

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 MARCH 18, 2008
Written comments are to be sent to the above address.

WRITTEN COMMENT DEADLINE: MAY 12, 2008

Date: 5/11/08

From: Maraian Keeler
Name (Print or type)

Simon & Associates, Inc.
Agency, jurisdiction, chapter, company, association, individual, etc.

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|---|----------------------|-----------|
| <u>200 Brannan Street, Suite 204</u> 94115 | <u>San Francisco</u> | <u>CA</u> |
| Street | City | State Zip |

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

The Agency proposed modifications As Submitted on Section No. 705.2

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:

"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 2:

I/We do not agree with the Agency proposed modifications As Submitted on Section No.709 - Life Cycle Assessment, and request that this section or reference provision be recommended Held for Further Study by the proposing state agency.

Suggested Revisions to the Text of the Regulations:

Delete entire Section 709.1 - "Materials and system assemblies".

Reason:

Health & Safety Code Section 18930 (a) (6): The proposed building standard is unnecessarily ambiguous and vague, in whole or in part. Also, Section 18930 (a) (3): It is not in the public interest, and can, in fact, be dangerous to public health and safety when used to justify use of an unsafe product based on an LCA.

Life cycle assessment (LCA) of building materials is a complex process whose underlying science is inadequate to form a basis for meaningful design decisions at this time. For assemblies, as required by this standard, it is practically meaningless. LCAs based on incomplete or selective science and narrow methodologies are currently being used by manufacturers as marketing tools to sell their products, and have very limited credibility or usefulness. For example, vinyl flooring manufacturers use LCA to claim their product is "greenest" because it has the lowest embodied energy to manufacture while ignoring longevity, maintenance costs, and toxins in the product that make it difficult to recycle. The timber industry touts the LCA benefits of wood but ignores the impact of industrial forestry on ecosystems, soil and water quality, and other so-called “externalities.” At the same time, the ceramic tile industry uses LCA to claim their product has the lowest embodied energy if measured over a 50 year time frame to justify the high embodied energy to manufacture. Until there is better science and a consensus on what parameters to use in a LCA, this Section is meaningless and should be removed at this time

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.]

see above.

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.