
CPDC - CM Technical Bulletin

CM 19-02

Date: May 10, 2019

From: Jim Hoffman — Chief of Construction Management
Capital Planning, Design and Construction

Distribution: Executive Facilities Officers, Procurement and Support Services Officers, Directors of Facilities Operations, CPDC Staff, and Christopher Fowler, University Counsel

Subject: AB 262 — Buy Clean California Act

Information

- A. The Buy Clean California Act (Assembly Bill 262) was signed into law on Oct. 15, 2017, and became effective Jan. 1, 2018. AB 262 updated Public Contract Code to include this legislation, which applies to the California State University.

The 2019 Contract General Conditions have been posted and include the Buy Clean California Act, provided in Article 4.03, Environmental Requirements, section h, Buy Clean California Act.

The following materials or products are subject to the Buy Clean California Act:

Material or product	Material specifications: CSI Uniformat
Carbon steel rebar	Section 03 20 00 , "Bar Reinforcement"
Structural steel	Section 05 12 00, "Structural Steel"
Flat glass	Section 08 80 00, "Glazing"
Mineral wool board insulation	Section 07 21 13.19 "Mineral Board Insulation"

For product category rules and more information on applicable materials or products, go to: <https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Buy-Clean-California-Act>

The schedule for adoption of the Buy Clean California Act is as follows:

January 1, 2019 – EPDs will be requested by the state.

January 1, 2020 – EPDs will be required by the state.

January 1, 2021 – DGS publishes the maximum acceptable GWP for eligible materials.

July 1, 2021 – EPDs will be required and used to gauge GWP compliance of eligible materials.

For projects with bid opening dates after November 30, 2018, through November 30, 2019, the Trustees shall start collecting existing environmental product declarations from contractors for materials or products subject to the Buy Clean California Act. This is effectively a trial period to acclimatize the industry to the process.

(1) Definitions

Environmental Product Declaration: Independently verified document created and verified in accordance with International Organization for Standardization (ISO) 14025 for Type III environmental declarations that identifies the global warming potential emissions of the facility-specific material or product through a product stage life cycle assessment.

Product Category Rule: Program operator established rule based on the science of life cycle assessment that governs the development of the environmental product declaration for the material or product.

Product Stage: Boundary of the environmental product declaration that includes (1) raw material supply, (2) transportation processes, and (3) processing operations, including operations such as melting, mixing, fabrication, finishing, curing, cooling, trimming, packaging and loading for transport delivery. Commonly referenced as a "cradle-to-gate" life cycle assessment.

Program Operator: Independent agency that supervises and confirms the full environmental product declaration development process in accordance with ISO 14025.

Raw Material Supply: Upstream processes which can include allocations, extraction, refinement, reclamation, handling and processing of the constituents used in producing the material or product.

Transportation Processes: Includes transportation of raw, reclaimed or recycled material constituents from the supplier to the gate of the manufacturer, producer or fabricator. Includes transport of related waste products.

- (2) Submittals to the Trustees
Contractors shall submit EPDs to the University as a part of the submittal process for eligible materials. University shall compile EPDs for submission to CPDC as a part of project closeout. CPDC will provide more information in upcoming Technical Bulletins regarding submittals of EPDs.

B. Websites/References:

- (1) AB 262, Buy Clean California Act:
https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB262.
- (2) Public Contract Code, Division 2, Part 1, Chapter 3, Article 5: [sections 3500-3505](#).
- (3) DGS Memo: <http://www.documents.dgs.ca.gov/osp/sam/memos/MM19-01.pdf>

C. Attachments:

DGS Meeting Minutes, Buy Clean Act, Agency Workshop
Buy Clean California Act of 2017 FAQs
Contract General Conditions, Article 4.03-h, Buy Clean California Act

D. Applicability:

Applicable to all CSU Campuses.



**Meeting Minutes
Buy Clean California Act
Agency Workshop**

**April 17, 2019
1:30 p.m. – 3:30 p.m.
Ziggurat Building
Rm. 8-100**

Attendees

Department of Corrections and Rehabilitation (CDCR): Danette Verras, Gina Banks, Jennifer Parra, Leanne Evans, Peter Tran

Department of Transportation (DOT): Ken Darby

Department of Water Resources (DWR): Brenda Albert

Government Operations Agency (GovOps): Matt Henigan

Department of General Services – Real Estate Services Division (RESD): Joel Griffith

Department of General Services Procurement Division: Scott Fong, Daniel Garza, Yin Men Lai, Brenden Jiang, Devika Singh, Mark Wriston, Robert Cosgrove

Minutes

Environmental Product Declarations (EPDs)

- Management Memo 19-01 was shared with awarding agencies.
- DOT, RESD, DWR, and CDCR have not received any EPDs since January 1.
- DOT has a penalty for contractors failing to submit all documents.
 - This penalty could apply to contractors failing to submit EPDs.
- Awarding agencies are interested in having a meeting to discuss compliance.
- CDCR mentioned they are more willing to adopt language written by DGS than to provide sample language to DGS.

Update on Global Warming Potential (GWP) Baseline

- Project team is considering industry-wide EPDs to set the limit. The GWP should not be production weighted.
- RESD asked the project team to not use the industry-wide EPD to set the limit. Instead, set the GWP limit on available facility-specific EPDs.

Discuss Compliance Issues

- DGS' Buy Clean California Act FAQ for Contractors was shared with awarding agencies.
- DOT has reached out to their contractors regarding the Buy Clean California Act.
- Project team offered to help with outreach efforts and can coordinate messaging from awarding agencies to industry.
- Flat glass discussion
 - The National Glass Association indicated that they were reluctant to provide facility-specific EPDs.
 - The glass industry would like to know how much flat glass is bought by the state.
 - CDCR and RESD mentioned they use very little flat glass. They use processed glass more.
 - If we pursue a flat glass traceability methodology for processed glass, then there will be an issue with verify traceability. Examples mentioned were a stamp.

Action Items

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- Project team to schedule follow-up meeting with awarding agencies to discuss compliance in detail.
 - CDCR and RESD to provide flat glass usage to Yin Men Lai.

Buy Clean California Act of 2017

Frequently Asked Questions (FAQs) for Contractors

What is the Buy Clean California Act?

The legislation was introduced as Assembly Bill (AB) 262 and signed into law on October 15, 2017. It targets the embedded carbon emissions of certain construction materials used in public works projects. AB 262 requires that these materials have a global warming potential that falls below a limit set by the Department of General Services.

What construction materials are affected?

Eligible materials include: structural steel (hot-rolled sections, hollow structural sections, and plate), carbon steel rebar, flat glass, and mineral wool board insulation.

Which state agencies have to comply with the law?

The awarding authorities include: Department of Transportation, Department of Water Resources, Department of Parks and Recreation, Department of Corrections and Rehabilitation, Military Department, Department of General Services, Regents of the University of California, Trustees of the California State University and state agencies granted authority to work on public works projects under Management Memo 18-01.

What does this mean for contractors?

If any of the identified construction materials are used in a public works project for the agencies listed, a facility-specific Environmental Product Declaration (EPD) shall be provided by a successful bidder for a contract to the applicable state agency. These EPDs must be developed in compliance with ISO 14025.

What is an EPD and how do I obtain one?

An EPD, or Environmental Product Declaration, is an independently verified and registered document that communicates information about the life cycle environmental impact of products. The raw material producer conducts a product life cycle assessment and works with a program operator to verify and publish an EPD.

An EPD needs to follow the guidelines of ISO 14025 (Type III Environmental Declarations – Principles and Procedures) and the applicable Product Category Rule (PCR). A PCR is a set of rules, requirements and guidelines for a product group.

Buy Clean California Act FAQs – *continued*

Where can I find out more about Life Cycle Assessments, Product Category Rules, and program operators?

Information about Life Cycle Assessments (LCAs), PCRs, and domestic program operators can be found at the following web address: <http://programoperators.org/>

Where can I find the actual statute language?

The legislation can be found under Public Contract Code § 3500-3505 at the following web address: <http://leginfo.legislature.ca.gov/faces/home.xhtml>

What is the effective date of the Buy Clean California Act?

On **January 1, 2019**, awarding authorities will request that each successful bidder for a contract submit a facility-specific EPD for all eligible materials. On or after **July 1, 2021**, **only eligible materials compliant with the Global Warming Potential (GWP) limit will be acceptable for use on public works projects.**

Where can I find more information about the Buy Clean California Act?

Information, implementation status, and contact information can be found at the following web address:

<https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Buy-Clean-California-Act>

4.03 Environmental Requirements (from Contract General Conditions for Design-Bid-Build Major Projects)

h. Buy Clean California Act.

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