY.—The
22 term “Federal contracting agency” means—

23 (A) the Department of Defense, including
24 the Army Corps of Engineers;

25 (B) the Department of Energy;

- 1 (C) the Department of Transportation;
2 (D) the Department of Commerce;
3 (E) the Environmental Protection Agency;
4 (F) the General Services Administration;
5 and
6 (G) the Department of Veterans Affairs.

7 (6) FUNCTIONAL UNIT.—The term “functional
8 unit” means the measurement of the function of a
9 product that—

10 (A) is in accordance with international
11 standards, such as a Type III environmental
12 product declaration, as defined by the Inter-
13 national Organization for Standardization
14 standard 14025; and

15 (B) is a quantified description of the func-
16 tion a product performs, including for how long
17 it is performed.

18 (7) PRODUCT CATEGORY RULE.—The term
19 “product category rule” means a document that de-
20 fines necessary rules, requirements, and guidelines
21 for developing an environmental product declaration,
22 or similar mechanism as determined appropriate by
23 the Administrator, of a product covered by such
24 product category rule.

1 **SEC. 3. EMBODIED EMISSIONS TRANSPARENCY.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 enactment of this Act, the Administrator, in consultation
4 with the Secretary of Energy, the Director of the National
5 Institute of Standards and Technology, and relevant Na-
6 tional Laboratories, shall establish a program to enhance
7 the transparency, quality, and availability of life-cycle as-
8 sessment data, and harmonize life-cycle assessment ap-
9 proaches to calculating greenhouse gas emissions and
10 other environmental factors, in the production of products
11 made primarily of eligible materials through environ-
12 mental product declarations or a similar mechanism as de-
13 termined appropriate by the Administrator.

14 (b) LIST OF ELIGIBLE MATERIALS.—

15 (1) IN GENERAL.—The Administrator shall
16 maintain a list of materials to be treated as eligible
17 materials for purposes of this Act.

18 (2) INITIAL LIST.—The initial list of eligible
19 materials shall include—

20 (A) aluminum;

21 (B) steel;

22 (C) concrete;

23 (D) cement; and

24 (E) any eligible material described in para-
25 graph (3) the Administrator determines is ap-
26 propriate.

1 (3) SECONDARY LIST.—The secondary list of el-
2 igible materials shall include—

3 (A) flat glass;

4 (B) insulation;

5 (C) unit masonry; and

6 (D) wood products.

7 (4) MODIFICATION OF LIST.—

8 (A) PETITION.—Beginning 2 years after
9 the date of enactment of this Act, any person
10 may submit to the Administrator a petition to
11 modify the list of eligible materials maintained
12 under this subsection.

13 (B) DEADLINE.—Not later than 1 year
14 after receipt of a petition under subparagraph
15 (A), the Administrator shall—

16 (i) approve the petition and modify
17 the list maintained under this subsection in
18 accordance with such petition; or

19 (ii) deny the petition and publish a
20 written explanation of the Administrator’s
21 decision to approve or deny the petition.

22 (c) PRODUCT CATEGORY RULE DESIGNATIONS.—

23 (1) IN GENERAL.—The Administrator shall, in
24 consultation with the Secretary of Energy, the Di-
25 rector of the National Institute of Standards and

1 Technology, and relevant National Laboratories, des-
2 ignate product category rules for products made pri-
3 marily of eligible materials to be used in the creation
4 of environmental product declarations, or a similar
5 mechanism as determined appropriate by the Admin-
6 istrator, for each product type covered by such prod-
7 uct category rules. In designating such product cat-
8 egory rules, the Administrator may designate sepa-
9 rate product category rules as appropriate based on
10 class, type, and size of products.

11 (2) TIMING.—

12 (A) INITIAL DESIGNATIONS.—Not later
13 than 6 months after the date of enactment of
14 this Act, the Administrator shall designate
15 product category rules for products made pri-
16 marily of eligible materials listed in subsection
17 (b)(2) and used in construction.

18 (B) SECONDARY DESIGNATIONS.—Not
19 later than 1 year after the date of enactment of
20 this Act, the Administrator shall designate
21 product category rules for products made pri-
22 marily of eligible materials listed in subsection
23 (b)(3) and used in construction.

1 (3) REQUIREMENTS.—In designating a product
2 category rule for products made primarily of an eli-
3 gible material, the Administrator shall consider—

4 (A) the uses, durability, lifetime, perform-
5 ance, and appropriate functional unit of a prod-
6 uct covered by such product category rule;

7 (B) the stages of manufacturing required
8 by a product covered by such product category
9 rule;

10 (C) the inclusion of imported products cov-
11 ered by such product category rule; and

12 (D) the quality and harmonization of life-
13 cycle assessments of embodied emissions and
14 other environmental factors, in the production
15 of products covered by such product category
16 rule.

17 (4) PRODUCT CATEGORY RULES DEVELOPED BY
18 THIRD PARTIES.—In designating a product category
19 rule under this subsection, the Administrator—

20 (A) may designate a product category rule
21 developed by a third party; or

22 (B) may develop and designate a product
23 category rule if the Administrator determines
24 that for the products made primarily of an eli-
25 gible material—

1 (i) no such third party rule exists; or

2 (ii) no such rule third party rule ex-

3 ists that is adequate.

4 (5) UPDATES.—

5 (A) IN GENERAL.—At least once every 5
6 years after a product category rule is des-
7 igned under this subsection, the Adminis-
8 trator shall review such product category rule,
9 and after opportunity for notice and comment,
10 update such product category rule as necessary.

11 (B) PETITIONS.—Beginning 1 year after
12 the designation of a product category rule
13 under this subsection, any person may submit
14 to the Administrator a petition to reconsider
15 such designation based on—

16 (i) advances in technology that create
17 substantial changes to the production of
18 products within a product category; or

19 (ii) a misrepresentation or change of a
20 product's characteristics, methods of pro-
21 duction, or use.

22 (d) NATIONAL ENVIRONMENTAL PRODUCT DEC-
23 LARATION DATABASE.—

24 (1) ESTABLISHMENT.—Beginning not later
25 than 9 months after the date of enactment of this

1 Act, the Administrator shall establish and maintain
2 a publicly accessible database of environmental prod-
3 uct declarations to be known as the National Envi-
4 ronmental Product Declaration Database.

5 (2) INCLUSION BY APPROPRIATE PRODUCT CAT-
6 EGORY RULE.—The Administrator shall include an
7 environmental product declaration, including an en-
8 vironmental product declaration for an imported
9 product, in the National Environmental Product
10 Declaration Database only if the declaration is cre-
11 ated using the appropriate product category rule
12 designated under subsection (c).

13 (3) REMOVAL.—The Administrator shall imme-
14 diately remove an environmental product declaration,
15 including an environmental product declaration for
16 an imported product, from the National Environ-
17 mental Product Declaration Database if the declara-
18 tion does not use the appropriate product category
19 rule designated under subsection (c), is unverified by
20 a third party, or is otherwise found to be inad-
21 equate, as determined by the Administrator.

22 (e) ENVIRONMENTAL PRODUCT DECLARATION AS-
23 SISTANCE.—

24 (1) TECHNICAL ASSISTANCE PROGRAM.—The
25 Administrator shall establish a program to provide

1 technical assistance to manufacturers of eligible ma-
2 terials to develop and verify environmental product
3 declarations.

4 (2) GRANTS TO BUSINESSES.—

5 (A) IN GENERAL.—Not later than 9
6 months after the date of enactment of this Act,
7 the Administrator shall establish a grant pro-
8 gram to provide financial assistance for the de-
9 velopment and verification of environmental
10 product declarations subject to the appropriate
11 product category rules designated in subsection
12 (c) for businesses that manufacture eligible ma-
13 terials or products primarily made of eligible
14 materials in the United States.

15 (B) LIMITATIONS.—No business shall re-
16 ceive more than \$100,000 under such program
17 during any 5-year period.

18 (C) COMMITMENT TO SUBMIT ENVIRON-
19 MENTAL PRODUCT DECLARATIONS.—Any busi-
20 ness receiving financial assistance under this
21 paragraph shall submit any environmental
22 product declaration developed and verified with
23 such financial assistance to the National Envi-
24 ronmental Product Declaration Database estab-
25 lished under subsection (d).

1 (3) OUTREACH TO MANUFACTURERS.—The Ad-
2 ministrators shall conduct public outreach and edu-
3 cation to manufacturers about the National Environ-
4 mental Product Declaration Database established
5 under subsection (d) and encourage submission of
6 environmental product declarations created using the
7 appropriate product category rule designated in sub-
8 section (c), to such database.

9 (4) AUTHORIZATION OF APPROPRIATIONS.—
10 There is authorized to be appropriated to carry out
11 this subsection \$25,000,000 for each of fiscal years
12 2022 through 2031.

13 (f) ENVIRONMENTAL PRODUCT DECLARATIONS AU-
14 DITS.—The Administrator shall conduct random audits of
15 environmental product declarations submitted to the Na-
16 tional Environmental Product Declaration Database es-
17 tablished under subsection (d), and the practices of inde-
18 pendent third-party verifiers of such environmental prod-
19 uct declarations. At a minimum, the Administrator shall
20 conduct audits each year for a representative sample of
21 product categories and geographical areas, including envi-
22 ronmental product declarations of imported products.

23 (g) INTERAGENCY CONSULTATION.—In carrying out
24 the program established in this section, the Administrator
25 shall consult and coordinate with relevant programs within

1 the Department of Energy, Department of Commerce, and
2 other relevant agencies as determined by the Adminis-
3 trator.

4 (h) PROGRAM REVIEW AND ASSESSMENT OF ENVI-
5 RONMENTAL PRODUCT DECLARATIONS.—Not later than
6 5 years after the date of enactment of this Act, the Admin-
7 istrator, in consultation with other relevant agencies as de-
8 termined by the Administrator, shall conduct a review of
9 the program established under this section. Such review—

10 (1) shall—

11 (A) include an assessment of the quality
12 and efficacy of environmental product declara-
13 tions to account for the embodied emissions of
14 a product, and consider alternative mechanisms
15 or accounting methods that would enhance the
16 transparency, quality, and availability of life-
17 cycle assessment data, and improve harmoni-
18 zation of life-cycle assessment approaches to
19 calculating greenhouse gas and other environ-
20 mental factors, in the production of products
21 containing eligible materials; and

22 (B) provide an opportunity for public com-
23 ment on the review’s findings; and

24 (2) may—

1 (A) include recommendations to enhance or
2 harmonize accounting and reporting methods
3 related to international life-cycle assessment
4 standards of products containing eligible mate-
5 rials, including data verification and identifica-
6 tion of products' country of origin for products
7 produced outside of the United States; and

8 (B) include recommendations to improve
9 the evaluation of environmental factors, includ-
10 ing air, water, and land pollution, and other
11 factors related to raw material extraction,
12 transportation, manufacturing, use, and end of
13 life, associated with products containing eligible
14 materials.

15 **SEC. 4. REPORTS TO CONGRESS.**

16 (a) REPORT ON FEDERAL PROCUREMENT.—Not
17 later than 1 year after the date of enactment of this Act,
18 the Administrator, in consultation with other Federal con-
19 tracting agencies, shall submit to Congress a report that
20 quantifies and evaluates, by agency, sector of expenditure,
21 and product sector, the volume of eligible materials pro-
22 cured by the Federal Government, and the level of spend-
23 ing on such eligible materials.

24 (b) REPORT ON MATERIAL EFFICIENCY.—Not later
25 than 2 years after the date of enactment of this Act, the

1 Administrator, in consultation with the Department of
2 Energy and other relevant agencies determined by the Ad-
3 ministrator, shall submit to Congress and make publicly
4 available a report that includes a review of existing re-
5 search on, and policy recommendations for, improving ma-
6 terial efficiency of eligible materials.

○