
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Wieckowski, Chair

2021 - 2022 Regular

Bill No: AB 1369

Author: Bennett

Version: 6/8/2022

Hearing Date: 6/16/2022

Urgency: No

Fiscal: Yes

Consultant: Eric Walters

SUBJECT: Buy Clean California Act: eligible materials: product-specific global warming potential emissions

DIGEST: This bill adds four materials to the Buy Clean California Act (BCCA): gypsum boards, insulation, carpet and carpet tiles, and ceiling tiles.

ANALYSIS:

Existing law:

- 1) Requires, under the Buy Clean California Act (BCCA) the Department of General Services (DGS), in consultation with ARB, to establish and publish the maximum acceptable Global Warming Potential (GWP) limit for four eligible materials: structural steel, concrete reinforcing steel, flat glass, and mineral wool board insulation. Further states that when used in public works projects, these eligible materials must have a GWP that does not exceed the limit set by DGS. (Public Contract Code §3500-3505)

This bill:

- 1) Adds gypsum board, insulation, carpet and carpet tiles, and ceiling tiles to the list of eligible materials under BCCA.
- 2) Removes “mineral fiber board insulation” from BCCA, in lieu of its inclusion under the newly added “insulation” category.
- 3) Requires DGS to, by January 1, 2027 and every three years thereafter, to review and potentially adjust downward the maximum GWP established for the original four materials under BCCA.
- 4) Requires DGS to, by January 1, 2024, in consultation with ARB, to establish a maximum acceptable GWP for each newly-added eligible material under BCCA, ensuring the maximum acceptable GWPs for those materials are:
 - a) Set at the industry average, as specified;

- b) Expressed for each category, or potentially for different products within a category; and
 - c) Reviewed by DGS by January 1, 2027 and every three years thereafter.
- 5) Permits DGS to publish a maximum acceptable GWP for any major structural, high-impact architectural, civil, or high-impact materials for which specified data exists, beyond the materials already included in BCCA.

Background

- 1) *Buy Clean California Act.* A first in the nation and widely emulated, the Buy Clean California Act (BCCA) is an innovative program establishing limits on embodied carbon emissions and construction materials procured by the state for public construction projects. The law requires the California Department of General Services (DGS) to publish, by January 1, 2022, acceptable maximum Global Warming Potential (GWP) limits for the following eligible materials: structural steel, concrete reinforcing steel (rebar), flat glass, and mineral wool board insulation. In order to determine and compare the GWPs of different products and materials, DGS relies on Environmental Product Declarations (EPDs).

An EPD tells the life cycle story of a product in a single, comprehensive report. The EPD provides information about a product's impact upon the environment, such as global warming potential, smog creation, ozone depletion and water pollution. With an EPD, manufacturers report comparable, objective, and third-party verified data that helps purchasers better understand a product's sustainable qualities and environmental repercussions so they can make more informed product selections. EPDs are typically cradle-to-gate analyses, which makes sense since they are used partly to determine which products to acquire for a given project. While a full cradle-to-grave analysis is required to fully understand the life cycle emissions associated with a product, the cradle-to-gate scope of EPDs ensures project developers can make apples-to-apples comparison of what materials they are acquiring. What happens from "gate" to "grave" is up to the project developer, not the material providers.

Comments

- 1) *Purpose of Bill.* According to the author, "In 2018 California passed AB 262 (Bonta), the Buy Clean California Act, requiring the Department of General Services to establish a maximum global warming potential (GWP) for a limited list of common construction materials and setting a standard for cleaner buildings. Since passage of the original Buy Clean Act stakeholders have been

able to develop new metrics, like product-specific global warming potential, for previously difficult to evaluate sectors. AB 1369 strengthens our existing Buy Clean program by adding new materials and provides DGS the ability to add new materials if an environmental product declaration, or product category rule, is developed and available. Further, by requiring DGS to publish those GWP thresholds, AB 1369 allows the state to make more informed decisions when funding projects, and spurs industry to reduce their climate impact.”

- 2) *Four new materials.* AB 1369 adds four new materials to BCCA: gypsum boards, insulation, carpet and carpet tiles, and ceiling tiles. These are all extremely common building materials, and as such are expected to offer a wide range of possible GWPs depending on their source.

Regardless of specific production, delivery, and/or material constraints, the approach in BCCA means that the maximum GWPs set by DGS will be inherently achievable. Specifically, because the statute directs DGS to set the maximum acceptable GWP at the existing industry average, that means that roughly half of all available sources of that material already meet or exceed that standard.

By setting the maximum in this way and proceeding to ratchet down as appropriate every three years, BCCA (and this bill) ensures that applicable state projects in California continue to drive the market towards the less environmentally-intensive options, without setting unachievable targets.

Related/Prior Legislation

SB 1297 (Cortese) requires, among other things, the California Energy Commission (CEC) to include embodied carbon in the Integrated Energy Policy Report (IEPR), and ARB to develop an accounting protocol for embodied carbon. SB 1297 is currently in the Assembly Natural Resources committee.

AB 2446 (Holden) requires CEC to develop a framework for measuring and reducing the carbon intensity of the construction of new buildings by 80% by 2045. AB 2446 is currently in the Senate Energy, Utilities, and Communications committee.

AB 137 (Committee on Budget, Chapter 77, Statutes of 2021) extended the implementation dates for BCCA by one year and required DGS to consult with the ARB. This bill also allowed DGS use industry-wide EPDs based on domestic production if it determined that facility-specific EPDs don't adequately represent the industry as a whole.

SOURCE: Author

SUPPORT:

350 Sacramento
350 Silicon Valley
California Environmental Voters
Californians Against Waste
National Stewardship Action Council
Sierra Club

OPPOSITION:

American Chemistry Council
EPS Industry Alliance
Extruded Polystyrene Foam Association
Insulation Contractors Association of America
National Insulation Association
North American Insulation Manufacturers Association
Polyisocyanurate Insulation Manufacturers Association
Spray Polyurethane Foam Alliance
Structural Insulated Panel Association

ARGUMENTS IN SUPPORT: According to California Environmental Votes, “The California Buy Clean program was a first of its kind attempt at targeting supply chain emissions. That legislation has shaped policy across the country, and it has directly led to manufacturers reducing their pollution levels to compete for state contracts. By expanding the Buy Clean program to include additional materials we would once again be positioning California at the forefront of this issue. California spends billions of dollars every year on public infrastructure projects and AB 1369 would further leverage those dollars to align with the state's emission reduction goals.”

ARGUMENTS IN OPPOSITION: According to a coalition of insulation industry groups in an “oppose unless amended” letter, “Collectively, our industries have a long history of supporting increased energy efficiency requirements for commercial and residential buildings. We also support efforts relative to carbon mitigation and we support incentives that result in the conservation of energy resources and reduced greenhouse gas emissions (GHGs). We certainly appreciate the intent of AB 1369, but we are concerned that a single focused look at “embodied carbon” relative to insulation does not account for the “operational carbon” savings that result from the use of these products.

“Despite its relatively small percentage in overall building embodied carbon impact, insulation does however have a significant contribution to operational energy and GHG savings. The role of increased energy efficiency in meeting climate change goals and reducing GHGs is well documented.

“Due the significant savings attributed to insulation products and only a minor contribution to a building’s embodied carbon profile, we respectfully request that insulation materials, including mineral wool board insulation be excluded from the eligible materials list. A focus that exclusively looks only at embodied carbon could lead to improper product selection, limit the availability of certain insulation materials for use in state projects, and negatively impact the operational carbon use of the building.”

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