

Request a hearing on proposed changes to Rule 9B-72.100.

Purpose: Withdraw rule from consideration until substantial revisions are made to insure the safety of the citizens of Florida. Delete the reference to IAPMO until the rule has been revised to satisfy concerns with the process and validity of the reports being issued. Product Approval Agencies evaluate products that must perform under the most adverse conditions possible in Florida.

It is unfortunate the Commission doesn't have a process allowing for a full debate on a issue, especially one as important as recognizing organizations for approving products in the State where life safety and building safety are in question. During the public hearing the commission was given erroneous information, by the proponents, and staff. It was made clear by the moderator that debate was not possible. Individuals who could have corrected the misinformation were not permitted to do so.

Length of business: See attachment. The press release is dated September 24, 2007. The third paragraph states the IAPMO-ES is an alternative source for approvals for two years before hiring the current director. As we testified the IAPMO-ES has been in business for about four years not the 80 years stated by proponents. In those four years they have issued 25 reports, one of which is a listing of approvals for one company. There are 17 companies using the ES. Most are regionals doing business in California. They have developed three evaluation criteria with another under development. Compare that with the organizations currently listed in the rule. Certainly not the track record one should expect for a national agency requesting approval to be recognized as one allowed to evaluate products that must perform under the most adverse conditions possible in our state.

Impact on approvals: The Commission only took action after testimony by staff that inaction would create an untenable situation. It was apparent from the lack of a motion to approve the revision and move it forward that the Commission recognized the proposed rule was flawed. It is still flawed. Fatally so. As stated, the one organization to be added to the list does not have the track record. They have 24 reports of which four could possibly be used in Florida. Delaying the rule to insure the safety of the citizens of Florida will not jeopardize the acceptance of a product with adequate review from an agency with a proven track record. Lets get it right.

ISO Guide 65: The commission recognized the rule will allow any organization with ISO Guide approval to be considered a product approval entity. Think Chinese drywall. Possibly that is reason for no motion, initially. As stated by members of the commission familiar with the different levels of standards promulgated by organizations, a guide is just that. It provides basic information to a potential user. A guide is typically a compendium of information or series of options that does not recommend a specific course of action. A guide increases the awareness of information and approaches in a given subject area. It typically does not contain an explicit set of requirements to be satisfied by a material, product, system, or service. The rule does not provide the additional information necessary to insure the agency can perform in a manner that will insure the safety of the citizens of Florida.

The press release is silent on how the report will insure building and life safety. It does stress, in the fourth paragraph, speed, cost saving, and suggests the ES wants to build close ties to the manufacturer. One could question whether this is in keeping with insuring the product will not compromise building and life safety. The last paragraph confirms their rational for creating the ES.

Also, attached is a report issued by the IAPMO-ES. The issue is not whether this product is one of the seven that needs product approval recognition, but one of adequacy. The owner of the intellectual property on which the report was issued has gone on record stating their property was "used inappropriately" and was "unauthorized". So out of 24 reports, we know of at least one that is not adequate and could jeopardize building and life safety. Does the Commission want to put the State in a position of recognizing an organization that will use the intellectual property of another without authorization and that the unauthorized use results in the product being used inappropriately. We sincerely hope not.

Do not move the rule forward. The safety of the people of Florida is more important than the possible inconvenience of one company.

Sincerely,

Joe Holland

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