

STATE OF CALIFORNIA
STATE AND CONSUMER SERVICES AGENCY
CALIFORNIA BUILDING STANDARDS COMMISSION
2525 NATOMAS PARK DR., SUITE 130
SACRAMENTO, CA 95833
(916) 263-0916 Phone
(916) 263-0959 Fax
Email: BSC@dgs.ca.gov

Office Use Item No. _____

PARTICIPATION COMMENTS FOR THE NOTICE DATED MARCH 18, 2008
Written comments are to be sent to the above address.

WRITTEN COMMENT DEADLINE: MAY 12, 2008

Date: 5/9/08

From: Paul Poirier, AIA, LEED AP, Poirier + David Architects in collaboration with the following individuals: Henry Siegal, FAIA, AIA national COTE chair, Siegal & Strain Architects, Emeryville, CA; Wayne Seward, Bear Technologies, Carlsbad, CA; Stephen Kapp, CEM, CDSM, San Diego, CA; Bill Burke, AIA, LEED AP, San Francisco, CA; Jim Brock, LEED AP, Environmental Planning Associates Inc., Los Angeles, CA; James Leahy, PE, Gaia Development LLC, Marina Del Rey, CA; Lisa Galley, Galley Eco Capital, LLC, San Francisco, CA; Laura Billings, SRM Associates, Oakland CA; Barry Giles, Buildingwise LLC, Watsonville, CA; Jean Hansen, IIDA, CID, LEED AP, AAHID, San Francisco, CA; Jim Coyle, San Francisco, CA; Lindsey Taggart, Santa Barbara

Name (Print or type)

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

156 W. Alamar Ave., Ste. C

Santa Barbara

CA, 93015

Street

City

State

Zip

I/We (do) (do not) agree with:

The Agency proposed modifications As Submitted on Section No. CGBSC BSC 101.2

and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

to the proposing state agency.

Suggested Revisions to the Text of the Regulations:

Change #5 "Environmental air quality" to 'Indoor air quality'

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

Chapter 8 "Environmental Air Quality" refers to Indoor Air Quality (IAQ), so changing the language here clarifies its applicability, vis a vis outdoor air quality.

HEALTH & SAFETY CODE SECTION 18930

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I/We (do) (do not) agree with:

The Agency proposed modifications As Submitted on Section No. CGBSC BSC 101.7

and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

to the proposing state agency.

Suggested Revisions to the Text of the Regulations:

Delete the last sentence" However, in no case shall the amendments, additions or deletions to this code be effective any sooner than the effective date of this code"

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

As 101.7 is written, is ambiguous and vague, as it implies that local authorities may exceed state building codes, but may not "put them into effect" prior to effective date of the state code. Given that many of the provisions of the state green building codes are voluntary in the early phases of implementation, it is unclear if local authorities are

allowed to adopt standards that may exceed state codes until they become mandatory. Also, given the voluntary aspect of many provisions, the definition of "effective date of this code" is unclear.

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I/We (do) (do not) agree with:

The Agency proposed modifications As Submitted on Section No. CGBSC BSC 101.7.1

and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

to the proposing state agency.

Suggested Revisions to the Text of the Regulations:

In #1 of this section "The city, county, or city and county shall make express findings for each amendment, addition or deletion based upon climatic, topographical, or geological conditions" - clarify if "climactic" refers to local climactic conditions or global climactic considerations.

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

Meaning of "climactic" considerations is unclear. E.g., a local authority may desire to adopt more carbon emission related stringent codes out of concern for global climate change, vs. local climactic conditions.

HEALTH & SAFETY CODE SECTION 18930

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I/We (do) (do not) agree with:

The Agency proposed modifications As Submitted on Section No. CGBSC BSC 202

and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

to the proposing state agency.

Suggested Revisions to the Text of the Regulations:

"CONDITIONED SPACE. A space in a building that is either directly conditioned or indirectly conditioned" definitions are ambiguous.

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

Definition vague or ambiguous. The definition of "directly conditioned" and "indirectly conditioned" are missing, so the definition for "conditioned space", which relies on these other terms is inadequate. Definitions for directly conditioned and indirectly conditioned are provided in the 2007 Energy Code.

HEALTH & SAFETY CODE SECTION 18930

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I/We (do) (do not) agree with:

The Agency proposed modifications As Submitted on Section No. CGBSC BSC Chapter 5

and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

to the proposing state agency.

Suggested Revisions to the Text of the Regulations:

1.) We suggest that verbiage be added clarifying that the designer has the option to design his building based on either the Performance or the Prescriptive Approach.

2.) Sec. 502 TIME DEPENDENT VALUATION (TDV) ENERGY.

Revise the definition of TDV to say:

TDV refers to the fact that saving peak power is more important than non-peak power because it is more expensive to produce and more polluting to create. The time varying energy caused to be used by the building to provide space conditioning and water heating and for specified buildings lighting. TDV energy accounts for the energy used at the building site and consumed in producing and in delivering energy to a site, including, but not limited to, power generation, transmission and distribution losses.

3.) Sec. 502 - ENERGY STAR

Revise the definition of Energy Star to match the Energy Star website (http://www.energystar.gov/index.cfm?c=about.ab_index): "ENERGY STAR. A joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy. ENERGY STAR is a voluntary program designed to identify and promote energy-efficient products and practices."

4.) Sec. 503 PERFORMANCE APPROACH

Revise to read: Energy performance. Using an Alternative Calculation Method approved by the California Energy Commission for the following, calculate each nonresidential building's TDV energy and CO2 emissions, and require that both are 15% less than the standard or "budget" building. Field verify and document the measures and calculations used to reach the desired level of efficiency following the requirements specified in the Title 24 Residential and/or Nonresidential Alternative Calculation Method Manuals.

5.) Sec. 504 PRESCRIPTIVE APPROACH

We suggest adding additional requirements in the prescriptive approach including:

1. Upgraded window performance (including thermal breaks in metal window mullions).
2. Upgraded insulation.

6.) New Sec. 505 MANDATORY REQUIREMENTS

Add an additional section for mandatory requirements for all buildings consisting of the following items listed in the prescriptive approach:

1. Energy monitoring.
2. Demand response controls.
3. Commissioning.

These items would increase the benefit to the environment or would be highly beneficial in increasing the knowledge on efficient building performance in ALL buildings done using both the performance and prescriptive approaches.

7.) Sec. 511 RENEWABLE ENERGY

We believe that the goal for onsite renewable energy should be increased to at least 5% of the electric power calculated as the product of the building service voltage and the amperage specified by the electrical service overcurrent protection device rating or 1kW, whichever is greater.

Revise: Sec 511.1.1 Documentation. Using an approved Calculation Method approved by the California Energy Commission, calculate peak renewable on-site energy contribution as a percentage of estimated site electrical demand load, expressed in kW.

8.) Sec. 512 ELEVATORS, ESCALATORS, AND OTHER EQUIPMENT

Revise to read: 512.1 Elevators and escalators In order to reduce electrical demands, in buildings with more than two or more elevators provide controls to temporarily disable one or more elevators for part of the day. For buildings with three or more escalators, shut off or reduce the speed of escalators when no traffic is detected. Document the controls in the project specifications and commissioning plan.

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

Reasons: Items 5 and 6.

HEALTH & SAFETY CODE SECTION 18930

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I/We (do) (do not) agree with:

The Agency proposed modifications As Submitted on Section No. CGBSC BSC Table 603.2

and request that this section or reference provision be recommended:

Approved Disapproved Held for Further Study Approved as Amended

to the proposing state agency.

Suggested Revisions to the Text of the Regulations:

Table 603.2 - This table should be modified to include dual flush toilets which have a maximum of 1.6 gpf for solids, and a maximum of 0.9 gpf for liquids.

Blowout water closets should be excluded from the table, and continue to be an exception to the water use standards of the code for sanitary reasons.

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

(Reasons 4, 5 and 6)
Approve as Amended:

The proposed code is vague and ambiguous on which portion of the table a dual flush toilet will be rated. Dual flush toilets are widely used in green construction, and do not fall within the categories on Table 603.2, and actually provide for less water use per day, with improved disposal performance.

The cost to the public in terms of water wasted is contrary to the intent of the proposed code, and contradicts the exceptions for blow out toilets to have increased flows from other sections of the code. Blow out toilets are not allowed to be used by code in the state without a special exception for their water use related to sanitary and medical uses. When exceptions to the water use standard are approved by code, these blowout water closets may not be able to perform their sanitary functions with the proposed 20% reduced flow, and may inadvertently cause a double flush for sanitary practicality, thereby actually increasing water use.

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.

State of California
State and Consumer Services Agency
California Building Standards Commission
2525 Natomas Park Dr., Suite 130
Sacramento, CA 95833
(916) 263-0916 Phone
(916) 263-0959 Fax
Email: BSC@dgs.ca.gov
Attn: Thomas L. Morrison, Deputy Executive Director

Office Use Item No. _____

**PARTICIPATION COMMENTS FOR THE NOTICE DATED MARCH 18, 2008
TITLE 24, CCR, PART 11, CALIFORNIA GREEN BUILDING STANDARDS CODE**

WRITTEN COMMENT DEADLINE: MAY 12, 2008

Date: **5/12/08**

From:

Name Paul Poirier, AIA, LEED AP, Poirier + David Architects in collaboration with the following individuals: Henry Siegal, FAIA, AIA national COTE chair, Siegal & Strain Architects, Emeryville, CA; Wayne Seward, Bear Technologies, Carlsbad, CA; Stephen Kapp, CEM, CDSM, San Diego, CA; Bill Burke, AIA, LEED AP, San Francisco, CA; Jim Brock, LEED AP, Environmental Planning Associates Inc., Los Angeles, CA; James Leahy, PE, Gaia Development LLC, Marina Del Rey, CA; Lisa Galley, Galley Eco Capital, LLC, San Francisco, CA; Laura Billings, SRM Associates, Oakland CA; Barry Giles, Buildingwise LLC, Watsonville, CA; Jean Hansen, IIDA, CID, LEED AP, AAHID, San Francisco, CA; Jim Coyle, San Francisco, CA; Lindsey Taggart, Santa Barbara

Organization

Address 156 W. Alamar Ave., Ste. C, Santa Barbara, CA 93105

City, State, ZIP

On Behalf Of: individuals listed

Re: CGBSC BSC Chapter 7

Item 1:

We **do not** agree with the Agency proposed scope defined in section 701.1, and request that this be recommended **Approved as Amended** by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

[add] "and use of materials that reduce the off-site impacts of harvesting, manufacturing, and transport of materials, such as habitat destruction, off-site air and water pollution, and deforestation."

Reason:

Health & Safety Code Section 18930 (a) (3): **Not** in the public interest, as written.

The harvesting, manufacturing, and transport of building materials produce negative environmental affects that are must be accounted for when assessing the "greenness" of a given material. This important environmental consideration should be added to the scope of this section.

Item 2:

We **do not** agree with the requirements of section 705.1.4, specifically documentation of "net projected energy savings..." and request that this section be recommended **Approved as Amended** by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

Delete "net projected energy savings..."

Reason:

Health & Safety Code Section 18930 (a) (6): Is vague as written.
There is no standard baseline and no standard means of calculating these savings.

Item 3:

We **do not** agree with the Agency proposed modifications As Submitted on Section No. **705.2 - Bio-Based materials, and 705.2.1 - Certified wood products**, and request that this section or reference provision be recommended **Approved as Amended** by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

"705.2 Bio-based materials." Delete Paragraph in its entirety.

"705.2.1 Certified wood products. Employ wood-based materials and products which are certified in accordance with Forest Stewardship Council (FSC) Principles and Criteria."

Delete the other standards organizations 2. through 5.

Reason:

Health & Safety Code Section 18930 (a) (3): **Not** in the public interest, as written.

705.2 Bio-based materials: The word "bio-based" is not defined in the Environmental Protection Agency "Terminology Reference System", the US Green Building Council "LEED" rating system, the Build It Green "GreenPoint Rated" system, or The Construction Specifications Institute "GreenFormat" sustainable product reporting form. According to Wikipedia, a bio-based material is simply an engineered material made from substances derived from living matter; there is no consensus on its meaning in the sustainable design community. Bio-based materials can be overharvested or harvested in ways that harm or destroy the areas and/or ecosystems in which they originate. Simply because a product is "bio-based" or "renewable" has no bearing on whether it is "environmentally responsible" or "sustainable." For instance, salmon are "bio-based" and "renewable," but salmon populations are threatened in California due to decades of habitat loss and overfishing.

705.2.1 Certified wood products:

Numerous cities and at least one county in California have already implemented ordinances requiring that construction meet the USGBC's LEED rating system or the Build It Green "GreenPoint Rated" system. Both of these rating systems only recognize wood certified by the Forest Stewardship Council (FSC), and do not recognize wood certified by the Sustainable Forestry Initiative (SFI), Canadian Standards Association (CSA), the Programme for the Endorsement of Forest Certification Schemes (PEFC), or American Tree Farm. At this time, only FSC certification assures that the forest from which the wood was harvested is managed in an environmentally, economically and socially responsible manner, and maintains chain-of-custody certification throughout the manufacturing, distribution and final delivery of products.

California's environmental groups and green building community are united in the position that only FSC represents a sufficiently high level of environmental and social performance in the forestry and forest products sector. A likely consequence of including multiple and variable-quality certification systems will be to undermine the industry and market transformation to sustainable wood products. SFI, CSA, and PEFC certify some of the most environmentally destructive forest management practices, including widespread clearcutting, logging in imperiled species' habitats, endangered forests and wilderness, conversion of natural forests to industrial plantations, conversion of forests to non-forest land uses, and inattention to sustaining and restoring attributes necessary for healthy forest ecosystem and habitat function.

Finally, there are over a million acres of FSC-certified forest in California and many hundreds of California-

based distributors, manufacturers, retailers and other companies that service the building industry. For this reason, the availability of FSC-certified products is as good or better in California than it is in any other state in the nation. The contention, made by some, that recognizing only FSC harms California jobs, places an undue burden on industry, or forces people to buy non-California wood is simply false, as numerous local companies are currently participating in and benefiting from the FSC system and offering FSC-certified products, including those originating in California's FSC-certified forests. FSC represents a high level of performance in terms of quality of forest management, but it is open to all landowners who choose to manage their forests to this standard.

Item 4:

We **do not** agree with the Agency proposed scope defined in section 705.4, and request that this be recommended **Approved as Amended** by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

After "equivalent in performance" add " and equal to or less than in toxicity"

Reason:

Health & Safety Code Section 18930 (a) (3): **Not** in the public interest, as written.

Not all recycled materials are equal, some contain toxic content and should not be used as replacement for virgin materials. Recycled content materials should not contain higher levels of toxicity than materials they are replacing.

Item 5:

We **do not** agree with the Agency proposed wording in section 705.5.3.1, and request that this be recommended **Approved as Amended** by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

"Use concrete made with the following materials to reduce the cement content of concrete..."

Reason:

Health & Safety Code Section 18930 (a) (3): **Not** in the public interest, as written.

There has been confusion about the use of these additives in concrete. The purpose of these additives is to reduce the use of cement, replacing them with these waste products. In many cases, when slag or fly ash is added, the cement content is also increased; this increases the environmental impact of the concrete, contrary to the intended purpose.

Item 6:

We **do not** agree with the Agency proposed wording in section 708.3, and request that this be recommended **Approved as Amended** by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

Construction waste reduction of at least 75%.

Reason:

Health & Safety Code Section 18930 (a) (3): **Not** in the public interest, as written.

California law already requires local governments to achieve a 50% solid waste diversion rate, and therefore 50% is too low a bar to qualify as a green building practice.

HEALTH & SAFETY CODE SECTION 18930

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