

IMPACT STATEMENT

Legislation title: Amend the Sustainable Procurement Policy to incorporate the City's Clean Air Construction Standard and additional directives regarding fostering fair and safe supply chains (Resolution)

Contact name: Stacey Foreman

Contact phone: (503) 823-3508

Presenter name: Lester Spitler, Kyle Diesner and Stacey Foreman

Purpose of proposed legislation and background information:

This proposed resolution will update the City's Sustainable Procurement Policy. This Policy update:

- Adds the Clean Air Construction Standard as Attachment 3.
- Incorporates additional directives regarding fostering fair and safe supply chains through the City's procurement process.

Clean Air Construction Standard Background

Everyone deserves to breathe healthy air. However, in the Portland metro area, the air is unhealthy to breathe because of the presence of fine and ultra-fine particulate matter from older dirty diesel engines. Clackamas, Multnomah, and Washington counties rank in the top 5 percent of all counties nationwide for ambient diesel particulate concentrations and have the highest exposure rate of all counties in Oregon. In some areas, like near freight corridors, rail yards or construction sites, levels of diesel pollution are over 10 times Oregon health benchmarks. Off-road equipment, primarily construction equipment, is responsible for 65 percent of diesel particulate matter in the Portland area.

According to the Oregon Department of Environmental Quality study, *The Concerns about Diesel Exhaust*, diesel engines are durable, powerful, fuel-efficient, and are widely used in the construction and freight industries. Diesel engines, however, are disproportionate emitters of fine particulate matter. Exposure to diesel engine exhaust can cause cancer, increase the risk of heart attack, stroke and cardiovascular disease, cause adverse nervous system impacts, exacerbate asthma, and can lead to low-weight and preterm births. The levels of diesel pollution in Oregon have significant public health impacts every year, including:

- Up to 460 premature deaths,
- 145 non-fatal heart attacks, and
- 25,910 work loss days.

The monetized value of health impacts in Oregon may exceed \$3 billion annually.

Fortunately, solutions are available. Diesel trucks and heavy equipment built today are up to 99 percent cleaner than earlier models because of Federal regulation. EPA pollution control standards for on-road trucks with engines built after 2007, and off-road, Tier 4 equipment available in the marketplace beginning in 2008, have resulted in very low-emitting engines and are considered "clean." For existing engines, techniques are available to reduce emissions, including using cleaner fuel and modifying vehicle operations, such as

idling reduction. The most cost-effective approach is to install emission control devices, which are typically done as a muffler replacement.

The City of Portland, the Port of Portland, Metro, Multnomah County, Clackamas County, and Washington County have unofficially formed the Oregon Clean Air Construction Collaborative (CACC) to work towards a regional strategy to implement these solutions. The partners are working towards a common set of procurement standards requiring that construction equipment meet certain diesel-exhaust-control specifications for public contracts. Many jurisdictions across the country have similar methods in place to require cleaner construction equipment on their publicly funded projects. CACC hired a consultant to evaluate 14 of these programs. The goal of this evaluation was to better understand the development and implementation of clean-diesel construction procurement standards and determine best practices.

Public agencies have already taken the lead by prioritizing improved air quality through replacement and retrofits of our own high-polluting diesel equipment. To continue this progress, participating Clean Air Construction Collaborative partners are looking to utilize procurement policy to achieve greater diesel emission reductions on public projects. Additionally, the City of Portland and Multnomah County co-funded an air quality feasibility study (Ordinance 188981) to perform an in-depth assessment of various strategies actionable by local government to address Portland metro's air quality issues. The study was completed in July 2018 and a top recommended action was to implement diesel engine specifications for public construction projects.

This resolution amends the City's Sustainable Procurement Policy to include Clean Air Construction Standard (Exhibit A) and directs Procurement Services to submit a funding request for the implementation of the Clean Air Construction program framework in their FY19-20 budget request and develop intergovernmental agreements with participating regional jurisdictions for program administration.

In addition, this resolution directs the Bureau of Planning and Sustainability and Procurement Services to work with regional public jurisdictions to promote additional adoption of the Clean Air Construction Standard and to work with external stakeholders while developing program elements for implementation. This resolution also directs the Bureau of Planning and Sustainability, Portland Housing Bureau, and Procurement Services to further study the financial impacts of such a standard on affordable housing projects and return to Council no later than July 2019. The Bureau of Planning and Sustainability and Procurement Services are also directed to return to Council in October 2019 with a proposal for funding assistance for construction firms working on City projects that are certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID).

Fair and Safe Supply Chains Background

Resolution 37379 directed the Office of Management and Finance to work with stakeholder groups to develop policy recommendations that address corporate responsibility and labor best practices in City procurements. Over the past two months the Office of Management

and Finance engaged union labor representatives, community member organization representatives, and contracting trade associations in developing recommendations. The key recommendations brought forth through this resolution involve commitments to developing a City Supplier Code of Conduct, testing online supplier compliance platforms, and ensuring upcoming solicitations for janitorial, security, and industrial laundry services include labor best practices.

Financial and budgetary impacts:

There are financial and budgetary impacts associated with implementing the proposed Clean Air Construction Standard. Construction contractors will likely increase project costs to cover their compliance expenditures and there will be associated City technical assistance and program administrative costs. However, this resolution only directs the amendment to the Sustainable Procurement Policy and directs Procurement Services to develop the program and identify the necessary financial resources to implement the program and submit an associated budget request through the FY 19-20 budget process.

There is a financial and budgetary impact associated with testing online supplier compliance platforms and developing a City Supplier Code of Conduct. This resolution directs Procurement Services to submit a budget request for applicable programming elements such as, but not limited to, technical assistance and online tools that support supplier corporate responsibility disclosure and evaluation through the FY 19-20 budget process.

Community impacts and community involvement:

The Clean Air Construction Collaborative has completed outreach to some stakeholder groups including construction project managers, equipment operators, construction firms, industry associations, environmental, and neighborhood groups. The Clean Air Construction Collaborative held a large stakeholder meeting on August 22nd, to take feedback on the proposed approach. The proposed contracting standard was revised based on stakeholder feedback at the September Council hearing on Resolution 37387. In addition, the City of Portland and Multnomah County solicited public comments over a two-week period in November 2018. We received 138 comments: 59% supported the proposed Clean Air Construction Standard; 39% supported the Standard but called for accelerated and additional action; and 2% opposed the Standard. Based on public feedback received over the last two months we have made substantial revisions to the Clean Air Construction Standard including: lowering the horsepower threshold to 25hp, reducing the phase-in schedule by one year, and limiting the use of diesel oxidation catalysts as a compliance method.

City Council has heard much from the community about the health impacts of our air quality and there is significant public pressure on government entities to take action to improve local air quality. Community organizations such as Oregon Environmental Council, Neighbors for Clean Air, and Portland Neighbors for Diesel Action are supportive of Portland taking leadership on this issue, although they strongly advocate for an accelerated timeline for implementation.

Regulation of diesel emissions on public projects is opposed by the contracting community, although, they acknowledge regulation of diesel emissions will ultimately occur. They advocate for an approach that keeps a level playing field across the region for contractors bidding on jobs, provides a long enough lead time to plan for equipment upgrades and provides financial resources to support COBID certified firms.

The proposed construction standard balances the concerns raised by stakeholders by lowering the equipment horsepower threshold to 25hp to include more equipment, while phasing in the standards over 7 years to allow the contracting community to plan ahead for investments and spread out costs. In addition, the proposed standard includes extended compliance timelines and flexibility for COBID certified firms.

Over the past two months the Office of Management and Finance engaged SEIU local 49 representatives and members of the City's Fair Contracting Forum in developing recommendations that address corporate responsibility and labor best practices in City procurements. This included presenting at two Fair Contracting Forum meetings and hosting multiple individual meetings with SEIU local 49 representatives, in addition to email and phone communications.

100% Renewable Goal:

While this resolution does not directly support the 100% renewable goal, the proposed Clean Air Construction Standard will reduce energy use through the idling requirements. The Standard will also create a compliance pathway whereby some contractors may use renewable fuels or electricity as an alternative to diesel fuel.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

RESOLUTION No.

Amend the Sustainable Procurement Policy to incorporate the City's Clean Air Construction Standard and additional directives regarding fostering fair and safe supply chains (Resolution; amend BCP-ADM-1.09)

WHEREAS, Resolution 37379 directed the Office of Management and Finance to work with stakeholder groups to develop policy recommendations that address corporate responsibility and labor best practices in City procurements; and

WHEREAS, over the past two months the Office of Management and Finance engaged union labor representatives, community member organization representatives, and contracting trade associations in developing recommendations that address corporate responsibility and labor best practices in City procurements; and

WHEREAS, during the development of the most recent update to the City's Sustainable Procurement Policy, feedback from City employees included the recommendation to consolidate existing procurement-related sustainability policies under one policy; and

WHEREAS, Resolution 37387 directed Procurement Services and the Bureau of Planning and Sustainability to develop a program framework and identify the necessary resources to require contractors working on City construction projects to use equipment that controls diesel exhaust to protect public health; and

WHEREAS, over the past two months Procurement Services and the Bureau of Planning and Sustainability, in collaboration with Multnomah County, Clackamas County, Washington County, Port of Portland, Metro, and the Oregon Department of Environmental Quality, refined the proposed Clean Air Construction Standard based on stakeholder feedback received during Resolution 37387 testimony; and

WHEREAS, in November 2018 the revised Clean Air Construction Standard proposal was posted on the Multnomah County and City of Portland websites for public comment and received 138 comments, including 98 percent in support, some with calls for accelerated and additional action, and 2 percent opposed; and

WHEREAS, Procurement Services and the Bureau of Planning and Sustainability, in collaboration with Multnomah County, Clackamas County, Washington County, Port of Portland, Metro, and the Oregon Department of Environmental Quality have further revised the proposed Standard based on public comments received through the public comment period. And over the past two months have developed a regional program framework (Exhibit B) and associated resources needed to implement the proposed Clean Air Construction Standard; and

WHEREAS, to support City supplier diversity goals the proposed Clean Air Construction Standard program framework includes securing funding to help construction firms that are certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID) to retrofit or replace construction equipment and vehicles to comply with the proposed Clean Air Construction Standard; and

WHEREAS, the Bureau of Planning and Sustainability has proposed to the Office of Government Relations that the City of Portland 2019 State Legislative Agenda advocate for allocation of Oregon Volkswagen diesel settlement funds to assist COBID certified firms retrofitting, repowering, or replacing diesel vehicles and equipment in compliance with public clean air construction standards; and

WHEREAS, environmental justice communities, including communities of color and low-income populations, experience a disproportionate burden of exposure to diesel pollution because they often live and work in areas with higher pollution levels; and

WHEREAS, affordable housing development is focused on serving environmental justice communities, including communities of color and low-income populations; and

WHEREAS, the proposed Clean Air Construction regional program framework (Exhibit B) includes a regional approach with one program administrator working on behalf of all participating regional public agencies; and

WHEREAS, the City of Portland consistently conducts the largest volume and variety of construction projects among the regional public agency partners; and

WHEREAS, Procurement Services has a history of serving as a regional leader on construction related programming through various intergovernmental agreements; and

WHEREAS, expanding Procurement Services' Sustainable Procurement Program with the resources needed to address contractor and supplier corporate responsibility and the regional administration of Clean Air Construction programming would efficiently utilize Procurement Services' existing resources as well as added staff resources highlighted in the regional program framework, attached as Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, that the City of Portland Sustainable Procurement Policy attached hereto as Exhibit A, is amended; and

BE IT FURTHER RESOLVED, over the next fourteen months Procurement Services shall develop a Supplier Code of Conduct through a robust stakeholder engagement process that includes union labor representatives, community member organization representatives, contracting trade associations, and experts in supplier corporate responsibility assessment; and

BE IT FURTHER RESOLVED, Procurement Services shall submit in their FY19-20 budget request funding for the implementation of the Clean Air Construction regional program framework (Exhibit B), with Procurement Services as the regional program administrator and as supported through applicable intergovernmental agreements; and

BE IT FURTHER RESOLVED, Procurement Services shall submit in their FY19-20 budget request funding for programming elements such as, but not limited to, technical assistance and online tools that support supplier corporate responsibility disclosure and evaluation; and

BE IT FURTHER RESOLVED, the Bureau of Planning and Sustainability and

Procurement Services will continue to work with regional public agency partners to promote additional agency adoption of the Clean Air Construction Standard and collaborate on a regional implementation approach; and

BE IT FURTHER RESOLVED, taking into account the outcomes of the 2019 State Legislative session, the Bureau of Planning and Sustainability and Procurement Services will return to Council in October 2019 with a proposal for funding assistance for COBID certified construction firms working on construction projects for the City to comply with the Clean Air Construction Standard; and

BE IT FURTHER RESOLVED, that Portland Housing Bureau construction projects are exempt from the Clean Air Construction Standard pending a financial impact analysis on applying the Clean Air Construction Standard to City owned or funded affordable housing construction projects; and that the Bureau of Planning and Sustainability, Portland Housing Bureau, and Procurement Services will return to Council no later than July 2019 with financial impact analysis results and recommendations pertaining to whether the Clean Air Construction Standard should apply to City owned or funded affordable housing construction projects; and

BE IT FURTHER RESOLVED, that the Bureau of Planning and Sustainability and Procurement Services will continue to meet with external stakeholders including neighborhood associations, clean air advocacy groups, and contracting trade associations while developing Clean Air Construction program elements such as, but not limited to, exemptions, program assessment, and incentives for early compliance; and

BE IT FURTHER RESOLVED, that this resolution is binding city policy and supersedes the Sustainable Procurement Policy adopted in Resolution No. 37379.

Adopted by the Council:

Mayor Ted Wheeler
Prepared by: Stacey Foreman
Date Prepared: November 16, 2018

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

Agenda No.
RESOLUTION NO.
Title

37403

Amend the Sustainable Procurement Policy to incorporate the City's Clean Air Construction Standard and additional directives regarding fostering fair and safe supply chains (Resolution, amend BCP-ADM-1.09)

INTRODUCED BY Commissioner/Auditor: Mayor Wheeler	CLERK USE: DATE FILED <u>DEC 04 2018</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <u>Susan Parsons</u> Deputy
BUREAU APPROVAL Bureau: OMF-BRFS-Procurement Bureau Head: Jennifer Cooperman Prepared by: Stacey Foreman Date Prepared: 11/16/18	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	ACTION TAKEN:
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date 12/13/18	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> 2 hrs? Start time: 2:00 Total amount of time needed: 30 min (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz	
2. Fish	2. Fish	
3. Saltzman	3. Saltzman	
4. Eudaly	4. Eudaly	
Wheeler	Wheeler	