USNC Conformity Assessment Policy Coordination Committee

DRAFT MINUTES

WebEx Teleconference
Tuesday, 19 January 2021
10:00 AM – 2:30 PM (EDT)
(Meeting #34)

Members Participating
Joan Sterling – Chair Intertek
Timothy Duffy – Vice-Chair Rockwell Automation
Amy Phelps NIST
Bob Sherwin EAPC Wind Energy
Dan Brake NextEra Energy
Ed Mikoski ECIA
Elisabeth George Phillips
Evans Massey ABB
George Kelly Sunset Technology
Jianchao Zeng FDA
Joel Solis NEMA
Jonathan Colby Verdant Power
Kevin Wolf Intertek
Lane Hallenbeck ANSI
Matthew Williams AHAM
Paul Green Intel
Paul Moliski Intertek
Richard McDermott ECC Corp
Scott Kiddle ABB Power
Steven Margis UL
William Lawrence FM Approvals
Wynn Bowman Star Associates International

Members Not Participating
Don Baker Component Trends
Ed Donahue Mutual Cornell Environmental
Gabriel Alsenas Florida Atlantic University
Paul Kelly UL

Guests Participating
Amy Marasco Microsoft
Bruce McGill Intertek
Byron Horak Intertek
David Osborn Philips
Section 1 – Welcome, Opening Remarks and Introductions

1.1 Welcome, Opening Remarks, Introductions
Ms. Joan Sterling, CAPCC Chair, called the meeting to order at 10:11 AM (EDT). She thanked all those in attendance and USNC staff for hosting the virtual meeting. Introductions were skipped given the condensed meeting timeframe and since the group had the ability to view the attendee list independently via the WebEx platform tools.

1.2 Approval of Draft Agenda
Ms. Sterling called for any comments on the Draft Agenda. CAPCC members did not have any comments on the Draft Agenda and approved it unanimously.

VOTE #1 To Approve the Agenda (USNC/CAPCC 285B)
(This motion was approved unanimously)

1.2.1 Approval of Consent Agenda

(a) Approval of the Meeting Minutes –
Ms. Sterling called to approve the meeting minutes from the 6 October 2020 meeting held virtually via WebEx Events.

VOTE #2 To Approve the Minutes from the October 2020 CAPCC Meeting (USNC/CAPCC 284)
(This motion approved unanimously)

Section 2 – Outstanding Action Items

Ms. Megan Pahl reviewed USNC CAPCC Resolutions from the May 2020 meeting:

#2020 – 10 – 1 – USNC staff to circulate the following rosters: corrected, current IPAG and NPAG rosters, and newly formed joint IAPG-NPAG task force on conformity assessment roster.
Status: Completed.
Section 3 – Conformity Assessment in ANSI

3.1 Conformity Assessment in ANSI

Mr. Joe Tretler provided an update on the IPAG/NPAG joint task force on conformity assessment. The second IPAG/NPAG joint task force meeting is scheduled for Monday, January 25. The meeting will feature follow up discussions on items introduced during the last meeting. The agenda will also include an item on new and emerging issues, a general update from the US Trade Representative (USTR), an ILAC discussion, an update on ANAB’s activities related to ILAC, review of the draft regulation related to Mexico’s NQI law, and a discussion on the impact of Brexit.

The IPAG/NPAG joint task force has proposed activity related to China. The State Administration of Market Regulation (SAMR) has two organizations that the group interfaces with. One of the organizations, the Certification and Accreditation Administrator of the P.R.C. (CNCA), has expressed interest in hosting a virtual event. The joint task force will hold an industry roundtable on conformance issues in China later this quarter.

The next IPAG/NPAG joint task force meeting will likely be later in the first quarter or early in the second quarter of 2021; it will take place before the NPAG and IPAG meetings in May and June.

Ms. Sterling noted that many CAPCC members have been following the Mexico NQI law issue. She asked Mr. Tretler if ANSI plans to review the NQI law and if they will be providing additional comments. Further, she asked if the joint task force will have the opportunity to review ANSI’s comments on the Mexico NQI law. Mr. Tretler responded that if it is appropriate for ANSI to comment on the NQI law as an organization, they will certainly look to the IPAG/NPAG joint task force as a sounding board for comments. Ms. Sterling requested additional information about the China roundtable discussion, specifically inquiring about the structure, participants, and anticipated timeline. Mr. Tretler shared that the roundtable is just emerging, and that it would likely be scheduled for late February or early March at the earliest.

Mr. Tim Duffy commented that this agenda item and update was an attempt to foster a closer working relationship with ANSI and CAPCC. Mr. Duffy noted that China and Mexico are good examples of areas where CAPCC members would like to have more of a working relationship between CAPCC and ANSI. Mr. Tretler agreed that ANSI should reach out to CAPCC on these issues, and intends to do that going forward.
3.2  **ANSI International Conformity Assessment Committee (ICAC)**

Mr. Duffy provided a report on the ANSI ICAC, highlighting items that occurred since the last CPACC meeting in October 2020.

- **ICAC 20-058** – There were concerns with the management systems. ICAC 20-058 closed on October 26; ANSI approved with comments.
- **ICAC 20-060** – This ICAC NWIP proposal was approved with comment.
- **ICAC 20-068** – ANSI abstained from vote.
- **ICAC 20-069** – ANSI approved with comments.
- **ICAC 20-078** – This document is out for comment. Due on March 18, 2021.
- **LB #31-2020** – This ISO/IEC document is related to 17030 Conformity Assessment general requirements for third party marks of conformity. Comments are due on 18 March 2021.

Ms. Sterling outlined the process for CAB/CABPUB document distribution, calls for comments, and vote/comment submissions. CAPCC members discussed who could give the ANSI ICAC updates to the CAPCC going forward. Ms. Sterling asked about Mr. Joel Solis or Mr. Paul Moliski; Mr. Duffy suggested ANSI staff, Ms. Kristen Califra, as an option. Paul Moliski, Joel Solis, Joan Sterling, and Tim Duffy will meet to discuss ICAC reporting at CAPCC meetings going forward (ACTION ITEM #1).

**Section 4 – Status Report on US Government Activities Related to Conformity Assessment**

4.1  **International Trade Agreements**

Mr. Bruce McGill, Intertek, updated the CAPCC on the UK regulatory framework and its impacts on the work of the CAPCC (ATTACHMENT B). The UK left the EU Single Market and Customs Union on 31 December 2020. The UK Government and the EC agreed on a Trade and Cooperation Agreement (TCA) primarily enabling tariff free passage of goods. With Brexit, the creation of two major economic markets emerged, each market with its own regulatory framework. The addition of these two economic markets impact manufacturers and importers through additional mandatory conformity assessment requirements, product marking, and market access needs.

Related Conformity marking includes the following:
- UKCA: United Kingdom Conformity Assessment
- UKNI: United Kingdom Northern Ireland
- CE: European Union

The TCA is not a mutual or acceptance agreement, therefore, UKCA or UKNI marking is not accepted by EU authorities and vice versa, CE marking is not accepted by Great Britain market after 1 January 2022. Thus, conformity assessment protocols and product marking requirements for each regulatory conformity system will have to be met separately.

CE marking is accepted until 1 January 2022 if issued by EU 27 Notified Body. UKCA or UKNI markings are not recognized on the EU market.
Intertek resources that may be particularly helpful are the Brexit webpage and the UKCA webpage.

Ms. Sterling and Mr. Duffy thanked Mr. McGill for his comprehensive report.

4.2 NIST Update

Ms. Amy Phelps offered to answer any questions relating to NIST, as there has been no new activities to report on since the last CAPCC meeting.

Mr. Duffy noted that a recent announcement came out from the Department of State announcing the approval of a new office, the Bureau of Cyberspace Security and Emerging Technologies (CSET). While this is not in the NIST area, Mr. Duffy questioned if NIST was aware of that announcement and if NIST plans to work closely with the new bureau. Ms. Phelps said she did see the announcement and is currently working to find out more information about it. Once she has more information on the topic, she will circulate it to CAPCC members (ATTACHMENT C).

4.3 FDA Update

Ms. Phelps reported on the FDA Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program (ATTACHMENT D). Recent FDA activity was reviewed. In fall 2020, a webinar on guidance documents was offered to all stakeholders. A training for accreditation bodies took place in October 2020. A question and answer session for test laboratories was held in both November 2020 and January 2021. The list of ASCA recognized accreditation bodies was published in November 2020.

Ms. Phelps shared testing laboratories application tips. The ASCA Accreditation has two steps: 1) obtaining accreditation from ASCA-recognized accreditation body to ISO/IEC 17025 and additional ASCA Pilot program specifications; and 2) after ASCA-recognized AB accreditation, apply for ASCA Accreditation via email to ASCA@fda.hhs.gov including related documentation.

FDA is considering changing the date of the initial 9 February 2021 application date. After the initial list, applications will be reviewed and the list will be updated on a rolling basis as additional labs receive ASCA Accreditation.

Section 5 – IEC CA Systems Classification of Assessors

Mr. Joel Solis provided an overview of a USNC/IECEx issue regarding unaffiliated ExCB representatives and whether they may serve as IECEx Assessors or not. Mr. Solis reviewed his report circulated to CAPCC members, USNC/CAPCC 292. Mr. Solis is asking for USNC to request CAB to issue a decision on individuals who do not represent a conformity assessment body, if they can be appointed as unaffiliated assessors.

Mr. Duffy noted that Mr. Solis’ recommended change would not resolve all assessor issues; he believes that the recommendation is outside of the concern of a conflict of interest, which is a fundamental issue. Mr. Duffy suggested this issue may be best handled at the IECEx Assessment Group and IECEx Management Committee. Mr. Duffy also suggested that part of what Mr. Solis should address at the IECEx, is that an individual with potential conflict of interest should be removed entirely from the
conformity assessor pool.

A CAPCC member commented that certification bodies should be required to provide an assessor. The member believes there are enough assessors in the pool at this point to not require non-peer assessors.

There have been a few failed attempts to deal with this issue already at the IECEx level. It has come to a stalemate on going back and forth with Chris Agius (IECEx Secretary) on the IECEx level. We need a new venue to discuss this more broadly, which is why the USNC/IECEx requested to discuss this at the CAB level.

This is a specific IECEx issue. This issue will have to be addressed formally in the IECEx system first. Mr. Solis will submit this proposal for the next IECEx management meeting agenda. The next USNC/IECEx meeting is April 2021; the wider IECEx meeting is typically in the fall (September/October timeframe).

Section 6 – ISO CASCO

ISO CASCO Chair, Mr. Reinaldo Figueiredo, provided an update on issues surrounding CASCO (ATTACHMENT E). After the next ISO CASCO plenary meeting, Christina Draghici will take over for Sean MCCurtin. Mr. Figueiredo reviewed the ongoing work in WG 55, WG 56, WG 57, JWG 36 CASCO and TC 34, and JWG CASCO and TC 232. WG 55 will submit a request for CASCO members to vote on expanded scope, rather than solely third parties. WG 56 has a document currently out for comment. WG 57 has proposed a title change that is likely to be approved.

CASCO 2021 Plenary week include the following schedule of events:
- CASCO TIC meeting on January 25
- CASCO STAR meeting on January 26
- CASCO CPC meeting on January 27
- CASCO 35th Plenary meeting on January 28 and 29

Mr. Figueiredo created a task force with six members that met in December 2020 to review the CASCO structure. The task force has concerns with CPC as it is very difficult to get a consensus with this group. This issue will be reviewed at the next CPC meeting as well as at the CASCO plenary meeting.

ANSI submitted a complaint to ISO about the ILAC E15. ISO has a MoU with ILAC/IAF, and ANSI doesn’t agree with what is in that document. The ISO Secretary General passed this to CPC; this complaint will be reviewed at the next CPC meeting.

Ms. Sterling thanked Mr. Figueiredo for his work at CASCO.

Section 7 – Reports on the Conformity Assessment Systems

7.1 USNC CA Mirror Committees Survey/MOA Renewal

Mr. Tony Zertuche provided an update on the USNC CA Mirror Committees MOA renewal. The USNC Conformity Assessment Mirror Committee MOAs are due for renewal this year. The most recent MOAs will need to be reviewed and possibly revised to ensure that all obligations and responsibilities are being followed.
A survey or another type of review mechanism will be put into place to ensure that all involved parties are performing as described in the MOA. MOAs are between ANSI and Secretariat Organizations. USNC staff will design a review document based on the updated CA-01 and MOA documents (ACTION ITEM #3).

There is not a set timeline for the review at this time. However, the process will look similar to last time; the MOAs will be sent to ANSI Legal and secretariats of the four systems. Both sides will review the language to make sure they are still happy with the agreements.

7.2 IECRE and USNC/IECRE

Mr. Bob Sherwin reported on the activities of the IECRE and the USNC/IECRE. USNC/IECRE had their last meeting in November 2020. System members discussed positions for the upcoming management meeting. Additionally, members looked at specific issues around peer assessment and had the election of national officers; Dan Brake and Bob Sherwin will remain as USNC/IECRE leadership.

USNC/IECRE plans to hold a Sector Work Group meeting in late summer. The Conformity Assessment System Chair and IEC Central office will decide in June when this meeting will take place and if it will be held in person or virtually.

The USNC/IECRE has increased their membership by two individuals. The US has a strong presence internationally in IECRE with individuals in leadership roles and member participation. There are no specific issues to be addressed by CAPCC at this time.

7.3 IECEE and USNC/IECEE

Mr. Duffy reported on the activities of the IECEE and the USNC/IECEE. The last USNC/IECEE meeting was on January 8, 2021. There has been no change to the scope or officer roster. The USNC/IECEE lost two members in 2020.

Mr. Duffy mentioned a potential need for revision to CA-01 with need for greater clarity on withdrawal of Conformity Assessment Bodies (CABs) regarding financial obligations and voting rights.

Mr. Duffy reviewed the guidelines for Honorary Life Member (HLM) nominations. He offered Mr. Kerry McManama as an HLM nominee and provided an overview on Mr. McManama’s extensive professional history with USNC/IEC. Ms. Sterling proposed to recommend Mr. McManama as an HLM candidate to USNC Council. It was moved, seconded and

VOTE #3 To Approve Kerry McManama’s nomination for USNC Honorary Life Member

(This motion was approved unanimously)

Mr. Duffy also noted that Mr. Richard Pescatore is a current USNC Honorary Life Member and that his role as an HLM should be clarified. USNC General Secretary will reach out to Mr. Pescatore to clarify and let him know that his current honorary life
membership covers USNC conformity assessment activities as well (ACTION ITEM #4).

7.4 IECEx and USNC/IECEx

Mr. Scott Kiddle reported on the activities of the IECEx and the USNC/IECEx. The scope of the USNC/IECEx has not changed since the last CAPCC meeting. Additionally, the USNC/IECEx voting membership has not changed. The USNC/IECEx participated in the IECEx annual meeting in fall 2020.

Mr. Kiddle highlighted the USNC/IECEx’s response to BSEE Safety Alert No. 395; they formed a TG to address USCG standards, and they prepared a proposal to IECEx Advisory Group to address the use of contract assessors for peer evaluations.

7.5 IECQ and USNC/IECQ

Mr. Richard McDermott reported on the activities of the IECQ and the USNC/IECQ. The scope of the USNC/IECQ has not changed since the last CAPCC meeting.

Mr. McDermott reviewed obligations to ANSI and the IEC Secretariat. USNC/IECQ is current on all payments. The system requests that their 2021 ANSI annual dues be submitted in two payments; 50% by June 30 and the remainder on December 15. USNC/IECQ does not anticipate money coming in until April 2021.

Section 8 – USNC CAPCC Subcommittee on the USNC Conformity Assessment Mirror Committee Operating Procedures

Mr. Steve Margis reported on the activities of the CAPCC Subcommittee as well as the approval USNC Conformity Assessment Mirror Committee Operating Procedures and Supplements. All the input provided by the Subcommittee to the Rules and Procedures Committee has been incorporated into the Rules and Procedures for Council’s review. CAPCC members approved the new CA-01 in February 2020. This edition is on the website, but a newer edition will be posted soon. The late 2020 update included the approved rules of Honorary Life Membership Section 10. Publication of CA-01 has a subsequent impact on the Mirror Committee Supplements. Each Supplement will need to include the Honorary Life Membership section 10. The Supplement edit will include text noting that Section 10 is effective; just this editorial change is needed for the Supplements. CAPCC members agreed to move forward with Steve’s suggestion. USNC staff and Steve Margis will make the supplemental update to system supplements to note that Section 10 applies in that supplement. Once revised, USNC staff to upload the new editions of CA-01, USNC CA system supplements for IECRE, IECCE, and IECEx to the USNC website (ACTION ITEM #2).

Section 9 – Status Report on the USNC CAPCC Regulatory Labeling Working Group

Mr. McDermott provided a report on the USNC CAPCC Regulatory Labeling Working Group. Mr. Solis, Mr. Paul Green, and Mr. McDermott are active in ISO/IEC JTC 1/SC 31/WG 8. The next WG 8 meeting will take place on June 20, 2021. Before that meeting, Mr. McDermott will host a USNC task force meeting to prepare. USNC staff will circulate a Doodle poll to the task force.

Mr. Duffy noted a concern with 22603-3, specifically around a potential overlap in work with TC 65 and
JTC 1/SC 31. Mr. Duffy suggested the SMB be approached to ask that this work is transferred to a more appropriate committee. Ms. Sonya Bird commented that there has already been a preliminary discussion about the potential overlap between the two groups; Ms. Bird stated that scope overlap concern or overreaching would be a discussion by the SMB and that this concern should be raised by JTC 1. A CAPCC member commented that Germany has already raised this issue to SC 31. Mr. Lawrence offered to keep USNC up-to-date on what is happening with SC 31.

Mr. Green spoke to the task force’s focus on 22603-1 and 22603-2, noting it would be a future topic for the e-labeling task force.

Section 10 – IEC Conformity Assessment Board

10.1 Review of CAB Decision List from Meeting on 09-10 November 2020

Ms. Sterling highlighted the following decisions:

- CAB Decision 48/05 – Recommendation to SMB regarding ISO/IEC FDIS 27034-4.
  The CAB, noting document CAB/2034B/DC, agreed that the document ISO/IEC FDIS 27034-4 was in conflict with requirements in both the guidance document Guidance_for_CA_when_writing_standards.pdf and the ISO/IEC Directives Part 2 Clause 33, and was therefore considered to be unacceptable. CAB therefore made a recommendation to the SMB to stop the development of this standard.

- CAB Decision 48/09 – Peer assessment.
  This was discussed earlier in the meeting during the IECRE report. The CAB confirms the statement in the IEC CA Policy document, IEC CAB P01, that peer assessment, as defined by ISO/IEC 17040, is considered a fundamental pillar of the IEC CA Systems/Schemes and shall be included into all IEC CA Systems/Schemes rules, and that National accreditation (as referenced in clause 1.3 of IEC CAB P02) of CA bodies may be used as a factor in streamlining CA System assessment but shall not be mandatory.

- CAB Decision 48/10 – IECRE Peer assessment/national accreditation
  In nothing that the IECRE System had been granted an exemption, in its early stages, for using national accreditation and in noting the maturing status of the IECRE System, CAB requests IECRE to review its governance documents and modify as necessary to remove the mandatory requirement to hold national accreditation.

  The CAB, noting document CAB/2018/R and previous CAB Decisions 47/31 & 45/46 on this issue, requested that the CAB IAF TF request the IAF to communicate within their community the fact that the IEC CA Systems’ schemes do not need exemption from IAF Resolution 2018-13 because the resolution, simply, does not apply to IEC CA Systems’ schemes. Furthermore, the TF was requested to raise the issue of the lack of a harmonization by IAF Members to the model “accreditation by schemes” (as
implied in ISO/IEC 17065) rather than “accreditation by standards.”

- **CAB Decision 48/18 – Ethically questionable products.**
  CAB agreed that we should be pushing this back to the IEC General Secretary's office from a legal standpoint. CAB advised that reference on this subject could possibly be sought from such organizations as the UN, WTO, WHO, etc., as well as from some certification bodies own in-house guidelines.

The Thomas Edison was awarded to Mark Coppler for his role in TC 31.

10.2 **IEC Governance Review Task Force (IGTF) Discussion**
Ms. Sterling introduced a discussion around the IGTF’s efforts relating to conformity assessment and CAB. The CAB have had ongoing meetings to provide input to the IGTF. Mr. Lippert sits on the IGTF. A main concern from the CAPCC leadership is that, on the conformity assessment side, the IGTF is looking at overall management issues, not just governing issues. A number of other concerns revolve around nomenclature changes, for example “National Committee” name change to “Member”.

Other conformity assessment related concerns include proposed changes in the IEC Statutes and IEC Rules of Procedures that reference conformity assessment systems being governed by a single management committee. Further, a requirement that each conformity assessment system must have a secretary and a chair, and does not include a treasurer. CAB is working on their response to the IGTF on these items. Ms. Sterling believes that little needs to be changed in the Statutes and Rules of Procedures regarding Conformity Assessment.

Ms. Sterling also highlighted major concerns in the financial aspects, as the systems are independent and self-funding.

Mr. Margis commented that CAB has been providing feedback throughout the entire process. He noted that what remains unclear at this point is the current status on track changes and resolution on submitted comments. It is unclear whether any resolutions were made, or if CAB needs to readdress the issues they have previously raised.

Mr. Lippert shared that the IGTF has not gotten into CAB specific issues since the IGTF’s conversation with CAB last year. He continued, stating that no final decision have been agreed upon by the IGTF on any subject yet.

**Section 11 – USNC Interface with Other Regional & International Organizations**

Mr. Zertuche provided an update on the USNC’s regional outreach initiatives.

- **APCF**
  An APCF task force has been created to define the Asia-Pacific region and identify who can join the APCF. This TF will address the concern on whether or not India and other nearby countries would be allowed to attend the APCF.

- **FINCA/COPANT**
Mr. Lippert will remain as the FINCA Chair in 2021. USNC plans to host this meeting in-person (tentatively) in the fall.

- **USNC Country Mentoring**

  USNC will reinvigorate mentorship activities in 2021 with Vietnam and CROSQ. USNC plans to get both groups engaged to participate in meetings, trainings, and workshops. USNC will invite Vietnam and CROSQ virtually observe the USNC Management Meetings in May, and hopefully observe in-person in September.

**Section 12 – Meeting Schedule 2020 and Beyond**

The following future meeting dates were reviewed:

**2021**

- **SMB Meeting**
  23 February 2021
  Remote

- **USNC Management Meetings**
  18 – 20 May 2021
  UL – Fremont, CA

  USNC Officers will make a decision six weeks out from the May USNC Management Meetings on whether they will be held in-person or virtually. If the meetings are held virtually, a group from USNC will travel to San Francisco some time in 2021 for a venue visit.

- **CAB Meeting**
  15 June 2021
  Geneva, Switzerland

- **Council Board Meeting**
  17 June 2021
  Geneva, Switzerland

- **SMB Meeting**
  8 July 2021
  Frankfurt, Germany

- **USNC Management Meetings**
  31 August – 2 September 2021
  FM Approvals – Norwood, MA

- **85th IEC General Meeting**
  3 – 7 October 2021
  Dubai, United Arab Emirates (UAE)

Note that the 2021 IEC General Meeting will be held from Sunday – Thursday.
Section 13 – Review of Action Items

- **ACTION ITEM #1** – Paul Moliski, Joel Solis, Joan Sterling, and Tim Duffy to meet to discuss who will report on ICAC at CAPCC meetings going forward.

- **ACTION ITEM #2** – USNC staff and Steve Margis to update system supplements to note that Section 10 of CA-01 applies in the system supplement. Once revised, USNC staff to upload the new editions of CA-01, USNC CA system supplements for IECRE, IECEE, and IECEx to the USNC website.

- **ACTION ITEM #3** – USNC staff will design a mirror committee review document based on the updated CA-01 and MOA documents.

- **ACTION ITEM #4** – USNC General Secretary to reach out to Richard Pescatore to clarify and let him know that his current honorary life membership covers USNC conformity assessment activities as well.

Section 14 – Adjournment

Ms. Sterling thanked USNC staff for hosting the virtual Management Meetings and thanked attendees for their participation. She adjourned the meeting at 2:40 p.m. (ET).