



ENVIRONMENTAL PRODUCT DECLARATION (EPD) EXEMPTION JUSTIFICATIONS

For any Public Project (\$500,000 or more) that begins solicitation on or after January 1, 2024, agencies shall submit compliant Environmental Product Declarations (EPDs) or receive an Office of the State Architect (OSA) approved waiver for each eligible material. Agencies must submit either a Design-Phase Waiver Form ([EE-5.30: Design-Phase](#)) or a Construction-Phase Waiver Form ([EE-5.30: Construction-Phase](#)) to the OSA for approval for an exemption. Other exemptions may be approved on a case-by-case basis after an agency submits the applicable waiver form to the OSA. Utilize form [EE-5.32](#) to maintain waiver requests for each project.

The OSA permits the below waiver exemptions to the Buy Clean Colorado Act upon submission and approval of the applicable OSA Waiver Form:

1. Technically Infeasible / Code Compliance

If providing an EPD for an eligible material would be “technically infeasible”, then an EPD for that material would not be required (waived). Below are two examples of technical infeasibility:

- The EPD is not valid. An invalid EPD refers to an EPD that is not considered accurate or reliable due to issues like missing data, incorrect calculations, outdated information, lack of third-party verification, or the EPD is expired.
- The particular material does not adhere or is not covered by the scope of the relevant PCR, for example, a type of steel that is not included in the PCR for structural steel. This also covers instances where a PCR has expired and has not been renewed.

If providing an EPD for an eligible material would negate the *OSA State Building Code Compliance Policy*, then one will not be required (waived). Below is an example of going against code compliance:

- The material with an EPD does not meet the strength, serviceability, stability, or other structural requirements as necessary for the project.

2. Significant Increase in Project Cost (Unreasonably Priced)

Applies only to the construction phase of a public project. If procuring a product with an EPD is expected to increase the project cost (including labor and materials) by five percent (5%) or more compared to procuring a product without an EPD, then the product will be waived upon submission and approval of the applicable waiver form. The five percent (5%) or more cost increase must be demonstrated through a cost analysis calculation and submitted with the waiver request.

3. Significant Time Delay (Unavailable on a Reasonable Basis)

In cases where the time required to obtain a product with an EPD is determined to exceed the number of days established in the Critical Path Method (CPM) construction schedule, the product will be waived upon submission and approval of the applicable waiver form. The delay in schedule for obtaining the product with an EPD must be demonstrated to exceed the estimated CPM and a calculation of this impact versus the non-compliant material must be submitted with the waiver request.

4. One Source for Material (Sole Source)

Exemption is allowed where there is only one viable material supplier in order to allow for competitive pricing. Examples include where no other producers or vendors have made EPDs available or do not meet the GWP threshold.

5. Reused / Recycled Materials

In cases where an eligible material being utilized for a project contains a percentage of reused or recycled material.

**6. Emergency**

An emergency, as defined in §24-30-1303.9, C.R.S. may be used as the basis of a waiver request. The approval correspondence by the Procurement Official must be provided with the waiver request.

7. Minimum Usage Threshold Established

In cases where a minimum usage threshold is established for an eligible material exemption. Complete and submit the [Min. Usage Threshold form](#) and a design-phase waiver request form ([EE-5.30: Design-Phase](#)) to OSA for each eligible material requesting an exemption.

8. No Eligible Materials Utilized in Project

In cases where no (zero) eligible materials are specified, procured, or installed for the project.

9. Other

Confirm with the OSA if other EPD exemption justifications become present that are not listed. The OSA will approve other instances when justified and submitted in a timely manner.

Submission Process**During Design:**

State Building Program (SBP) Delegates, on behalf of the agency, may utilize the design-phase waiver process during the design/specification phase of the project. Consultants may request that the SBP delegate complete and submit a design-phase waiver ([EE-5.30: Design-Phase](#)). If the SBP delegate initiates a design-phase waiver, the SBP delegate shall submit it to the OSA for approval. OSA will review and respond to each complete design-phase waiver request with a decision or a request for more detail.

During Construction:

Contractors must submit product-specific EPDs to the design team before the material will be approved for installation. Contractors may work with consultants to determine alternative products with EPDs. If after consultation with the design consultant, the contractor deems a waiver is necessary, they should draft the waiver ([EE-5.30: Construction-Phase](#)) and submit it to the SBP Delegate for agency approval. The design team and SBP delegate will review each contractor's submitted EPDs for compliance and stamp approval accordingly.

During Closeout:

After receiving approval, the contractor shall submit approved EPDs, EPD information, and approved waiver requests to the SBP delegate as part of the closeout process. SBP delegates will forward EPDs to the OSA within a zip folder along with waiver information and the EPD Submittal & Sign-Off spreadsheet ([EE-5.2](#)) during the L-1 Code Compliance Phase.