



CBIA

CALIFORNIA BUILDING
INDUSTRY ASSOCIATION

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October 10, 2024

VIA: <https://ww2.arb.ca.gov/public-comments/comments-workshop-building-embodied-carbon-september-19>

Ms. Pamela Gupta

Branch Chief in Sustainable Communities and Transportation Division

California Air Resources Board

Re: Comments on September 19th workshop on Reducing Embodied Carbon in Buildings

Dear Ms. Gupta:

Thank you for allowing us to provide you with this feedback on Reducing Embodied Carbon in Buildings. The California Building Industry Association (CBIA) represents the homebuilding industry in California. Our members are responsible for the development and construction of approximately 85% of all the residential units sold annually in California.

CBIA was invited to participate in the development of both AB 2446 and AB 43 by the sponsors and author of the bill with the representation that the bill would: (1) ensure that manufacturers who produced low carbon building materials would have buyers for those products; (2) the buyers of those materials (builders), would not face increased costs¹; and (3) that manufacturers produce enough low-carbon materials for sale in California that there is an adequate supply of low-carbon materials for builders that meets all of the feasibility and cost requirements².

With that as background, we are happy to assist CARB in developing the framework and to ensure the success of this effort.

Most immediately, we are happy to help provide LCAs related to the construction of homes in California. If there is a particular format you'd like to see, please let us know.

Both AB 2446 and AB 43 limit the scope of the embodied carbon reduction efforts to the Cradle to Gate (A1-A3) stages. This was for a variety of reasons. First, the Commerce Clause prohibited restricting products to those made in California and therefore products from all geographic areas were to be considered. This necessitated that the feasibility definition require that the material must be commercially available in the region³ of the project and the cost impact definition focuses on the "cost at the location of the project". Second, requirements regarding the end of life of construction materials does not work where the entity undertaking the construction of a project (the builder) does not own the structure when the materials reach the end of their life because the home has been sold to a consumer. Moreover, Section 38561.3(c)(1) limits its application to projects with a minimum size of five new residential units – this would not apply to the homeowner who typically owns only one home.

¹ Health & Safety Code 38561.3(e), (f)(2), (i), (l), Health & Safety Code 38561.6(f)(3), (h), and the findings and declarations made in Section 1(9) and (10) of AB 2446 which promises that there would be no increased cost.

² Health & Safety Code 38561.6(f)(3).

³ For example, concrete has a limited delivery range as it tends to harden over a relatively short delivery time.

In addition, please keep in mind that as you embark on evaluating products for their cost-impact, your evaluation is a starting point that will be subject to ongoing inputs of new data (not only for cost-impact but also for feasibility factors). Even if the evaluation indicates that a material meets the feasibility and cost-impact criteria, an entity undertaking the construction of a project may still refuse to use the material for those reasons. See section 38561.3(e) and (i)(1) and (2). That was done in recognition that costs and feasibility factors are constantly changing. Some materials touted as low carbon, e.g., hay used for insulation, today already present a fire risk and are especially susceptible of mold growth if they become damp and is a health threat. Other materials such as bamboo, should not be used for structural support because their strength and integrity are threatened if they become wet. These materials should not be used as baseline materials. From time to time, materials may become subject to claims for defects in the future. Of course, in future cases the builder will provide you with documentation evidencing the cost or feasibility changes. Moreover, the baseline material is the material that the entity would have used if Section 38561.3 did not exist.⁴

When determining costs, please keep in mind that costs for materials may vary widely depending on the amount of materials ordered. Larger orders will likely receive a deeper discount than smaller orders. In the end, what we are all looking for is the delta between the material being used today and the lower carbon equivalent. The volume of material may or may not affect your evaluation.

You should consider how you might collect and maintain any pricing data to avoid subjecting manufacturers and builders with a violation of state or federal antitrust laws. Assuming that can be done, it would be helpful to provide a list of materials for which you would like cost information along with the specifications you are looking for. For example, concrete is commonly measured by cubic yards but there is a very wide variety of strengths (e.g., pounds per square inch).

In our conversations with providers like EC3, it appears that only about 3% of materials have EPDs prepared for them. Most of the materials used today in construction have no EPD and some of those that do have them are not available in California. Many more materials currently in use need EPDs to have a baseline that reasonably reflects existing conditions and a competitive market of low carbon materials. Preparing an EPD with the involvement of a third-party verifier takes time, especially if tens or hundreds of thousands of materials are seeking EPDs at the same time. It will be important to get the word out to manufacturers to prepare EPDs. We clearly need a more robust number of materials that have EPDs for this framework to work, especially since no law currently requires materials to have an EPD.

We would be interested in working early with CARB to help define key aspects of the reporting tool development. Our goal would be to ensure that reporting is workable since our members would be providing this information. We'd like to call your attention to one concept contained in Section 38561.3. You will notice that there is a distinction between projects that use model homes and those that don't.⁵ It is common practice for buyers to choose a model home that they would like built on an available lot that they choose. These three to five model homes are built repeatedly in the project, and they use the same

⁴ Health & Safety Code 38561.3(f)(2)(B).

⁵Health & Safety Code 38561.3(i)(2)(B), and Health & Safety Code 38561.3(h).

materials to avoid a legal risk of misrepresentation (that the home that is built for the homebuyer is not different than what they see in the model). This can make the process more streamlined since the LCA for a model should be the same as the reproductions of that model throughout the project. A different LCA may be required for each model. You may want to use the time up to the point of applying for a permit⁶ for reporting purposes to ensure a smooth implementation of the framework. We incorporated into the law a two-year window between the time that the baseline is established and the application of the target to allow for time to design these new structures and to source the materials.⁷ All in all, the process cannot delay or deny the design or construction of a project.

We hope that these comments are helpful, and we look forward to working with you throughout this process to make the development and implementation of the framework a success. If there is any way we can be helpful, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Cammarota". The signature is fluid and cursive, with the first name "Nick" being more prominent and the last name "Cammarota" following in a similar style.

Nick Cammarota

⁶ Health & Safety Code 38561.3(h)

⁷ Health & Safety Code 38561.3(h).