

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

DOOR AND ACCESS SYSTEMS
MANUFACTURERS ASSOCIATION,

DCA03-DEC-083

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the “Commission”) by petition from Joe Hetzel of DOOR AND ACCESS SYSTEMS MANUFACTURERS ASSOCIATION, (the “Petitioner”), which was received on March 4, 2003, and subsequently amended on March 24, 2003. Based upon the statements in the Petition, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to section 120.565, Florida Statutes, and it conforms with the requirements of Rule 28-105.002, *Florida Administrative Code*.
2. The Petitioner is an association of manufacturers engaged in the production and installation of garage doors and related components.
3. The Petitioner requests a declaratory statement offering further interpretation of the content of Declaratory Statement DCA02-DEC-142 regarding testing in a manufacturer’s in-house facility. Specifically:

(a): Is testing at a manufacturer's in-house facility acceptable, provided such testing is witnessed by either a Florida registered architect, a Florida registered professional engineer, or a representative of a testing agency?

(b): Must an entity witnessing such testing provide a certificate of independence attesting to conditions described in 9B-72.110(1)?

(c): If the entity will not release the report for code compliance user, can the manufacturer use the data for a product certification, or a product evaluation report, that demonstrates code compliance?

Conclusions of Law

1. The Commission has the specific statutory authority to interpret the provisions of Rule 9B-72, *Florida Administrative Code*, pertaining to product approval by entry of this declaratory statement.

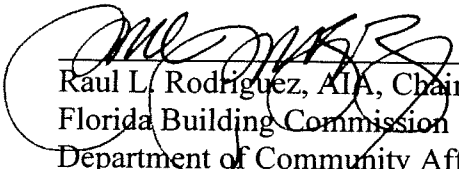
2. As found in the declaratory statement entered in case number DCA02-DEC-242, testing at a manufacturer's in-house facility is acceptable as long as the code compliance certification (test report, evaluation report, certification/listed) is prepared by an evaluation entity, certification agency, testing laboratory approved as per Florida Law and Rule 9B-72 or a Florida registered architect or professional engineer.

3. Certification of independence as required by Rule 9B-72.110(1), Florida Administrative Code, requires that a testing laboratory execute a certificate of independence when such laboratory is also the entity issuing the test report demonstrating compliance with the

standard specified in the Code. The referenced rule does not necessarily apply to “entities witnessing the test.”

4. Sections 9B-72.040 and 9B-72.070, Florida Administrative Code, list the requirements for documentation of evaluation reports and test reports, including the requirement to provide “technical documentation supporting the compliance statement.” An evaluation from an approved evaluation entity or Florida registered architect or professional engineer may determine compliance with the Code based on data obtained from testing at a manufacturer’s in-house facility using a test report that doesn’t certify code compliance.

DONE AND ORDERED this 11th day of June, 2003, in Coral Gables, Miami-Dade County, State of Florida.


Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF RIGHTS

EACH PARTY IS HEREBY ADVISED OF ITS RIGHT TO SEEK JUDICIAL REVIEW OF THIS FINAL ORDER PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND FLORIDA RULES OF APPELLATE PROCEDURE 9.030(b)(1)(C) AND 9.110. TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT’S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS

FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(a). A COPY OF THE NOTICE OF APPEAL MUST BE FILED WITH THE APPROPRIATE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES. YOU WAIVE YOUR RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH THE AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL. MEDIATION UNDER SECTION 120.573, FLA. STAT., IS NOT AVAILABLE WITH RESPECT TO THE ISSUES RESOLVED BY THIS ORDER.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the following by the method indicated on this 3rd day of June, 2003.

for Miriam Smyke
PAULA P. FORD
Commission Clerk

By U.S. Mail:

Joseph R. Hetzel, P.E.
DASMA
1300 Sumner Avenue
Cleveland, Ohio 44115-2851

By Hand Delivery:

Mo Madani, Planning Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.

for Miriam Smyke 6/13/03
Paula P. Ford Date
Commission Clerk