

STATE OF CALIFORNIA
STATE AND CONSUMER SERVICES AGENCY
CALIFORNIA BUILDING STANDARDS COMMISSION
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Office Use Item No. _____

PARTICIPATION COMMENTS FOR THE NOTICE DATED AUGUST 31, 2012
Written comments are to be sent to the above address.

WRITTEN COMMENT DEADLINE: OCTOBER 15, 2012

Date: Oct. 10, 2012 _____

From:

Susan Schwartz
Name (Print or type)



(Signature)

President, Friends of Five Creeks

Agency, jurisdiction, chapter, company, association, individual, etc.

1236 Oxford St. Berkeley CA 94709
Street City State Zip

I/We **(do)** agree with:

The Agency proposed modifications As Submitted on Section No. **HCD 04/12 - 2013 California Green Building Standards Code (CGBSC), Part 11** and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

Suggested Revisions to the Text of the Regulations:

None. See below. This is a caveat re comments of StopWaste and others urging that use of "invasive" plants be banned or restricted as part of the California Green Building Standards Code.

Reason: [The reason should be concise if the request is for "Disapproval," "Further Study," or "Approve As Amend" and identify at least one of the 9-point criteria (following) of Health and Safety Code §18930.]

My comments deal with criteria 4 and 5:

- (4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.
- (5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

This is a caveat re comments of StopWaste and others urging that use of "invasive" plants be banned or restricted as part of the California Green Building Standards Code.

Friends of Five Creeks, the group I head, has worked hands-on for 16 years against many serious invasives that do great harm in our state: broom, pepperweed, Pampas grass, cape ivy, ice plant, and others. We understand the harms of invasives, including flood, fire, and loss of biodiversity, and the

down-and-dirty, pick-and-shovel work or undesirable poisons needed once invasives become established.

While rules banning use of invasive plants in landscaping may be desirable to lessen harms and costs, they should be adopted with restraint and understanding of nuance. In particular, since the code applies statewide to all persons seeking permits, they should be limited to plants with widespread harmful effects that outweigh any benefits of using them in areas where their ability to invade is irrelevant. Examples of undisputably harmful plants can be found on the California Invasive Plant Council's inventory of plants with "high" impact.

However, many plants may be invasive in wild lands but valuable in agriculture or inner-city landscaping – fig and olive trees, pyracantha and calla lilies are examples. They may be invasive in some parts of the state but not in others -- for example, date palms. They may be old garden favorites that have naturalized, with ill effects only in the most pristine refuges, such as sweet alyssum and hound's tongue. All these and more are indeed "invasive," and are listed in appropriate categories of the Cal-IPC's inventory. But the inventory was developed to express these nuances, and considers only one aspect of invasiveness – harm in wild lands. To outlaw many or all of these plants at a stroke would be bureaucratic overreach.

In addition, the building code should not, as a matter of good governance, adopt a list that may be changed by a private nonprofit, and there should be a clear method for amending any such list of banned plants.

Thank you for your attention.

HEALTH & SAFETY CODE SECTION 18930

SECTION 18930. APPROVAL OR ADOPTION OF BUILDING STANDARDS; ANALYSIS AND CRITERIA; REVIEW CONSIDERATIONS; FACTUAL DETERMINATIONS

- (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:
- (1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.
 - (2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.
 - (3) The public interest requires the adoption of the building standards.
 - (4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.
 - (5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.
 - (6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.
 - (7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.
 - (A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.
 - (B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.
 - (8) The format of the proposed building standards is consistent with that adopted by the commission.
 - (9) The proposed building standard, if it promotes fire and panic safety as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.