

**FLORIDA BUILDING COMMISSION**

**PRODUCT APPROVAL VALIDATION  
WORKGROUP'S RECOMMENDATIONS**

**REPORT TO THE FLORIDA BUILDING COMMISSION**

*OCTOBER 12, 2005*

*Orlando, Florida*

Meeting Design & Facilitation By



Report By Jeff A. Blair  
Florida State University



[jblair@fsu.edu](mailto:jblair@fsu.edu)  
[http:// consensus.fsu.edu](http://consensus.fsu.edu)

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Codes & Standards, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850) 487-1824.

# FLORIDA BUILDING COMMISSION

## PRODUCT APPROVAL VALIDATION WORKGROUP REPORT OCTOBER 12, 2005

### OVERVIEW

Raul L. Rodriguez, AIA, Chair of the Florida Building Commission, made appointments to the Product Approval Validation Work Group and they are listed below. Members are charged with representing their stakeholder group's interests, and working with other interest groups to develop a consensus package of recommendations for submittal to the Florida Building Commission.

Chairman Rodriguez appointed a workgroup, per legislative assignment, to review the issue of third party validation and report back to the Commission. The Chair assigned Jeff Blair to work with DCA staff to conduct the meetings.

Chairman Rodriguez stated that the purpose and charge for the Product Approval Validation Workgroup is to review the role of the third party validators in the product approval process, and to make recommendations back to the Commission regarding to what extent the validators should review the technical documentation substantiating compliance with the Florida Building Code. The Chair instructed, that the review the Workgroup is charged to conduct is not related to the Commission's contracted administrator's role, and that the administrator's role is and remains under the purview of the Product Approval POC and the Commission.

The Florida Building Commission shall convene a workgroup composed of at least 10 stakeholders in the state system of product approval, which may include a maximum of three members of the commission to ensure diverse input. The workgroup shall study the recommendation that the state be served by a single validation entity for state approval, which study shall include, but not be limited to, the recommendation's feasibility, qualifications of the single entity and its staff, costs charged for validation, time standards for validation, means to challenge the validator's determination, and duration of the contract with the validator. The workgroup shall conduct its proceedings in an open forum subject to comment from the public at each meeting.

### Members and Representation

#### Architects

Larry Schneider

#### Contractors

Ed Carson

#### Evaluators

Jon Hill and Sig Valentine

#### Building Officials

Bill Dumbaugh and Herminio Gonzalez

#### Engineers

Jimmie Buckner

#### Product Manufacturers

Craig Parrino and  
Randy Shackleford

#### Insurance

Do Kim

## **REPORT OF THE OCTOBER 12, 2005 MEETING**

### **Opening and Meeting Attendance**

Jeff Blair, Commission Facilitator, opened the meeting at approximately 8:00 AM, and the following Workgroup members were present (all 10 members were present): Jimmy Buckner, Ed Carson, Bill Dumbaugh, Herminio Gonzalez, Jon Hill, Do Kim, Craig Parrino, Larry Schneider, Randy Shakleford, and Sig Valentine.

### **DCA Staff Present**

Rick Dixon, Dennis Harquail, Mo Mandani, and Betty Stevens.

### **Meeting Facilitation**

The meeting was facilitated by Jeff Blair from the Florida Conflict Resolution Consortium at Florida State University. Information at: <http://consensus.fsu.edu/>

### **Project Webpage**

Information on the project, including agenda packets, meeting reports, and related documents may be found at the project webpage: <http://consensus.fsu.edu/FBC/pavwg.html>

### **Agenda Review**

Jeff Blair reviewed the agenda with members and the public. The agenda included the following objectives:

- To Approve Regular Procedural Topics (Agenda and Report)
- To Propose Additional Options for Evaluation
- To Identify Any Additional Related Issues
- To Evaluate, Rank, and Refine Proposed Options
- To Consider Public Comment
- To Adopt Package of Recommendations for Submittal to the Commission
- To Identify Needed Next Steps and Agenda Items For Next Meeting

### **Work Group's Decision-Making Procedures and Meeting Guidelines**

Jeff Blair reviewed the procedural guidelines and decision-making procedures that was used during the course of the process, including the 75% favorable vote threshold requirement for consensus recommendations to the Commission.

### **Recommendation Summary**

Jeff Blair reviewed the results of the options ranking exercise conducted at the August meeting, and members were asked to conduct a second ranking of the options that enjoyed support from the previous meeting. Members and the public were then asked to express their comments and reservations, and members were asked to do an additional ranking based on comments and/or revisions to the options.

The members voted unanimously, 10 – 0 in favor, to support the following recommendation to the Florida Building Commission:

**Validation Entity.** The Product Approval Validation Workgroup recommends that the Commission seek statutory authority to eliminate the third party validation entity in the validation process, and to contract with a single qualified entity (system validator) to conduct this function.

Clear criteria will be developed to ensure that the validator has the technical, staffing, and resource requirements necessary to perform the function in the required time frame, and will address specific criteria regarding the validators use of subcontracted labor.

The Commission will standardize compliance options for different product categories, and develop acceptance criteria for each of the four compliance options. The Commission will work with stakeholders to develop consensus criteria specific to the four compliance options, once statutory authority is granted to the Commission.

The validation process will involve a technical and administrative review specific to the compliance options.

Validations shall be performed in accordance with guidelines developed and approved by the Product Approval POC.

### **Additional Criteria Established**

#### **Qualifications**

Florida Professional Engineers or Florida Registered Architects with demonstrated structural competence.

- Must demonstrate technical competency, familiarity with subject area, and knowledge of the Florida Building Code and related standards.
- Must demonstrate applicable work experience in field.
- Must have sufficient staff to support the work load.
- Must have offices in Florida.

#### **Costs/Fees**

A fee schedule will be developed specific to the compliance method, based on the level of review required for each of the compliance methods.

**Time to Validate**

Time allowed for validation will be based on a time schedule specific to the compliance method, based on the time required and level of review involved relative to each method.

**Appeal/Challenge**

The Commission shall establish procedures for appeals (consistent with Chapter 120 procedures).

**Duration of Contract**

The contract shall be issued for a three year period.

**Selection of the Validator**

The single validator shall be selected through an RFP process approved by the Product Approval POC. The POC will review the RFP's and make the recommendation to the Commission regarding who the validator should be.

**Scope of Validation**

Validations shall be performed in accordance with guidelines developed and approved by the Product Approval POC.

**Criteria for Validation Specific to Compliance Method**

The current validation checklist will be used, with clarification that a technical review is a part of the validation process. The Commission will work with stakeholders to develop consensus criteria specific to the four compliance options, once statutory authority is granted to the Commission.

## Options Ranking and Discussion Results

During the meeting, members were asked to develop and rank options, and following discussions and refinements, to propose specific refinements to address their reservations. The following scale was utilized for the ranking exercises:

<b>Acceptability Ranking Scale</b>	<i>4 = acceptable, I agree</i>	<i>3 = acceptable, I agree with minor reservations</i>	<i>2 = not acceptable, I don't agree unless major reservations addressed</i>	<i>1 = not acceptable</i>
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Following are the options evaluated, the acceptability ranking of the options, member's reservations regarding the options, and public comment:

### *Product Approval Workgroup recommendation for System Validator.*

**Validation Entity.** Seek statutory authority to eliminate the third party validation entity in the validation process, and contract with the single qualified entity (system validator) to perform this function. The Commission will develop a set of criteria for reviewing each of the four compliance options.

Clear criteria will be developed to ensure that the validator has the technical, staffing, and resource requirements necessary to perform the function in the required time frame, and will address specific criteria regarding the validators use of subcontracted labor.

	<i>4=acceptable</i>	<i>3= minor reservations</i>	<i>2=major reservations</i>	<i>1= not acceptable</i>
<i>Initial Ranking 8/22/05</i>	<b>4</b>	<b>2</b>	<b>0</b>	<b>0</b>
<i>10/12/05 Revisions</i>	<b>5</b>	<b>5</b>	<b>0</b>	<b>0</b>
<i>Second ranking</i>	<b>8</b>	<b>1</b>	<b>1</b>	<b>0</b>

### **Comments/Reservations (10/12/05):**

- Function of administrator, demonstrate competency and staffing, how are the alternative functions treated? How review certification approvals? Treat all four compliance processes on equal terms.
- Make sure we have a system that whomever the validator is that they have, who subcontract work to? Write contract to define job.
- Need criteria to be established for each product type.
- Define criteria for each product type.
- Manufacturers should have a choice of validator, does the job for the manufacturer, not a staff function. Validators do not know what their job is. Different level of validation needed for each compliance method.

**Public Comment:**

- Different set of criteria for the compliance methods, not equal. Doing technical review for evaluation report, check test results before issue report. For architect/engineer reports and calculations must check test results and calculations.
- Clearly define the options for the product categories.

***Validation is a Technical Review.***

Once validation and the validation process is defined, require validation to be a technical review in addition to the administrative aspects of the process.

*Note: This is not a stand alone option, and it should be added to the final validation option.*

	<i>4=acceptable</i>	<i>3= minor reservations</i>	<i>2=major reservations</i>	<i>1= not acceptable</i>
<i>Initial Ranking</i> <i>8/22/05</i>	<b>5</b>	<b>1</b>	<b>0</b>	<b>0</b>
<i>10/12/05</i> <i>Revisions</i>	<b>9</b>	<b>1</b>	<b>0</b>	<b>0</b>

**Minor reservation (10/12/05):**

- If your product meets code, what else do we need to do? Too broad a requirement.

**Members Comments (10/12/05):**

- Technical review is very broad. There will be different levels for different compliance methods. When the criteria is developed, that will flesh this out.
- Assume the validator and his technical staff need to be technically inclined to perform validation.
- Technical validation is an independent check.

**Comments/Reservations (10/12/05):**

- Informational purposes only.

***Products listed by approved certification agencies as complying with standards established by the Code shall be approved by the Commission absent compliance with this section.***

The Workgroup voted 9 – 1 in favor to delete this option from consideration.

	<i>4=acceptable</i>	<i>3= minor reservations</i>	<i>2=major reservations</i>	<i>1= not acceptable</i>
<i>Initial Ranking 10/12/05</i>	<b>1</b>	<b>0</b>	<b>6</b>	<b>3</b>

**Member’s Reservations (10/12/05):**

- We’re moving forward.
- To implement this option, everyone would use their own validator and not accomplish anything.
- Would lose control of validation.

***Standardize compliance options for the different product categories. Develop acceptance criteria for each compliance option.***

	<i>4=acceptable</i>	<i>3= minor reservations</i>	<i>2=major reservations</i>	<i>1= not acceptable</i>
<i>Initial Ranking 10/12/05</i>	<b>9</b>	<b>1</b>	<b>0</b>	<b>0</b>

**Member’s Reservations (10/12/05):**

- Taking options from manufacturer, two different options presented, standardized options takes options from the manufacturer, need to develop acceptance criteria, does the test reflect water intrusion as well as pressure?
- Rubber stamp for approval is different from an engineer performing calculations. No one is looking at whether the certification agency meets code.

**Public Comment:**

- There needs to be a level playing field for each product. For each process need specific criteria or limit process for each product type.
- No follow up to action by Certification agency.
- Which compliance option for the different types of products.
- As a member of a certification agency, we are following the rules. We are looked at as the technical validator.

## **DISCUSSION ON CRITERIA FOR THE FOUR COMPLIANCE METHODS**

### **CERTIFICATION**

#### **Member's Comments:**

- Products that are manufactured and labeled should reflect the items performance of the product.
- Must meet the Florida Building Code requirements,
- Window certification. When a product is reviewed, it is evaluated for a long list of criteria, primarily that it meets the standard to which it was tested. Do not need additional criteria if it meets the standard.
- Are the certification agencies not working?
- Lot of products are certified to a standard. Report provides information regarding the report but does not provide other information needed.
- Certification should be third party.
- If there are criteria in addition to standard? Need to meet building code. Does the code say product must meet criteria?
- Certification agencies meet policy of agency, requirements of standard.
- Building code specifies glass not AAMA.
- Applicant completes application, claims certification listing, no check that standard comes under the current building code. Applicant does not check whether listing complies with the code.
- Ensure that the product complies to the correct standard in the code.
- Cannot determine from the listing whether complies with the code.
- Manufacturer needs to notify certification agency when product expires. System allows products to remain when they expire.
- When posted on the web site, the limits of use, UL certifies to class 90 (equivalent static test pressure with no equivalent). Some of the certifications with no safety factor. No limits of use that dovetail with the system. Raw data that is not pertinent. Who checks the limits of use from the test standard? Need to ensure that the test standards are checked.
- Shall be approved without validation? Need to validate certification method.
- Product may be certified to meet standard, may not meet limits of use for installation.

#### **Public Comment:**

- Process in plan review, not validation process, plan reviewer makes sure that the product meets building. Certification performs testing and follow up service. Validation should be confirmation that certification is in place and is valid. Certification agency says that product meets standard.
- Does the architect verify product when submitting the plans?
- Make sure the certification agencies are approved and reviewed by third party and labs are third party review. Information can be entered by certification agency or

manufacturer. Certification agency follows standard, follow up inspections, etc. Manufacturers may not follow rules. Agencies may not be watching their e-mail.

- Require that installation instructions be uploaded.
- Certification agencies should be independently verified.

## **ARCHITECT/ENGINEER EVALUATION REPORT**

### **Member's Comments:**

- Criteria need to be developed so they are using the same correct standards when they do their evaluations.
- Do they need to be Florida registered?
- Single validator would solve lot of problems, single gate keeper would bring quality into process.
- By performing technical review brings technical quality into the process.

### **Public Comment:**

- Validator must do peer review of technical report from the architect or engineer.
- Verification of licensure.
- Validator should be familiar with the standards referenced in the codes.

## **EVALUATION REPORT FROM EVALUATION ENTITY**

### **Member's Comments:**

- Requires less technical review. They check themselves. Reports specific on what was tested. Easier validation.
- Check with validation entity. Not familiar with building codes. Need to be qualified in the area they are reporting.
- Don't say they meet the Florida Building Code. If test standards are the same, the report does not need to say that it meets the code.

### **Public Comment:**

- Validator needs to be sure that the evaluation report is active and within expiration date, referenced in report, conditions of use match limits of use on the evaluation report.
- Assume that the evaluation complies with the building code.
- Traceability from the building official, how they get the information on the product, comes from credible source and is communicated in the field.

## **TEST REPORT**

### **Member's Comments:**

- Tests are run to standards entered by manufacturer, problems with limits of use. Test lab can state tested to Florida code. Safety factors in limits of use and code compliance statement need to be addressed.
- Should be clear statement that the product tested is in full compliance with standards referenced in test report.

### **Public Comment:**

- Additional technical review to ensure compliance with the building code in addition to passing the test.
- Make sure the report is written specific to the building code, or meets all the requirements of the compliance standard. Use the database to weed out, include only standards complying with the code, make information more useable to the building official.

### **Member's General Comments on Compliance Method Criteria:**

- Certification agencies validate test reports and certify compliance to the standard.
- Not the role of work group to develop criteria for validator.
- This committee can develop the criteria, use check lists.
- Are we charged with developing the criteria?
- Lot of the issues are valid. In RFP list criteria and specifications.
- Support public concerns. Great concerns if we have a single validator.
- Go to the Legislature for authority to change to single validator, draft RFP, get consensus on single bidder.
- We could get more competitive responses to RFP if we have criteria. We should establish sub work groups to develop criteria.
- We have a great start, acceptance criteria, industries may submit ideas. Each industry group submit ideas to the group at the next meeting.

### **General Public Comment on Compliance Method Criteria:**

- What will this do to the cost of doing product approval and the time frame, add more time to review and engineers for technical review?
- Would this require a change in the rule to have validator for certification agency? Is certification agency involved in review?
- Many certification agencies have stated they will not participate in the process.
- Certification agencies validating their own work is a problem.

- Different costs associated with compliance, should not be a flat fee. Do a RFP for validation process.
- Do not support single validation entity, costs, time frame, no criteria for entity who validates.
- Certain products that use certification agencies, have to get information from the reports to assess compliance with the code. Need uniformity in reporting information.
- Certification method and test report most conflicting in the process, need to evaluate for the eight categories of products.
- If eliminate certification bodies, will not support single validator.
- We have concerns with lack of information on single validator.
- The charge of this group is to develop qualifications of validation criteria.
- If the decision has been made that there will be a single validator, you will meet with a lot of resistance from manufacturers. Decide on qualifications of validator.
- Structural engineers, registered architect.

### **PROS and CONS Relative to the Single Validator Concept**

#### **Pros:**

- Better accountability with single validator.
- There is a more level playing field and more uniform interpretation of the code with single validator.
- More consistent and better quality validation.
- Single validator enhances credibility of the product approval system.
- Can set criteria for validators, validators approved by the Commission.

#### **Cons:**

- How many validators currently perform the function, need to know.
- Original philosophy was to give manufacturers many choices, single validator may impose restrictions on this concept.
- What is the average cost and turn around time manufacturers experience? Need to ensure single validator would not negatively impact.

Develop specific criteria for the four specific compliance methods. Vote: 1 to 6 in favor (no support).

Use the current validation checklist criteria with clarification that technical review is part of validation, and the Commission will further define this specific to the four compliance methods: 7 to 1 in favor of this recommendations.

Need to get recommendations from industry and meet again to discuss.  
Review A&A performance criteria for reviewing applications.