

FLORIDA BUILDING COMMISSION

PRODUCT APPROVAL POC

JUNE 6, 2019 TELECONFERENCE MEETING SUMMARY REPORT

THURSDAY, JUNE 6, 2019

MEETING SUMMARY AND OVERVIEW

At the Thursday, June 6, 2019 teleconference meeting the POC considered regular procedural issues including product approval and entities statistics reports; a status report on conditional approvals from the April 16, 2019 Commission meeting, indicating that all of the applications are now resolved and approved; review and approval of product and entity applications; a review of DBPR approved product approval applications. Specific actions included: recommending the Commission take action on product and entity applications as recommended by the POC and reflected in DBPR staff's product and entity approval reports; and, recommending that the Commission decline the Petition for DS 2019-021 by Jason Malouf of Window and Door Design Center, since a declaratory statement is not the appropriate means for determining the conduct of another person.

Background and Supporting Documents

Relevant background and supporting documents are linked to each agenda item. The Agenda URL for the June 6, 2019 meeting is as follows:

http://www.floridabuilding.org/fbc/commission/FBC_0619/Product_Approval/Product_Approval_Agenda.htm.

AGENDA ITEM OUTCOMES

A. 1. STATEMENT OF TELECONFERENCE PARTICIPATION PROCESS

Jeff Blair reviewed the teleconference participation process with participants reminding them that it is important for participants 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.

A. 2. OPENING AND MEETING PARTICIPATION

The meeting was opened at 10:00 AM, and roll call determined a quorum of the members were present. The following POC members participated (5 of 6 members):

Jeff Stone (Chair), Nan Dean, David Compton, Robert Hamberger, and Brian Swope.

Members Absent:

David Gilson.

A. 3. DBPR STAFF PARTICIPATING

Tom Campbell, Jim Hammers, *Chris Howell*, Mo Madani, and Justin Vogel.

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. 4. AGENDA REVIEW

The POC voted unanimously, 4 - 0 in favor, to approve the agenda for the June 6, 2019 meeting as posted/presented. Following are the key agenda items approved for consideration:

- To Consider/Discuss Product Approval Program Issues.
- To Consider/Decide on Approval of Products and Product Approval Entities.
- To Consider/Decide on DS 2019-021 by Jason Malouf of Window and Door Design Center.

Amendments:

There were no amendments to the posted Agenda.

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

(See Attachment 1—Agenda)

B. REVIEW AND APPROVAL OF THE APRIL 4, 2019 MINUTES AND FACILITATOR’S SUMMARY REPORT

MOTION—The POC voted unanimously, 5 – 0 in favor, to approve the April 4, 2019 meeting minutes and Facilitator’s Summary Report as posted/presented.

Amendments:

*None were offered.

C. 1. PRODUCT APPROVAL AND ENTITIES STATISTICS REPORT

Mo Madani reviewed the product and entities statistics reports with participants and answered members’ questions. Mo reported that the total number of product approval applications approved to the 2017 Code is 5,424 (6,149 total in the System), the total number of products approved to the 2017 Code is 22,130 (25,318 total in the System), and the total number of entities approved to the 2017 Code is 126 (408 total in the System). The reports are linked to the Product Approval POC’s agenda.

C. 2. REPORT ON CONDITIONAL APPROVALS FROM THE APRIL 16, 2019 FBC MEETING

Jeff Blair noted that all of the relevant conditions were met for each of the conditional approvals reported at the April 16, 2019 Commission meeting, and are now approved.

C.3. CONSIDERATION OF DS 2019-021 BY JASON MALOUF OF WINDOW AND DOOR DESIGN CENTER

Jason Malouf of Window and Door Design Center submitted a petition for a declaratory statement for review by the Product Approval POC. All of the relevant documentation is linked to the June 6, 2019 Product Approval POC agenda found on-line (BCIS). Justin Vogel, provided staff's analysis on the Petition. The petitioner was not available to provide additional input, and subsequently following questions and answers and an opportunity for public comment, the POC took the following action:

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the POC's recommendation on the Petition: to decline the Petition, since a declaratory statement is not the appropriate means for determining the conduct of another person.

Staff Analysis:

Petitioner alleges that they "have recently become aware of practices by certain individuals which do not seem to conform to Rule 61G20-3.009(4) in over 1000+ instances," and in the petition list certain entities and approved products that they find potentially problematic.

Rule 28-105.001, Florida Administrative Code, specifies that "[a] declaratory statement is not the appropriate means for determining the conduct of another person." Furthermore, "a petition for a declaratory statement which seeks approval or disapproval of conduct which has already occurred is properly denied." *See Novick v. Dep't of Health*, 816 So. 2d 1237, 1240 (Fla 5th DCA 2002) (*citing Chiles v. Dep't of State, Div. of Elections*, 711 So 2d 151 (Fla. 1st DCA 1998)).

Since the Petitioner's questions pertain to the past conduct of other individuals, their petition should be declined, since a declaratory statement is not the appropriate mechanism through which to address their concerns.

D. 1. PRODUCT AND ENTITY APPLICATIONS CONSENT AGENDA

Jeff Blair presented the consent agenda for entities by asking if any participants wished to have any entity applications pulled from the consent agenda for individual consideration. There were no entity applications pulled for individual consideration. Jeff Blair 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 approval applications pulled for individual consideration.

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of product approval entities (19) recommended for approval as posted.

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of products (172) recommended for approval to the 2017 Code as presented/posted.

PRODUCT APPROVAL APPLICATIONS PULLED FROM THE CONSENT AGENDA FOR INDIVIDUAL CONSIDERATION

None.

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 (1) product approval application submitted for approval to the 2017 Code with public comment:

- The POC recommends the Commission conditionally approve product FL 29457 based on the conditions requested by the applicant and recommended by DBPR staff (5 – 0 in favor).

The complete report of POC recommendations on product and entity applications is available linked to the Florida Building Commission's June 18, 2019 agenda.

D. 3. DBPR APPLICATIONS

Jeff Blair noted that there were a total of 112 DBPR applications including 5 applications with comments submitted for approval to the 2017 Code. Staff noted that the applications with comments have been resolved to staff's satisfaction (either the application was revised or no change was needed) and no further action was required for approval of the products. The balance of the DBPR applications for the cycle were approved, and no further action was required of the POC. All of the recommendations for the DBPR applications are linked to the June 6, 2019 Product Approval POC agenda posted on the BCIS.

E. 1. PUBLIC COMMENT

Jeff Blair invited members of the public to address the Product Approval POC on any issues under the POC's purview.

Public Comments:

- There were no Public comments.

E. 2. POC MEMBER COMMENT

Jeff Blair invited POC members to offer any general comments to the POC.

- There were no POC comments.

E. 3. STAFF MEMBER COMMENT

Jeff Blair invited DBPR staff members to offer any general comments to the POC.

- There were no staff comments.

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 staff's product and entity approval reports.
- 2.) The POC recommends the Commission decline Petition DS 2019-021 by Jason Malouf of Window and Door Design Center, since a declaratory statement is not the appropriate means for determining the conduct of another person.

NEXT STEPS

The POC will meet August 1, 2019 to provide recommendations to the Commission on Product Approval System relevant issues for the August 13-14, 2019 Commission meeting.

(See Attachment 2—POC Meeting Schedule)

F. ADJOURN

After a second roll call confirmed that the POC retained a quorum, Jeff Blair, Commission Facilitator, thanked POC members, staff and the public for their attendance and participation, and adjourned the meeting at 10:11 AM on Thursday, June 6, 2019 after an unanimous vote, 5-0 in favor, for adjournment.

ATTACHMENT 1
MEETING AGENDA

FLORIDA BUILDING COMMISSION
PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE (POC)

THURSDAY, JUNE 6, 2019—10:00 AM
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
2601 BLAIR STONE ROAD—TALLAHASSEE, FLORIDA 32399

MEETING OBJECTIVES

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

PRODUCT APPROVAL POC MEMBERS

Jeff Stone-Chair, David Compton, Nanette Dean, David Gilson, Robert Hamberger, and Brian Swope.

MEETING AGENDA— THURSDAY, JUNE 6, 2019

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

10:00AM	A)	Call to Order 1. Statement on Teleconference Participation Process 2. Roll call of POC Members 3. Identification of Staff/Attendees 4. Review and Approval of Agenda
	B)	Review & Approve April 4, 2019 Minutes and Facilitator Summary Report
	C)	Product Approval Program Issues: 1) Product Approval & Entities Statistics Report 2) Report on conditional approvals from the April 16, 2019 meetings. (<i>All conditional approval requirements were met.</i>) 3) To Consider and Discuss the following Declaratory Statement: DS 2019-021 by Jason Malouf of Window and Door Design Center
	D)	Department of Business and Professional Regulation Reports: 1. Review of Product Approval & Entity Applications 2. Product Approval Applications with Comments 3. DBPR Applications
	E)	Public/POC/Staff Comments
	F)	<i>Adjourn</i>

ATTACHMENT 2

PRODUCT APPROVAL POC MEETING SCHEDULE

2019 SCHEDULE	LOCATION
February 7, 2019	Tallahassee/DBPR and via Teleconference/Webinar
April 4, 2019	Tallahassee/DBPR and via Teleconference/Webinar
June 6, 2019	Tallahassee/DBPR and via Teleconference/Webinar
August 1, 2019	Tallahassee/DBPR and via Teleconference/Webinar