

FLORIDA BUILDING COMMISSION

PRODUCT APPROVAL POC

OCTOBER 3, 2013 TELECONFERENCE MEETING SUMMARY REPORT

THURSDAY, OCTOBER 3, 2013

MEETING SUMMARY AND OVERVIEW

At the Thursday, October 3, 2013 teleconference meeting the POC considered and decided on declaratory statements DS 2013-046 and DS 2013-075; recommendations regarding Product Approval rules 61G20-3.001, 3.002 and 3.007, recommending not to have a definition of “impact resistant systems” included in Rule 61G20-3.002; recommendation that the Commission open Rule 61G20.3015, Equivalency of Standard, to consider equivalency pertaining to product approval standards submitted by stakeholders; and, product and product approval entity approval applications. The POC received updates pertaining to a complaint regarding product #FL 16057; and a complaint regarding product #FL 12093-R1. In addition, the POC received briefings pertaining to product approval and entities statistics report; product approval Administrator’s performance survey; and, a status report on conditional approvals and QA expiration notices. Finally, the POC recommended the Commission charge DBPR staff with assuming administration of the Product Approval System, initially working with the current staffing levels, beginning January 1, 2014.

Background and Supporting Documents

Relevant background and supporting documents are linked to each agenda item. The Agenda URL for the October 3, 2013 meeting is as follows:

http://www.floridabuilding.org/fbc/commission/FBC_1013/Product_Approval/Product_Approval_Agenda.htm

AGENDA ITEM OUTCOMES

A.1. OPENING AND MEETING ATTENDANCE

The meeting was opened at 10:04 AM once a quorum was established, and the following POC members participated (3 of 5 members):

Jeff Stone (Chair), Nan Dean, and Brian Swope.

Members Not Participating:

Herminio Gonzales and Tim Tolbert.

A.2. DBPR STAFF PRESENT

Robert Benbow, Jim Hammers, April Hammonds, Ila Jones, Mo Madini, and Jim Richmond.

Meeting Facilitation and Reporting

Product Approval POC meetings are facilitated 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, 3 - 0 in favor, to approve the agenda for the October 3, 2013 meeting as revised, to reflect moving up agenda item C11 based on a public request. Following are the key agenda items approved for consideration:

- To Consider/Discuss Product Approval Program Issues
- To Consider/Discuss Declaratory Statement
- 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.

B. REVIEW AND APPROVAL OF THE AUGUST 8, 2013 MINUTES

MOTION—The POC voted unanimously, 3 - 0 in favor, to approve the August 8, 2013 minutes as presented.

Amendments:

There were no amendments offered.

C. 1. PRODUCT APPROVAL AND ENTITIES STATISTICS REPORT

Mo Madani reviewed the product and entities statistics reports with participants and answered members’ questions. The complete report is linked to the on-line Product Approval POC Agenda.

C.2. PRODUCT APPROVAL ADMINISTRATOR'S PERFORMANCE SURVEY

Mo Madani reviewed the product approval administrator's performance survey, and Ted Berman answered members' comments. All but two of the comments were favorable regarding the performance of Ted Berman and Associates (TBA). Ted noted that the two poorly rated responses were related to applicants' desire to have the administrator walk them through the application process. Ted noted the administrator's role is to review the submitted documentation for completeness and to make a recommendation to the POC regarding whether to approve the application based on same. The administrator is always willing to provide reasonable assistance to applicants, but not to complete the application for the applicant.

C.3. STATUS REPORT ON RFP FOR PRODUCT APPROVAL ADMINISTRATOR

Mo Madani reported that the RFP was issued for the administration of the Product Approval System and there were no responses submitted by the submittal deadline. Mo presented a PowerPoint presentation highlighting the procedures for reviewing and approving product approval applications, and offered a proposal for addressing the administration of the Product Approval System. Mo proposed that DBPR staff conduct the administration of the System going forward beginning with the termination date of the current Administrator's (TBA) contract. Mo expressed to members and participants that DBPR staff would ensure the same level of review will be maintained with no changes to the process or timelines, and with the same level of service as the current level. Mo noted that the advantages to using staff are experience, stability and continuity. The POC discussed what should be done going forward regarding the administration of the Product Approval System for the period starting January 1, 2014 and developed a recommendation for Commission consideration.

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

POC Actions:

MOTION—The POC voted unanimously, 3 - 0 in favor, to recommend the Commission charge DBPR staff with assuming administration of the Product Approval System, initially working with the current staffing levels, beginning January 1, 2014.

C.4. REPORT ON CONDITIONAL APPROVALS FROM JUNE MEETING

Ted Berman noted that the conditional approvals report from the August 2013 meeting is linked to the October Product Approval Agenda, and that the four product approval application with conditional approvals from August have complied with the conditions and have subsequently been approved.

C.5. REPORT ON QA EXPIRATION NOTIFICATIONS

Ted Berman noted the QA expiration report is linked to the October Product Approval Agenda, and answered members' questions. Ted noted that all expired QA entities (40) have been contacted and those that have responded (7) have either corrected deficiencies or are in the process of doing so. There are currently (33) QA expirations contacted that have not responded.

C.6. CONSIDERATION OF DS 2013-046 BY SAL DELFINO OF PETERSON ALUMINUM CORP.

Sal Delfino representing the Peterson Aluminum Corporation (PAC) submitted a petition for a declaratory statement for review by the Product Approval POC. All of the relevant documentation is linked to the October 3, 2013 Product Approval POC agenda found on-line.

Overview:

The Petitioner requested clarification with regard to Rule 61G20-3.005 and Rule 61G20-3.007, and the applications of these rules to Portable Rolforming Machines (PRM).

Overview of Discussion During the POC Meeting:

The Petitioner provided the POC with an overview of the issue at the August 2013 and noted he would like additional clarification to the staff recommendations. An opportunity was provided for public comment including opportunities for the Petitioner to ask additional questions and provide additional comments. Subsequent to public comment, the POC discussed the issue and during the course of the POC's discussions the Petitioner, Sal Delfino, requested the POC recommend deferral on the Petition so he could amend his Petition to be more specific to what he would like to have clarification on. Mr. Delfino agreed to waive his right to a response within 90 days, and again requested deferral on the Petition to the October 2013 meeting. At the October 2013 meeting the Petitioner conveyed to staff by e-mail requesting a deferral until the December 2013 meeting to allow additional time to amend the Petition.

POC Actions:

MOTION—The POC voted unanimously, 3 – 0 in favor, to recommend the Commission defer action on the Petition to the December 2013 meeting to allow the Petitioner additional time to amend declaratory statement DS 2013-046.

C.7. CONSIDERATION OF DS 2013-075 BY JOSHUA COBERLEY OF EFCO CORPORATION

Joshua Coberley representing the EFCO Corporation submitted a petition for a declaratory statement for review by the Product Approval POC. All of the relevant documentation is linked to the October 3, 2013 Product Approval POC agenda found on-line.

Overview:

Issue DS2013-75 by Joshua Coberly of EFCO, a Pella Company. The petitioner requests clarification with regard to whether a test report that is based on in-house testing is acceptable as mean of compliance under the test report method of Rule 61G20-3, FAC. The following are the Petitioner's questions:

Summary of Staff Recommendations:

Question: #1: Does Florida Product Approval Rule 61G20-3 allow test reports by an approved test lab which was performed at the in-house testing facility of the manufacturer when application for NON-HVHZ Florida Product Approval is made via the test report method?

Answer: "No". The manufacturer's in-house testing facility in question is not an approved testing facility as required by Rule 61G20-3.011.

Question #2: Is this type of testing allowed on applications made via the evaluation report by the Florida P.E. method?

Answer: “Yes”. As long as the test lab in question is accredited by an approved accreditation body for the test performed (see Rule 61G20-3.005(4)).

Overview of Discussion During the POC Meeting:

The POC discussed the Product Approval Rule requirements pertaining to approval of product testing laboratories, specifically the requirement that approval be limited to a specific physical location. Ultimately, Commissioner Stone requested that a discussion on the Rule’s requirements pertaining to approval of test labs be placed on the POC’s December 2013 agenda.

POC’s Recommendations:

The POC voted to recommend the Commission revise the responses to the questions in the Petition as follows:

POC Actions:

MOTION—The POC voted unanimously, 3 – 0 in favor, to recommend the Commission approve the staff recommended action as revised on the Petition for question #1, as follows:

“No”. The manufacturer’s in-house testing facility in question is not an approved testing facility as required by Rule 61G20-3.011 for approval via the test report method, because applications require the specific physical location of the testing facility for approval.

MOTION—The POC voted unanimously, 3 – 0 in favor, to recommend the Commission approve the staff recommended action as revised on the Petition for question #2, as follows:

“Yes”. The testing described in the Petition is allowed as long as the test lab in question is accredited by an approved accreditation body for the test performed (see Rule 61G20-3.005(4)).

C.8. POC COMMENTS REGARDING PRODUCT APPROVAL RULES 61G20-3.001, 3.002 AND 3.007

At the August 2013 meeting the POC was requested to provide comments and recommendations to the Commission regarding the proposed text for Product Approval Rules 61G20-3.001 (Scope), 3.002 (Definitions), and 3.007 (Product Approval by the Commission). The Commission is conducting a supplemental rule development workshop at the October 18, 2013 meeting to adopt changes to the Product Approval System necessary to implement 2013 statutory changes to Section 553.842, F.S., Product Evaluation and Approval, requiring the Commission to initiate rulemaking to create a new category of products for Statewide Product Approval titled: “impact protective systems” (.001 Scope, and .002 Definitions). In addition, products submitted for approval by a product evaluation entity (Method 3) will be approved by DBPR using the 10-business day expedited approval process (.007, Product Approval by the Commission).

At the August 2013 meeting the main issue for consideration was to provide a recommendations to the Commission regarding whether to use the definition for “impact protective system” from ASTM E-1996 as recommended by staff, or the definition from ASCE 7-10 as recommended by the International Hurricane Protection Association (IHPA). At the August 2013 meeting there was much discussion on both sides of the issue including how this definition would interplay with the requirements for opening protection contained within the High Velocity Hurricane Zone (HVHZ), and the POC decided they would like a recommendation from the Commission’s Structural TAC prior to recommending a definition for “impact protective systems.”

The Structural TAC met on October 2, 2013 and recommended that a definition for “impact protective systems” is not needed in the Product Approval Rule since relevant definitions are already provided in the reference standards adopted within the Florida Building Code, and other product category terms are not defined in the Product Approval Rule.

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

POC Actions:

MOTION—The POC voted unanimously, 3 - 0 in favor, to recommend that the Commission not include a definition for “impact protective systems” in Rule 61G20-3.002 (Definitions).

The POC agreed with the Structural TAC’s recommendations that a definition is not needed in the Product Approval Rule since relevant definitions are provided in the reference standards adopted in the Florida Building Code, and there are not definitions in the Rule for the other product categories.

C.9. UPDATE FROM KEYSTONE CERTIFICATION REGARDING FL 16057 ZION TILE CORP.

A complaint was made by Dan Arguelles regarding roof tile products made by Zion Tile Corp. Mr. Arguelles alleged that the Zion Tile Corp. is distributing non-compliant roof tiles in Miami-Dade County based on the approval of product #FL 16057 and the issue was discussed at the August 2013 meeting. Jon Hill of Keystone Certifications Inc. indicated that Keystone is providing quality assurance for Zion tiles and is in the process of correcting any product deficiencies. He also indicated that the complaint alleges the tile does not meet thickness requirements required for the product approval, and his site evaluations indicated the tile is within the parameters of their product approval. The POC decided to take no formal action on the complaint at that time, and instructed Keystone Certifications, Inc. to provide an update on the situation for the October POC meeting.

Subsequently, Jon Hill from Keystone Certifications, Inc. provided a written update that is linked to the October 3, 2013 on-line agenda. Jon indicated that Keystone Certifications, Inc. is working with Zion Tile Corporation of Miami to address any deficiencies in a timely manner.

Legal staff April Hammonds advised that the Product Approval Rule requirements pertaining to alleged product deficiencies instruct that product approval suspensions or revocations shall be initiated for a failure to correct manufacturing deficiencies required to bring the product within specifications of the originally approved product, and that according to their Quality Assurance Entity, Keystone Certifications, Inc., the manufacturer is in process of making the changes prescribed by Keystone to correct identified issues.

There was extensive public comment and discussion on both sides of the issue. POC members expressed concern over the possibility that products are allegedly being installed not meeting the requirements of their product approval. April Hammonds, FBC Attorney, advised that the Rule requires that the Commission shall initiate an investigation based on a written complaint containing substantial material evidence by any substantially affected party. This is a high threshold to achieve, that to date has not been adequately documented.

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

POC Actions:

MOTION—The POC voted unanimously, 3 - 0 in favor, to instruct Keystone Certifications, Inc. to continue to work with the manufacturer (Zion Tile Corporation of Miami) to address issues/deficiencies and for Keystone to conduct a site inspection and report back to the POC at the December 2013 POC meeting.

C.10. COMPLAINT REGARDING FL 12903-R1 DISCUSSION

A complaint was made by Eagan Manufacturing Inc. regarding installation instructions provided by Pocahontas Aluminum. Eagan Manufacturing Inc. alleged that Pocahontas Aluminum is providing incorrect installations instructions for product #FL 12903-R1. A written response from Jon Hill of Keystone Certifications Inc. indicated that Keystone is providing quality assurance for Pocahontas Aluminum and is in the process of revising the installation instructions to correct any deficiencies.

The POC decided to take no formal action on the complaint at the October 2013 meeting, based on the Administrator's comments that the approval was by the certification method and subject to DBPR approval, and the applicant has already corrected any deficiencies. Staff noted that no POC action was required and the issue has been resolved through the DBPR approval process.

C.11. EQUIVALENCY STANDARD WITH REGARD TO FRSA/TRI 0732018-05 AND FRSA/TRI

A request was made by Mark Zehnal representing FRSA requesting that rule (61G20-3.015) equivalence of standards be opened to approve the FRSA/TRI Florida High Wind Concrete and Clay Tile Installation Manual, Fifth Edition Roof Tile Manual to be an equivalent standard to the FRSA/TRI 07320 Concrete and Clay Roof Tile Installation Manual, Fourth Edition.

Staff noted that the procedures for this type of request is for the proponent requesting that a product standard be added to the list of standards recognized as equivalent for determining Code compliance provide a side-by-side comparison of the proposed standard to the relevant standard referenced by the Code, demonstrating that the standard meets the standard referenced by the Code in order to be recognized as equivalent for determining Code compliance.

The Commission's relevant TACs (Structural and Roofing in this case) would then review and provide a recommendation regarding whether the standards are equivalent for determining Code compliance. If a positive determination is made the Commission could then decide to open the Product Approval Rule to add the standard to the list of other standards which meet standards referenced by the Code and recognized as equivalent for determining Code compliance.

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

POC Actions:

MOTION—The POC voted unanimously, 3 - 0 in favor, to recommend the Commission open Rule 61G20.3015, Equivalency of Standards, to consider any standards determined to be equivalent to

product approval compliance standards referenced in the Code, including consideration of FRSA/TRI Florida High Wind Concrete and Clay Tile Installation Manual, Fifth Edition Roof Tile Manual to be an equivalent standard to the FRSA/TRI 07320 Concrete and Clay Roof Tile Installation Manual, Fourth Edition.

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 were no product applications pulled for individual consideration.

POC Actions:

MOTION—The POC voted unanimously, 3 - 0 in favor, to recommend the Commission approve the consent agenda of products recommended for approval as posted.

MOTION—The POC voted unanimously, 3 - 0 in favor, to recommend the Commission approve the consent agenda of product approval entities recommended for approval as posted.

D.2. PRODUCT APPROVAL APPLICATIONS WITH COMMENTS

Jeff Blair presented the products with public comment. Following are the POC's recommendations on the 10 discussion and/or public comment agenda products:

- The POC recommends the Commission defer action on product 8700-R2;
- The POC recommends the Commission defer action on product 16398;
- The POC recommends the Commission conditional approve product 16470;
- The POC recommends the Commission conditional approve product 16128-R1;
- The POC recommends the Commission conditional approve product 16404;
- The POC recommends the Commission conditional approve product 16457;
- The POC recommends the Commission conditional approve product 16458;
- The POC recommends the Commission conditional approve product 16464;
- The POC recommends the Commission approve product 16465; and,
- The POC recommends the Commission approve product 16466.

The complete report of POC recommendations on product and entity applications is available linked to the Commission's October 2013 agenda.

D.3. DBPR APPLICATIONS

Ted Berman noted there were 6 applications with comments on the DBPR approved applications list. Ted noted that the applicants have all agreed to make revisions to address comments.

E.1. PUBLIC COMMENT

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

There were no additional public comments offered.

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 charge DBPR staff with assuming administration of the Product Approval System, initially working with the current staffing levels, beginning January 1, 2014.
- 2.) The POC recommends the Commission defer action on Petition DS 2013-046 until the December 2013 meeting to allow the Petitioner time to amend the declaratory statement.
- 3.) The POC recommends the Commission approve the POC's revised response to declaratory statement DS 2013-075.
- 4.) The POC recommends the Commission not include a definition for "impact protective systems" in Rule 61G20-3.002 (Definitions).
- 5.) The POC recommends the Commission open Rule 61G20.3015, Equivalency of Standards, to consider any standards determined to be equivalent to product approval compliance standards referenced in the Code, including consideration of FRSA/TRI Florida High Wind Concrete and Clay Tile Installation Manual, Fifth Edition Roof Tile Manual to be an equivalent standard to the FRSA/TRI 07320 Concrete and Clay Roof Tile Installation Manual, Fourth Edition.
- 6.) The POC recommends the Commission take action on product and entity applications as recommended by the POC and reflected in TBA's POC product and entity approval report.

FUTURE AGENDA ITEMS

- Commissioner Stone requested an agenda item be added to the next POC meeting to discuss the rule requirements pertaining to approval of product testing laboratories, specifically the requirement that approval be limited to a specific physical location.
- Staff to provide a summary of the Commission's options pertaining to initiating an investigation of a product, and for initiating the suspension and/or revocation of a product.

NEXT STEPS

The POC will meet in December 2013 to provide recommendations to the Commission on Product Approval System relevant issues for the December 2013 Commission meeting.

F. ADJOURN

Commissioner Stone, POC Chair, thanked POC members and the public for their attendance and participation, and adjourned the meeting at 12:52 PM on Thursday, October 3, 2013 following an unanimous vote of 3 – 0 in favor of adjournment.

ATTACHMENT I
MEETING AGENDA

FLORIDA BUILDING COMMISSION
PRODUCT APPROVAL/MANUFACTURED BUILDINGS (POC)
THURSDAY, OCTOBER 3, 2013
10:00 AM
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
1940 NORTH MONROE ST. —TALLAHASSEE, FLORIDA 32399
<https://suncom.webex.com/suncom/j.php?ED=234690117&UID=1631512757&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, Herminio F. Gonzalez, Tim Tolbert, Brian Swope, and Nanette Dean.

MEETING AGENDA—THURSDAY, OCTOBER 3, 2013

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

<i>10:00AM</i>	A)	Call to Order 1. Roll call of POC Members 2. Identification of Staff/Attendees 3. Review and Approval of Agenda 4. Statement on Teleconference Participation Process
	B)	Review & Approve Agenda & August 2013 Minutes
	C)	Product Approval Program Issues: 1. Product Approval & Entities Statistics Report 2. Product Approval Administrator’s Performance Survey 3. Status Report of RFP for Product Approval Administrator 4. Report on conditional approval from the August 2013 meeting After Action Report 5. Report on QA expiration notifications

		<p>6. To consider, discuss and provide recommendation for consideration by the Commission regarding DS 2013-046 By Sal Delfino of Petersen Aluminum Corp. Staff Analysis</p> <p>7. To consider, discuss and provide recommendation for consideration by the Commission regarding DS 2013-075 By Joshua Coberley of EFCO. Staff Analysis</p> <p>8. To review comments related to the proposed changes to Rules 61G20-3.001, 61G20-3.002, 61G20-3.007 for the purpose of making recommendations for consideration by the Commission during the Rule Development Workshop to be held in conjunction with the October 18, 2013 Commission meeting Issue HB 296, IHPA Request IPS Definition</p> <p>9. To receive an update from Keystone Certification Inc. with regard to Zion Tile Corp. (FL 16057) compliance with parameters of their state product approval.</p> <p>10. To review and discuss complaint filed by Eagan Manufacturing Inc., with regard to FL 12903-R1. Pocahontas Installation, Keystne response, Ryan Cernosek</p> <p>11. To discuss equivalency standard with regard to FRSA/TRI 0732018-05 and FRSA/TRI Fifth Edition and the potential of opening Rule 61G20-3.015 to address said equivalency. Mark_Zehnal_request_FRSA</p>
	D)	<p>Ted Berman & Associates Reports:</p> <ol style="list-style-type: none"> 1. Review of Product Approval & Entity Applications 2. Product Approval Applications with Comments Attachment 3. DBPR Applications
	E)	Public/POC/Staff Comments
	F)	<i>Adjourn</i>

STAFF CONTACTS: Robert Benbow, Government Operations Consultant (850) 717-1837
Robert.benbow@myfloridalicense.com or,
Mo Madani, Manager mo.madani@myfloridalicense.com (850) 717-1825