


# Memorandum

*Making Conservation  
a California Way of Life.*

To: DEPUTY DISTRICT DIRECTORS, Construction  
DEPUTY DIVISION CHIEF, Structure Construction  
CONSTRUCTION MANAGERS  
SENIOR CONSTRUCTION ENGINEERS  
RESIDENT ENGINEERS  
STRUCTURE REPRESENTATIVES

Date: August 29, 2019

File: Division of Construction  
CPD 19-12

From: <sup>For</sup> RACHEL FALSETTI, Chief   
Division of Construction

Subject: **BUY CLEAN CALIFORNIA ACT-ENVIRONMENTAL PRODUCT DECLARATIONS**

This directive provides guidance to resident engineers on Buy Clean California Act and environmental product declarations (EPDs) specification requirements. Projects affected are those with bid openings from December 1, 2019, through May 31, 2021, that are greater than \$1 million and have 175 or more working days.

The attached standard special provision adds the second of three phases of Buy Clean California Act requirements which are timeframe dependent. While projects with bid openings prior to December 1, 2019, request existing EPDs for eligible materials, projects with bid openings from December 1, 2019, through May 31, 2021, will require facility-specific EPDs for eligible materials as informational submittals within 15 days of initial installation of the material or product. There are no maximum allowable global warming potential threshold requirements associated with the first and second phases of Buy Clean California Act requirements. Submittals will be made to both the resident engineer and through the Data Interchange for Materials Engineering (DIME) system. The project's Materials Engineering and Testing Services (METS) representative will assist in the review of EPD informational submittals and inform the resident engineer of any acceptability concerns. In the event there are unresolved noncompliance issues with a submittal, the withholds provisions of Section 9-1.16E(3), "Performance Failure Withholds," of the *2018 Standard Specifications* are to be applied as applicable.

***Note that the third phase of Buy Clean California Act requirements, affecting projects with bid openings after May 31, 2021, will require authorization of an EPD action submittal prior to incorporating the associated eligible material or product into the work. Prior to authorization, the submittal will be reviewed for compliance including verification that global warming potential threshold requirements have not been exceeded. Additional guidance information on the third phase will be provided in advance of the 2021 implementation date.***

The attached standard special provision identifies the eligible materials and their quantity limits that trigger required EPD submittals. These limits are based on each individual mill or manufacturer providing materials or products to the project. For example, if there are two mills providing reinforcement for the project and mill A is to

provide 35,000 pounds and mill B is to provide 5,000 pounds, only mill A is required to provide a facility-specific EPD for its material, which exceeds the 20,000-pound limit for carbon steel rebar. Also consider that limit quantities of these eligible materials are frequently affected by multiple project bid items. For example, Section 52-1.02B, "Bar Reinforcement," of the *Standard Specifications* contains the material specifications for reinforcement, however bid item codes outside the section 52 series designation, such as those for concrete pavements (40 series), concrete piling (49 series), concrete barriers (83 series) among others, specify bar reinforcing steel comply with section 52 and are therefore subject to Buy Clean California Act and EPD specification requirements. Building work lump sum items must receive special attention as they may include eligible materials and their quantities will need to be evaluated in determining applicable requirements.

Another important aspect of the Buy Clean California Act and specification requirements is that the EPD be product and facility-specific to the mill or manufacturer providing the material or product. EPDs representing industry-wide averages or a producer's average from multiple facilities do not meet legal requirements and are not contractually acceptable.

The Department of General Services will be establishing global warming potential thresholds for eligible materials that exclude fabricator contributions. To assure comparability of EPD values to future established thresholds and preserve material tracking, EPDs for carbon steel rebar and structural steel must be provided by the producing mills as specified, not fabricators.

Future global warming potential thresholds for structural steel will have three subcategories for structural steel, namely hot-rolled, plate, and hollow. The attached standard special provision applies to these three types of structural steel materials. Review and discuss your project's structural steel types, source mills, and quantities to identify EPD submittal requirements.

EPDs are developed based on an applicable product category rule (PCR) for each eligible material, which are identified on the METS EPD website (<https://dot.ca.gov/programs/engineering-services/environmental-product-declarations>). Periodically a PCR will expire and be replaced with a new PCR. To avoid delays to contracts, the specification does not require EPDs for an eligible material if either the applicable PCR has expired without replacement as of the contract's bid opening date or the applicable PCR was issued less than 100 days before the contract's bid opening date. Review the EPD website or contact your METS representative if there are questions concerning a PCR's effective date.

The contractor's timely submittal of an accurate Form CEM-3101, "Notice of Materials to be Used," before the preconstruction conference will help identify EPD submittal requirements for the project. Form CEM-3101 has been updated to identify item component quantities to aid in this regard. Discuss your project's applicable EPD

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requirements at the preconstruction conference to avoid delays and potential confusion concerning required EPDs. Review Sections 3-606, "Buy Clean California Act," and 6-202, "Responsibilities for Acceptance of Manufactured or Fabricated Materials and Products," of the *Construction Manual* for related guidance.

If you have questions or comments regarding this directive, contact Ken Darby, Division of Construction, at [Ken.Darby@dot.ca.gov](mailto:Ken.Darby@dot.ca.gov) or (916) 653-2032.

Attachment(s):

1. Standard special provision for Buy Clean California Act