

# FLORIDA BUILDING COMMISSION

## PRODUCT APPROVAL POC

### AUGUST 7, 2014 TELECONFERENCE MEETING SUMMARY REPORT

**THURSDAY, AUGUST 7, 2014**

#### **MEETING SUMMARY AND OVERVIEW**

At the Thursday, August 7, 2014 teleconference meeting the POC considered regular procedural issues including product approval and entities statistics reports; a status report on conditional approvals (all were resolved); review and approval of product and entity applications; and a review of DBPR approved product approval applications. The POC discussed product approval rule provisions regarding portable roll form machines and the proper use of the relevant product approvals, deciding that a petition for a declaratory statement is the best method to clarify the Rule's requirements. In addition, the POC discussed issues regarding whether engineers should be allowed to validate their own evaluation reports. Specific actions include developing recommendations on declaratory statements DS 2014-086; voting to move the Product Approval application submittal completion deadline back by one week to the current preliminary review deadline date for the cycle; and voting to maintain the issue of whether engineers should be allowed to validate their own evaluation reports as a POC discussion item.

#### **Background and Supporting Documents**

Relevant background and supporting documents are linked to each agenda item. The Agenda URL for the August 7, 2014 meeting is as follows:

[http://www.floridabuilding.org/fbc/commission/FBC\\_0814/Product\\_Approval/Product\\_Approval\\_Agenda.htm](http://www.floridabuilding.org/fbc/commission/FBC_0814/Product_Approval/Product_Approval_Agenda.htm)

#### **AGENDA ITEM OUTCOMES**

##### **A.1. OPENING AND MEETING PARTICIPATION**

The meeting was opened at 10:00 AM once a quorum was established, and the following POC members participated (4 of 7 members):

Jeff Stone (Chair), Jay Carlson, David Compton, and Nan Dean.

*Members Not Participating:*

Robert Hamberger, Brian Swope and Tim Tolbert.

##### **A.2. DBPR STAFF PRESENT**

Norman Bellamy, Robert Benbow, Zubeyde Binici, Joe Bigelow, Nick DuVal (law clerk), Jim Hammers, April Hammonds, Mo Madani, Marlita Peters, and Jim Richmond.

#### **Meeting Facilitation and Reporting**

Product Approval POC meetings are facilitated and meeting reports drafted by Jeff Blair from the FCRC Consensus center at Florida State University. Information at: <http://consensus.fsu.edu/>



CONSENSUS CENTER

### **A.3. AGENDA REVIEW**

The POC voted unanimously, 4 - 0 in favor, to approve the agenda for the August 7, 2014 meeting as amended to move agenda item A.(5) to item C. as the new C.(3). Following are the key agenda items approved for consideration:

- To Consider/Discuss Product Approval Program Issues
- To Consider/Decide on Petitions for Declaratory Statements
- To Consider/Decide on Approval of Products and Product Approval Entities

The complete Agenda is included as “*Attachment 1*”.

(*See Attachment 1—Agenda*)

### **A.4. STATEMENT OF TELECONFERENCE PARTICIPATION PROCESS**

Jeff Blair reviewed the teleconference participation process with participants reminding them that it is important to keep their phones on mute to minimize background noise, not to put their phones on hold, and to wait until invited to speak to avoid confusion and chaos. Jeff emphasized that all participants will have ample time to speak on all agenda items. Participants were reminded to state their names each time they speak.

### **B. REVIEW AND APPROVAL OF THE APRIL 3, 2014 AND JUNE 5, 2014 MINUTES**

**MOTION**—The POC voted unanimously, 4 - 0 in favor, to approve the April 3, 2014 and June 5, 2014 meeting minutes as presented/posted.

#### *Amendments:*

There were no amendments offered.

### **C. 1. PRODUCT APPROVAL AND ENTITIES STATISTICS REPORT**

Zubeyde Binici reviewed the product and entities statistics reports with participants and answered members’ questions. The report is linked to the Product Approval POC’s agenda.

### **C.2. REPORT ON CONDITIONAL APPROVALS FROM APRIL AND JUNE 2014 MEETINGS**

Commissioner Stone noted there all of the conditions were met for the conditional approvals reported at the April and June 2014 meetings.

### **C.3. PRODUCT APPROVAL APPLICATION DEADLINE CHANGE PROPOSAL DISCUSSION**

Mo Madani reported that staff is receiving 70% of the Evaluation Reports by Engineer applications between the Preliminary Review Deadline and the Midnight Completion Deadline and this is creating a burden for staff to review and process the applications in a thorough and timely manner. Mo indicated that staff would like to propose that the Commission move the completion deadline back one week to the time of the preliminary review deadline. This would give staff sufficient time to conduct a more thorough review of the “Evaluation reports by engineers method” applications for accuracy and in a timely manner. Mo explained that implementing this change will help further streamline the Product Approval Program and the application review process.

Following questions and answers and an opportunity for public comment, the POC took the following action:

***POC Action:***

**MOTION**—The POC voted unanimously, 4 - 0 in favor, to recommend the Commission approve the POC's recommendation to move the Product Approval application submittal completion deadline back by one week to the current preliminary review deadline date for the product approval application cycle.

***Summary of Issue***

During the last application cycle staff received a total of 111 applications which were filed using the Evaluation Report by Engineer Method, and of those applications 79 of them were validated between the two deadlines. The previous application cycle produced similar results. May 2, 2014 was the listed preliminary review deadline. May 8, 2014 was the listed Midnight completion deadline. The reports for public comments were due to be posted on May 16, 2014 giving staff only 5 business days to review all of the applications, provide comments on the applications, and post the reports for public comments. With the large influx of applications in the short window of time it has become a difficult task for the staff. Once the Commission moves to the new 2014 Building Code the amount of applications received during this small time frame would triple, and create a major strain on the application review staff. With the new proposed plan the staff will have 7-10 days, sufficient time to set applications to re-apply without a "rush" from all parties as experienced in the past.

**C.4. CONSIDERATION OF DS 2014-086 BY JOE HETZEL OF DASMA**

Joe Hetzel. submitted a petition for a declaratory statement for review by the Product Approval POC. All of the relevant documentation is linked to the August 7, 2014 Product Approval POC agenda found on-line. Joe Hetzel provided an overview of the issues as the petitioner, and staff reviewed the petition and provided staff's analysis. Following questions and answers and an opportunity for public comment, the POC took the following action:

***POC Actions:***

**MOTION**—The POC voted unanimously, 4 - 0 in favor, to recommend the Commission approve the POC's recommendation on the Petition (to approve staff's recommendations as drafted).

***Overview:***

The Petitioner seeks a Declaratory Statement on the status of state approved product (a garage door) if product is modified at the time of installation including the following provisions/sections: Rule 61G20-3.007, Section 553.8425(3), Florida Statutes and Section R301.2.1.2 of the 2010 Florida Building Code, Residential.

***Staff Analysis:***

**Staff analysis:** Based on the above facts and circumstances, staff provides the following analysis:

**Question 1:** If a vent is installed in the door, is the state approval still valid if the approval does not include allowance for a vent?

**Answer:** No, installation of the vent in the door in question is considered modification to the said approval. The state approval would not be valid because the product was approved based on specific testing and evaluation/limitation of use which did not include the allowance for a vent. However, modifications to the product in question can be made per F.S. 553.8425 (3), if such modifications are acceptable to the building official and substantiated through sufficient evidence

submitted to the local building official to demonstrate compliance with the code or the intent of the code, including such evidence as certifications from a Florida registered architect or Florida professional engineer.

**Question 2:** Is there any difference in the answer to #1 above for a door involving a vent for flood control versus a vent for air ventilation?

**Answer:** No. Also, see answer to question #1

**Question 3:** Does the size of the vent itself make a difference in the answer to Question #1?

**Answer:** No. Also, see answer to question #1.

#### **C.5. REVIEW OF PRODUCT APPROVAL RULE PROVISIONS PERTAINING TO THE USE OF PORTABLE ROLL FORM MACHINES**

At the April 2014 meeting Commissioner Stone requested an agenda item be added to review the Product Approval Rule provisions regarding product approval issues pertaining to the use of portable roll form machines. The POC discussed the issue at the August 2014 meeting and decided that the issue was primarily a local enforcement issue and that the best format to provide clarification on the Rule is for industry to submit a petition for a declaratory statement. Industry stakeholders agreed they would work with the Florida Roofing and Sheet Metal Association (FRSA) to identify a specific set of facts and circumstances on which to base a petition.

Mo Madani reported that the Product Approval Rule (Rule 61G20-3) requires that a roof system with metal panels that are manufactured in the factory is required to be approved using one of the uniform product approval methods (test report, certification agency or evaluation report).

Industry members reported that roll forming equipment manufacturers obtain statewide product approval for the products their equipment produces, but the equipment manufacturers do not manufacture metal roof products, rather they produce and sell the equipment and raw materials (steel coil) used by metal roof manufacturers. The equipment manufacturers engineer and test the roof products their equipment produces, and then properly obtain Florida Product Approval to demonstrate these products meet code. The issue however, is that after obtaining product approval from the State, the equipment manufacturers neither grant nor deny the use of these approvals by their metal roof manufacturing customers. Fabricators in the field who are operating independently from the manufacturers who have a product approval are required to acquire their own statewide approval or receive approval at the local level. The concern expressed by industry stakeholders is that many of the fabricators are not getting product approval as required.

Staff explained that statewide product approval is a voluntary system and the Commission has no statutory authority to enforce product approval since this is delegated to the local AHJs. Staff explained that it is an enforcement issue that must be dealt with at the local level. Miami-Dade County is a good example of a local jurisdiction that has maintained compliance by ensuring products used in their jurisdictions complies with the requirements of the Florida Building Code.

#### **C.6. RECOMMENDATIONS REGARDING FLORIDA LICENSED PROFESSIONAL ENGINEERS HAVING THE ABILITY TO VALIDATE THEIR OWN PRODUCT APPROVAL APPLICATIONS**

At the April 2014 POC meeting Warren Schaffer requested a declaratory statement regarding whether engineers submitting a product evaluation report could validate the product approval application. The Commission voted in agreement with staff and the POC that the Rule requires a third-party validation independent of the evaluator for the evaluation report by a professional engineer/registered architect compliance method. Warren noted he felt it was an unfair trade

restriction to not allow an engineer who evaluates a product, and has no financial interest in the product or the various relevant entities, to validate the product. The POC discussed the issue and agreed that although the Rule is clear on the issue they would like to discuss whether this is a reasonable requirement at the next POC meeting.

At the August 7, 2014 meeting the POC discussed the provisions in Rule 61G20-3.009 (4) requiring that a validator cannot validate their own evaluation. There was much discussion on the issue, and public commenters uniformly supported the current Rule provisions prohibiting an engineer from validating their own product evaluation reports. Staff explained that since the inception of the Product Approval System a third party independent review has been a critical step in the product approval review process. Mr. Schaffer expressed that test labs and certification agencies are able to validate their own evaluation reports, and engineers should be afforded the same opportunity. Staff explained that test labs and certification agencies are accredited by the Commission and this requires a third party QA program that affords an additional level of oversight. Staff explained that the purpose of the third party independent review is to protect consumers. Staff explained further that without an independent validation of engineers' evaluation reports, staff would have to conduct a more thorough review of the applications, essentially shifting from an administrative to a technical review for the evaluation reports by professional engineers/registered architects compliance method. Staff explained that this would require a much longer review period for this compliance method, on the order of 2 months instead of the abbreviated timeframes the System currently provides.

Following questions and answers and an opportunity for public comment, the POC took the following action:

***POC Actions:***

***MOTION***—The POC voted unanimously, 4 - 0 in favor, to maintain the issue of whether Florida licensed Professional Engineers should have the ability to validate their own product approval evaluation reports as a POC discussion item.

**D.1. PRODUCT AND ENTITY APPLICATIONS CONSENT AGENDA**

Commissioner Stone presented the consent agenda for approval of products by asking if any participants' wished to have any applications pulled from the consent agenda for individual consideration. There was one product applications pulled for individual consideration at the request of the applicant: #17091. Commissioner Stone noted there were no entity applications.

***POC Actions:***

***MOTION***—The POC voted unanimously, 4 - 0 in favor, to recommend the Commission approve the consent agenda of products recommended for approval as amended, with product application #17091 being removed for individual consideration.

**D.2. PRODUCT APPROVAL APPLICATIONS WITH DISCUSSION OR COMMENTS**

Jeff Blair presented the products with discussion and public comment. Following are the POC's recommendations on the 9 product approval applications with public comment(s):

- The POC recommends the Commission conditionally approve product # 17091 based on the applicant's request to correct the name and address, and clarify the terminology in the note pertaining to, "all permits."
- The POC recommends the Commission conditionally approve product #16839 as noted by the public comment to verify testing to TAS 202 or indicate not for use in the HVHZ;

- The POC recommends the Commission conditionally approve product # 17035 based on the conditions listed in DBPR staff's recommendation;
- The POC recommends the Commission conditionally approve product # 17055 based on the conditions listed in DBPR staff's recommendation;
- The POC recommends the Commission approve product #17090;
- The POC recommends the Commission approve product #17092;
- The POC recommends the Commission defer action on product #17106 to the October 2014 meeting. The applicant waived the 90 day timeframe for review and accepted the deferral;
- The POC recommends the Commission conditionally approve product # 17108 based on the conditions listed in DBPR staff's recommendation; and
- The POC recommends the Commission conditionally approve product #17116 on the condition that applicant adds the steel side lap attachment details, "as tested" to the application.

The complete report of POC recommendations on product and entity applications is available linked to the Commission's August 22, 2014 agenda.

### **D.3. DBPR APPLICATIONS**

Staff noted that the recommendations for the DBPR applications are linked to the August 7, 2014 Product Approval POC agenda found on-line. Staff noted that there was public comment on only one application, and this has been resolved. There were no questions, comments or discussion on the DBPR applications.

### **E.1. PUBLIC COMMENT**

Commissioner Stone invited members of the public to address the Commission on any issues under the Commission's purview.

- Jamie Gascon (Miami-Dade County): Evaluation reports uploaded on the BCIS for State Approval are becoming less descriptive of the test reports they reference. For example not indicating the test report date or not listing the engineer that signed and sealed the report. (Note that not all tests done at labs are done for certification, where HVHZ TAS301 requires all testing to be witnessed, signed and sealed by the engineer(s) listed on the laboratory certification.) Since a DEC statement may not be appropriate to clarify this, I ask that the Product Approval POC issue a notice to this effect.
- Jamie Gascon (Miami-Dade County): Evaluation reports are being uploaded in applications filed as certification method and go above and beyond describing the test by describing the test with values and performance where these are superior to the limitations established in the certification. This is sometimes masked as installation instructions, but the upload is under "evaluation" and the document is titled as such. This should be curtailed. There is an opportunity to clean up a lot of this as products are updated to the 5<sup>th</sup> Edition of the FBC.
- Jamie Gascon (Miami-Dade County): Use of facsimile signatures by engineers on evaluation drawings. It is clear that these are being used on some drawings when you scroll the uploaded pdf on the BCIS. Engineering Rule 61G15-23 does not allow the use of facsimile signatures. (These are not to be confused with electronic signatures covered in Rule 61G-23.003.) Despite a variance issued by the Board in July 2014 due to the engineer's physical disability, DBPR's Rules should be enforced.

## **E.2. POC MEMBER COMMENT**

Commissioner Stone invited POC members to offer any general comments to the POC.

*There were no POC member comments offered.*

## **POC RECOMMENDATIONS FOR COMMISSION ACTION**

The POC recommends the following actions to the Florida Building Commission:

- 1.) The POC recommends the Commission take action on product and entity applications as recommended by the POC and reflected in DBPR staffs' product and entity approval report.
- 2.) The POC recommends the Commission take action pursuant to the POC's recommendations regarding declaratory statements DS 2014-086.
- 3.) The POC recommends the Commission move the Product Approval application submittal completion deadline back by one week to the current preliminary review deadline date for the product approval application cycle.

## **FUTURE AGENDA ITEMS**

- None were suggested.

## **NEXT STEPS**

The POC will meet October 2, 2014 to provide recommendations to the Commission on Product Approval System relevant issues for the October 17, 2014 Commission meeting.

## **F. ADJOURN**

Commissioner Stone, POC Chair, thanked POC members, staff and the public for their attendance and participation, and adjourned the meeting, after a 4 – 0 vote in favor, at 12:10 PM on Thursday, August 7, 2014.

**ATTACHMENT I**  
**MEETING AGENDA**

**FLORIDA BUILDING COMMISSION**

**PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE (POC)**

**THURSDAY, AUGUST 7, 2014**  
**10:00 AM**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**  
**1940 NORTH MONROE ST.—TALLAHASSEE, FLORIDA 32399**

**WEB URL:**

<https://suncom.webex.com/suncom/j.php?ED=288571712&UID=492507407&RT=MiMxMQ%3D%3D>

**AUDIO: DIAL-IN NUMBER 1-888-670-3525; CONFERENCE CODE: 606 232 6940**

***MEETING OBJECTIVES***

- To Consider/Discuss Product Approval Program Issues
- To Consider/Discuss Declaratory Statement
- To Consider/Decide on Approval of Products and Product Approval Entities

***PRODUCT APPROVAL POC MEMBERS***

Jeffrey Stone-Chair, Tim Tolbert, Brian Swope, Nanette Dean, David Compton, E.J. Carlson, Robert Hamberger.

***MEETING AGENDA— AUGUST 7, 2014***

*All Agenda Times—including Adjournment—are Approximate and Subject to Change*

<b>10:00AM</b>	<b>A)</b>	<b>Call to Order</b> <b>1. Roll call of POC Members</b> <b>2. Identification of Staff/Attendees</b> <b>3. Review and Approval of Agenda</b> <b>4. Statement on Teleconference Participation Process</b> <b>5. Discussion with regard to changing the deadline for application submittal.</b>
	<b>B)</b>	<b>Review &amp; Approve Agenda &amp; April and June 2014 Minutes</b>
	<b>C)</b>	<b>Product Approval Program Issues:</b> <b>1. Product Approval &amp; Entities Statistics Report</b>



		<p>2. Report on conditional approvals from the April and June 2014 meetings (All Conditional Approval Requirements were met and completed from the April and June Reports)</p> <p>3. To consider and discuss DS2014-086 by Joe Hetzel of DASMA.</p> <p>4. To review the product approval rule provisions regarding product approval issues pertaining to the use of portable roll form machines.</p> <p>5. To consider, discuss, and provide recommendation for consideration by the Commission regarding Florida licensed Professional Engineers having the ability to validate their own product approval applications.</p>
	D)	<p><b>Department of Business and Professional Regulation Reports:</b></p> <ol style="list-style-type: none"> <li>1. Review of Product Approval &amp; Entity (No entities application for review) Applications</li> <li>2. Product Approval Applications with Comments</li> <li>3. DBPR Applications</li> </ol>
	E)	Public/POC/Staff Comments
	E)	<i>Adjourn</i>

**STAFF CONTACTS:** Zubeyde O. Binici, [Zubeyde.Binici@myfloridalicense.com](mailto:Zubeyde.Binici@myfloridalicense.com) , (850) 717-1837; Mo Madani, Manager

**Teleconference Process/Etiquette:**

[URL:http://www.floridabuilding.org/fbc/meetings/1\\_meetings.htm](http://www.floridabuilding.org/fbc/meetings/1_meetings.htm)

**Note:** This document is available to any person requiring materials in alternate format upon request. Contact the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2100 or call 850-487-1824.