




Buy Clean
California

■ PCC 3500 ET SEQ.



Why? What?
Impact to me?

Why? How? Why? How? Why? How? Why? How? Why? How? Why? How?

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What's the goal
of the BCCA?

Since the passage of California's Global Warming Solutions Act (AB32) in 2006, the state has begun to reshape its economy, promoting clean energy and energy efficiency to support growth and prosperity. Californians have repeatedly expressed their strong support for these actions, both at the polls and in their personal decisions. Per capita energy use and carbon emissions in California are among the lowest in the U.S.

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California's Global Leadership

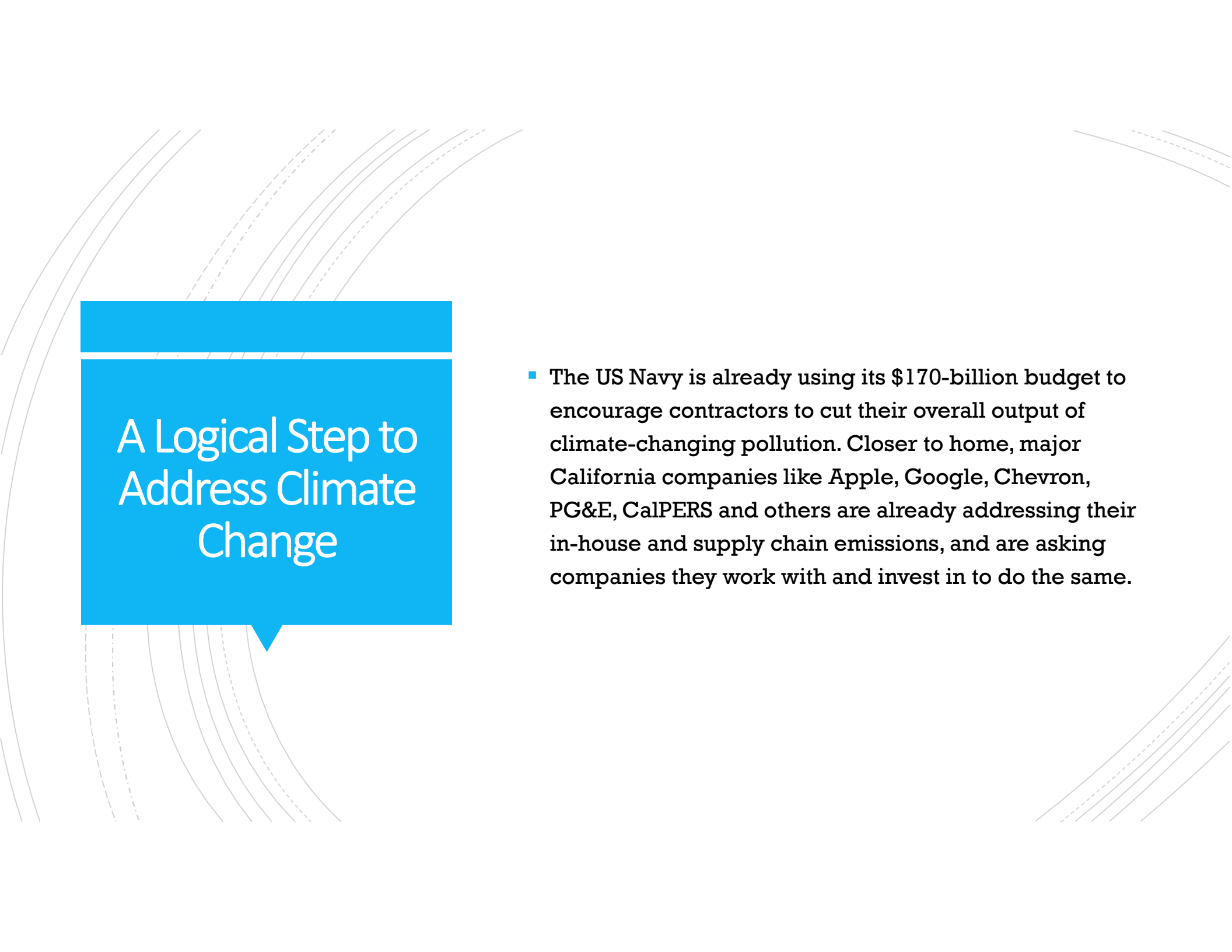
- In 2013, as a part of the state's effort to combat climate change, California's 800 largest industrial facilities began tracking, reporting, and reducing their greenhouse gas emissions. The state's climate pollution reduction regulations motivate these businesses to invest to reduce emissions.

The Gap

- But there's a gap in this approach. As the 6th largest economy in the world, California still uses a substantial portion of its \$170 billion in annual state revenues to purchase goods and services that produce high levels of climate pollution. Californians overwhelmingly prefer a clean economy and the state can act to close this gap.

The Solution

- In 2016, a coalition of labor and environmental groups initiated Buy Clean California to advance policies that make sure California's procurement processes for infrastructure support California's goals to reduce climate change pollution. The result: AB 262, authored by Assembly Member Rob Bonta of Oakland, passed the California legislature with bipartisan support and was signed into law by Gov. Jerry Brown on October 15, 2017.

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A Logical Step to Address Climate Change

- The US Navy is already using its \$170-billion budget to encourage contractors to cut their overall output of climate-changing pollution. Closer to home, major California companies like Apple, Google, Chevron, PG&E, CalPERS and others are already addressing their in-house and supply chain emissions, and are asking companies they work with and invest in to do the same.

Level the Playing Field and Spread Best Practices

- To “Buy Clean” means **to spend California taxpayer money in a way that helps cut the pollution that causes climate change**. It means that suppliers’ emissions performance will be taken into account when an agency is contracting to buy steel, flat glass, and mineral wool (insulation) for infrastructure projects.
- Manufacturers who operate the most polluting plants will **no** longer be given a **“free pass” for their pollution** – and manufacturers who have invested in reducing their pollution will see the returns. By including suppliers’ emissions performance in procurement decisions, the state can influence business decisions among the many suppliers who want to provide goods to public agencies.
- The Buy Clean approach allows California to help clean businesses and industries maintain their position as strong, global leaders on climate action. It creates additional **motivation** for suppliers to reduce their climate pollution. The state’s substantial purchasing power already makes it an attractive market for firms across the United States, and around the world.

Public Contract Code § 3501

For purposes of this section:

- (a) “Awarding authority” means any of the following: (1) A state agency for a contract for a public works project that is subject to the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2).
- (2) **The Regents of the University of California** for a contract for a public works project that is subject to Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2. (3) The Trustees of the California State University for a contract for a public works project that is subject to the California State University Contract Law (Chapter 2.5 (commencing with Section 10700) of Part 2 of Division 2).
- (b) “Department” means the Department of General Services.
- (c) **“Eligible materials” means any of the following:**
 - (1) Carbon steel rebar.
 - (2) Flat glass.
 - (3) Mineral wool board insulation.
 - (4) Structural steel.
- (d) “Eligible project” means a project that the awarding authority determines will require eligible materials.
- (e) “Greenhouse gas emissions” has the same meaning as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

On the
Horizon.....



PCC § 3502

- (a) **By January 1, 2021, the department shall establish, and publish in the State Contracting Manual or a department management memorandum, or make available on the department's Internet Web Site, a maximum acceptable global warming potential for each category of eligible materials in accordance with both of the following requirements:**
 - (1) The department shall set the maximum acceptable global warming potential at the industry average of facility-specific global warming potential emissions for that material with a phase-in period of not more than two years. The department shall determine **the industry average** by consulting recognized databases of environmental product declarations. When determining the industry averages pursuant to this paragraph, the department should **include all stages of manufacturing** required by the relevant product category rule. However, when setting the initial industry average, the department **may exclude emissions that occur during fabrication stages, and make reasonable judgments** aligned with the product category rule.

PCC § 3502

- (2) The department shall express the maximum acceptable global warming potential as a number that states the maximum acceptable facility-specific global warming potential for each category of eligible materials. **The department may set different maximums for different products within each category** and, when more than one set of product category rules exists for a category or set of products, may set a different maximum for each set of product category rules. The global warming potential shall be provided in a manner that is consistent with criteria in an Environmental Product Declaration.

PCC § 3502 cont.

- (b) The department, by January 1, 2021, shall submit a report to the Legislature that describes the method that the department used to develop the maximum global warming potential for each category of eligible materials pursuant to subdivision (a). The report required by this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

PCC § 3502
cont.

- (c) By January 1, 2024, and every three years thereafter, the department shall review the maximum acceptable global warming potential for each category of eligible materials established pursuant to subdivision (a), and **may adjust that number downward for any eligible material to reflect industry improvements** if the department, based on the process described in paragraph (1) of subdivision (a), determines that the industry average has changed, but the department shall not adjust that number upward for any eligible material. At that time, the department shall update the State Contracting Manual, department management memorandum, or information available on the department's Internet Web Site, to reflect that adjustment.

Still on the
horizon....



PCC § 3503

- (a) An awarding authority shall require the successful bidder for a contract described in subdivision (b) to submit a **current facility-specific Environmental Product Declaration**, Type III, as defined by the International Organization for Standardization (**ISO standard 14025**), or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each eligible material proposed to be used.
- (b) An awarding authority shall include in a specification for bids for an eligible project that the facility-specific global warming potential for any eligible material **does not exceed the maximum** acceptable global warming potential for that material determined pursuant to Section 3502. An awarding authority may include in a specification for bids for an eligible project a facility-specific global warming potential for any eligible material that is lower than the maximum acceptable global warming potential for that material determined pursuant to Section 3502.
- (c) A successful bidder for a contract described in subdivision (b) **shall not install** any eligible materials on the project **until that bidder submits a facility-specific Environmental Product Declaration** for that material pursuant to subdivision (a).

PCC § 3503

- (d) This section shall only apply to a contract entered into on or after **July 1, 2021**.
- (e) This section shall not apply to an eligible material for a particular contract if the awarding authority determines, upon **written justification published on its Internet Web site**, that requiring those eligible materials to comply would be **technically infeasible, would result in a significant increase in the project cost or a significant delay in completion, or would result in only one source or manufacturer** being able to provide the type of material needed by the state.
- (f) This section shall not apply if the awarding authority determines that an **emergency exists**, as defined in Section 1102, or that any of the circumstances described in subdivisions (a) to (d), inclusive, of Section 10122 exist.



Right NOW



**DO IT
NOW**

PCC § 3503.5

(a) On and after January 1, 2019, and until January 1, 2020, an awarding authority shall **request** that the successful bidder for a contract described in subdivision (b) of Section 3503 submit a current facility-specific Environmental Product Declaration, as described in subdivision (a) of Section 3503.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

UM, practically
REPEALED:



Really truly
NOW:

— RIGHT HERE —
RIGHT NOW.

PCC § 3503.7

(a) On and after January 1, 2020, and until January 1, 2021, an awarding authority shall **require** that the successful bidder for a contract described in subdivision (b) of Section 3503 **submit** a current facility-specific Environmental Product Declaration, as described in subdivision (a) of Section 3503.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

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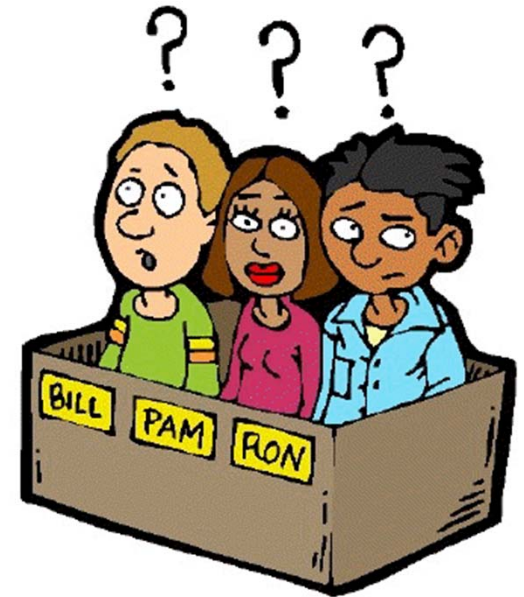
PCC § 3504

In carrying out its duties under this article, an awarding authority shall strive to achieve a continuous reduction of emissions over time.

PCC § 3505

The department, by January 1, 2022, shall submit a report to the Legislature on any obstacles to the implementation of this article, and the effectiveness of this article to reduce global warming potential. The report required by this section shall be submitted in compliance with Section 9795 of the Government Code.

QUIZ TIME



QUIZ #1:

- **ALL UC PROJECTS AWARDED AFTER JANUARY 1, 2020, MUST HAVE EPDs SUBMITTED FOR ALL ELIGIBLE MATERIALS THAT DO NOT EXCEED THE CURRENT MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL CURRENTLY SET BY THE STATE BEFORE INSTALLING THE MATERIAL ON THE PROJECT.**
- **TRUE OR FALSE?**

Quiz #2:

- When considering the Buy Clean California Act in conjunction with standard UC construction templates, it is proper to allow the contractor to submit the EPD after the related product is installed, just so long as the EPD and any related product submittal criteria is submitted prior to issuing an NOC.
- TRUE OR FALSE?

Quiz # 3:

- Per state law, once the state sets the maximum global warming potential (MGWP) for each Eligible Material, the contractor on a public works contract can waive the requirements of the Buy Clean California Act if:
 - A. The contractor deems the work an emergency.
 - B. It is a UC public works contract.
 - C. The contractor deems the requirements too costly.
 - D. The contractor's bid did not include an Eligible Material which meets the MGWP.
 - E. None of the above.

Quiz #4:

- Would it be appropriate for UC to determine that meeting the maximum global warming potential for a specific Eligible Material on the project would be technically infeasible **AFTER** the bids are due?
- Yes or no?

Quiz #5:

- For UC contracts entered into on or after July 1, 2021, should UC confirm that the contractor's EPD submittals for the Eligible Materials do not exceed the maximum global warming potential set by the state before approving the submittal and before allowing the material to be installed?
- Yes or no?

REVISED
GENERAL
CONDITIONS



Add new section
14.6 to GC's:

14.6 Buy Clean California Act

14.6.1 Contractor shall comply with California Public Contract Code Section 3500 et seq., the Buy Clean California Act (“BCCA”). The term BCCA as used herein shall mean the BCCA that is currently in effect.

14.6.2 The term “Eligible Materials”, As used herein, the shall mean the same as defined by the BCCA, and shall include at a minimum the following materials:

- (1) Carbon steel rebar.
- (2) Flat glass.
- (3) Mineral wool board insulation.
- (4) Structural steel.

14.6.3 Compliance with the BCCA and this Article of the General Conditions applies to all Eligible Materials for the Project.

A blue speech bubble graphic with a white outline, containing the word "Submittal" in white text. The bubble is positioned on the left side of the slide, pointing towards the right.

Submittal

14.6.4 Contractor shall submit to University a current facility-specific Environmental Product Declaration (“EPD”), Type III, as defined by the International Organization for Standardization (“ISO”) standard 14025, or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each Eligible Material proposed to be used on the Project.

Submittal Requirements

Per ISO 14025, each EPD shall include:

- **“Product Category Rule” (PCR) identification.** This sets the rules for how the EPD is developed and is specific for each different material. Acceptable PCRs are listed on the DGS website.
- Identification of **organization making the declaration.** This is the manufacturer of the product.
- **Description of product.**
- **Name and address of Program Operator.** This is the body that develops and certifies the EPD. Common North American operators include UL, ASTM, SGS Global Services, and NSF International.
- **Date of publication and period of validity.**
- **Verification by third party evaluator.**

Submittal Requirements

Per ISO 14025, each EPD should include:

- **Data from life cycle inventory analysis (LCI) or life cycle impact assessment (LCIA) to include:**
 - **Global Warming Potential (GWP).** This is usually expressed in tons CO₂ per unit of material and will guide the State as it develops the future limits.
 - Other data may include ozone depletion, acidification of land and water, eutrophication, formation of photochemical oxidants, and depletion of fossil energy and mineral resources.

Reporting Requirements

UCOP Guidance and invitations to Box folder issued to procurement teams, campus architects and design and construction directors on 11/5/19. UCOP requires:

- Campuses create a folder for each project in the “UCOP Buy Clean” online Box folder
- Upon completion of each project:
 - Upload all EPDs and one “EPD Collection Form” (found in the Box folder)
 - Complete the UCOP-EPD tracking form (found in the Box folder)

Comply with
Standards set
by State or UC

**FOR CONTRACTS EXECUTED AFTER JULY 1, 2021: NOT
READY FOR PRIME TIME:**

14.6.5 Eligible Materials installed on the Project by Contractor must comply with standards established in the BCCA or by University, whichever is more stringent. The facility-specific global warming potential for any Eligible Material must not exceed the maximum acceptable global warming potential for that material as determined pursuant to the BCCA or by University, whichever is more stringent (“EM Standards”).

Does Material
Comply?

**FOR CONTRACTS EXECUTED AFTER JULY 1, 2021: ALSO
NOT TOTALLY READY FOR PRIME TIME:**

14.6.6 Contractor shall not install any Eligible Materials on the Project until Contractor submits a facility-specific EPD for that material *which demonstrates that the material complies with EM Standards and this Article of the General Conditions*. Contractor shall be responsible for any losses, expenses, penalties or damages of any type incurred or sustained by University, including any tear out and replacement of Defective Work, which are caused by Contractor's failure to comply with the requirements of the BCCA or this Article of the General Conditions.

Quiz # 6:

The current Long Form General Conditions contains the following requirement:

- A. Contractor shall submit an EPD for each Eligible Material on the project.
- B. Contractor need only submit an EPD for at least one but not all Eligible Materials used on the project.
- C. Contractor need not submit any EPD for any Eligible Material on the project if the manufacturer does not provide them.
- D. Contractor may but is not required to submit an EPD for each Eligible Material on the project.

Questions?

ASK HARD
QUESTIONS



The Balcony Bill

What it is and What We Are Doing to Comply

How Did We Get Here?

- Berkeley, California apartment balcony collapse in June of 2015 (not on campus or UCB-related)
- 6 students were killed in the collapse
- Investigation showed severe dry rot in wood framing members
- Allegations of “cut corners” by contractor and ignored “red flags” by owner



Legislation Ensnues

- California legislature introduces Senate Bill 721
- Legislation is aimed at owners of multi-family residential owners
- Legislation addresses post-construction inspections, not changes to construction means/methods/inspections



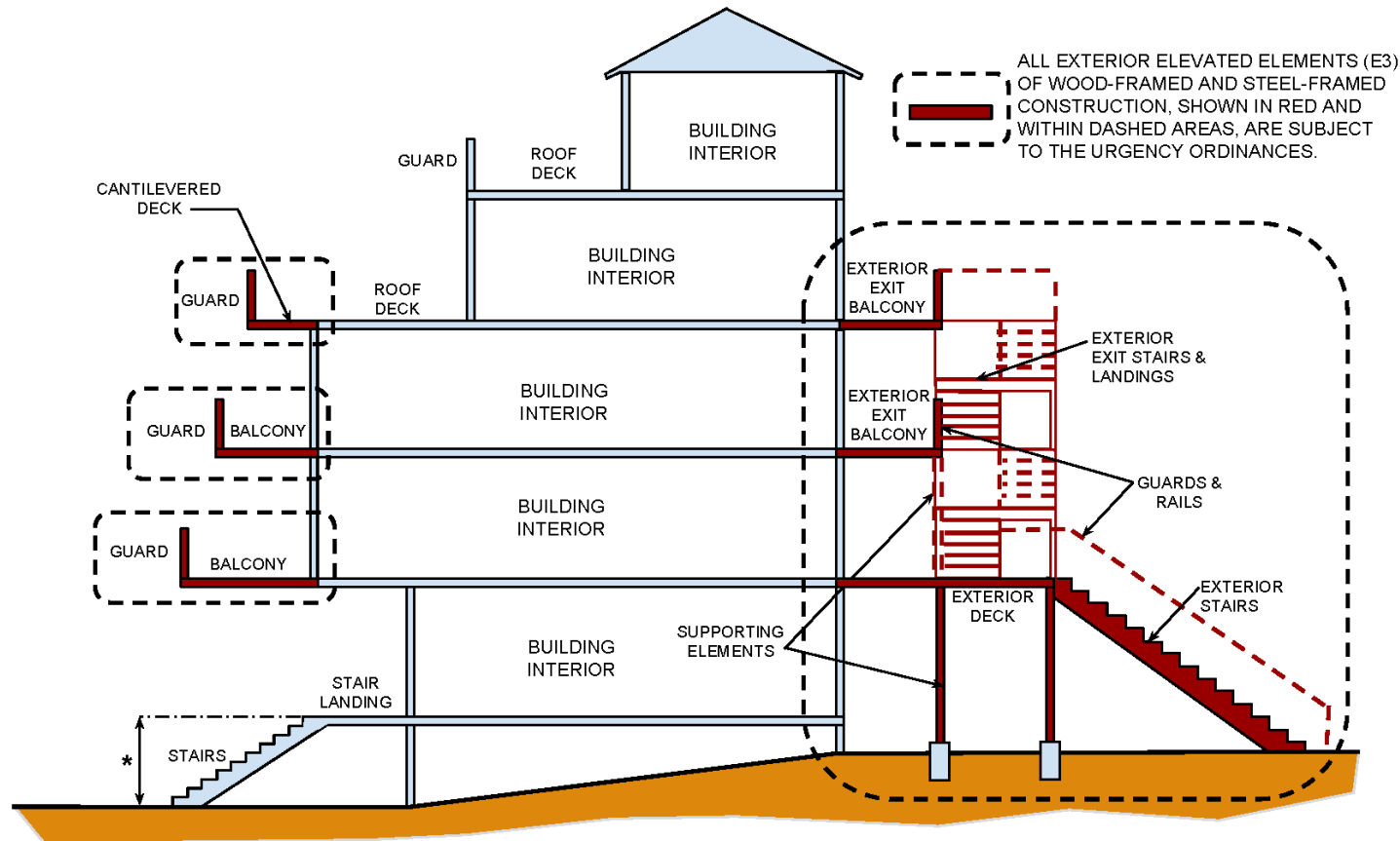
The Bill

- Went into affect January 1, 2019
- Section 17973 added to Health and Safety Code
- Requires inspection of all “exterior elevated elements” that include load bearing components in all multifamily residential buildings
- Inspections to occur every 6 years from notice of completion
- For existing buildings, first inspection to occur before January 1, 2025
- Applies to all owners of multifamily residential buildings, including UC

Exterior Elevated Elements (EEE)

- 17973(b)(2) “Exterior elevated element” means the following types of structures, including their supports and railings: **balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building and which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element.**

Exterior Elevated Elements



* EXTERIOR ELEVATED ELEMENTS THAT ARE 72" OR LESS ABOVE GRADE ARE EXEMPT.

What Inspection is Required?

- 1) Identification of each EEE that, if found to be defective, would constitute a threat to the health and safety of occupants.
- 2) Assessment of the load-bearing components and associated waterproofing elements of each EEE, using methods **allowing direct visual examination or comparable means of evaluating their performance.**
- 3) “Waterproofing elements” include flashings, membranes, coatings and sealants that protect the load bearing components from exposure to water
- 4) 15 percent of each type of EEE shall be inspected

Written Report Required

- A written report of the evaluation, signed by the inspector, must be presented to owner within 45 days of the inspection
- Report shall address 1) current condition of EEEs, 2) expectation of future performance and projected service life, and 3) recommendation for any further inspections.
- Report shall include photos, test results, and narratives sufficient to establish baseline of condition that can be compared to future inspections
- If any EEEs pose an immediate threat to safety, recommendations for preventing access or conducting emergency repairs should be included

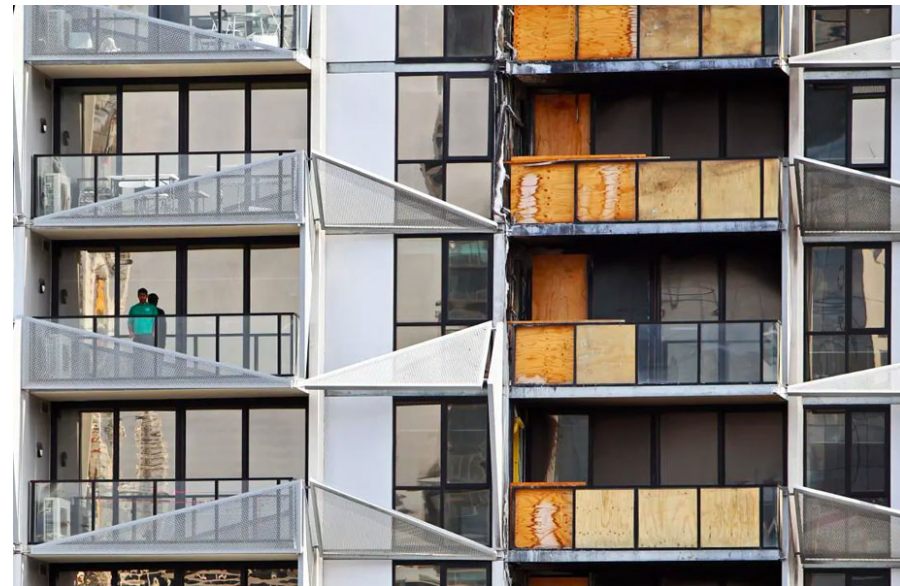
Who Can Perform Inspections?

- Inspections can be performed by any of the following:
 - 1) Licensed architect
 - 2) Licensed civil or structural engineer
 - 3) Building contractor holding any or all of "A", "B," or "C-5" license classification from CSLB with a minimum of 5 years experience in constructing wood frame buildings
 - 4) Building inspector or building official from a recognized state, national, or international association (not employed by local jurisdiction in charge of inspections)



Repairs

- **Follow on contracting exclusion**- If repairs are necessary, the firm doing the inspections may not perform or be involved with the repair process
- Owner shall apply for a permit with 120 days of receipt of report, and perform repairs within 120 days of issuance of permit
- There are monetary fines for failure to comply, however applicability to UC was not contemplated



What is UCOP Doing in Response?

- Three-Tracked Approach:
 - 1) Developing process to assist campuses for compliance with statute for inspection of existing buildings
 - 2) Reviewing design/construction requirements for new residential projects to reduce effect or necessity for future inspections
 - 3) Propose amendments to legislation to clear up current ambiguities

Addressing Existing Buildings

- Joint effort between OP, OGC, Facilities Management, and EH&S
- Campuses to begin inventory of affected buildings in the next 6 months
- Meetings with campuses to discuss inspections/protocols
- Develop preferred requirements for inspectors
- Develop recommended best practices for conducting inspections/repairs
- OP to collect relevant information on inspections and repairs



Draft Worksheet

UCOP - SB 721 "Balcony Bill" - Inventory Worksheet.

UCOP - SB 721 "Balcony Bill" - Inventory Worksheet.									
Campus:		Total Number of Inspections Required:			0	BLUE CELLS AUTO-CALCULATED		VERSION DATE: 12/3/19	
Name of residence	Year of project completion	Number of buildings	Number of qualifying balconies, decks and porches.	Number of balconies, decks and porches requiring inspection	Number of qualifying stairways, walkways and entry structures	Number of stairways, walkways and entry structures requiring inspection	Number of other qualifying E3s. Explain on inventory report	Number of other qualifying E3s requiring inspection	Total number of inspections required for residence
				0		0		0	0
				0		0		0	0
				0		0		0	0
				0		0		0	0
				0		0		0	0

Design Changes

- Goal to change design requirements to reduce use of wood framed EEEs
- If wood framing is used, implement ventilation and observation hatches to make future inspections easier
- Examine means and methods for contractors in storing/installing wood framing materials in inclement weather
- Explore possible special inspections of EEEs (framing and waterproofing)



Legislative Efforts

- Proposing legislation that clears up ambiguities in statute (i.e. eliminating visual inspection requirement, defining 15% inspection requirement)
- Address carve outs or alternative enforcement measures for UC and CSU



stay tuned...

More to Come!

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