

EFCO*a Pella Company*

1000 County Road • Monett, MO 65708 • 800.221.4169 • Fax: 417.235.7313

FILED

Department of Business and Professional Regulation

Deputy Agency Clerk

CLERK Brandon Nichols

Date **8/16/2013**

File #

August 13, 2013

PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA BUILDING COMMISSION**Petitioner:**

EFCO, a Pella Company
1000 County Road
Monett, MO 65708

DS 2013-075**Contact:**

Joshua Coberley
Product Design
Phone: 417-235-3193 ext. 1633
Fax: 417-235-7313
jcoberley@efcocorp.com

Statute(s), Agency Rule(s), Agency Order(s), and/or Code Section(s) on which the Declaratory Statement is sought:

Florida Product Approval Rule 61G20-3.002, 3.005, 3.008

Background:

EFCO, a Pella Company, is a leading manufacturer of architectural aluminum window, curtain wall, storefront and entrance systems for commercial architectural applications. Headquartered in Monett, Missouri, and with facilities across the country, our mission is to be the most trusted supplier in commercial architecture.

Representatives of EFCO have been present on multiple webinars and conferences calls with Ted Berman of Ted Berman and Associates and have understood from the comments made that per TAS standards all HVHZ tests must be done by an approved test lab at an approved location (ref. TAS 301). However there was a distinction made in the webinars/calls between HVHZ and Non-HVHZ tests, specifically in our case ASTM E 1886 and 1996. These tests must be performed by an approved test lab but there was no specification on the location and that the test could be performed at the manufacturer's in-house testing facility as long as the personnel from the approved test lab checked and calibrated the equipment and performed the testing.

EFCO has spent the time, effort and money having products tested at our in-house facility, by a Florida approved test lab. With the test reports in hand we applied for FPA (see FPA #16398) on the products, only to have them rejected by Ted Berman of Ted Berman and Associates, because the "testing was done at an in-house testing facility that is not an approved testing laboratory..." One can see EFCO's frustration; that after we have spent this time, effort and money on research, testing and application the very entity that said in-house testing was an option for Non-HVHZ tests now rejects

the tests reports. As things stand now there is no way to get that time, effort and money back. Even the validator of this application for Florida Product Approval didn't see this issue coming.

- The testing was performed by a Florida approved test lab.
 - The Florida approved accreditation body that accredits this test lab, allows them to test at manufacturer's in-house testing facilities.
 - Since their accreditation body allows these in-house tests; Are they not essentially approving the manufacturer's in-house lab and equipment through the judgment of the approved test lab personnel?
- The test lab has provided, as part of the application for FPA, an independence letter, stating that they are not associated with any product manufacturers.
- Per DCA03-DEC-083 (found on FBC website) testing at manufacturer's in-house facilities is allowed as long as the entity performing the test is approved and provides a certificate of independence. Both are true in this case.
- This type of testing is common in our industry and is generally accepted by building code officials, architects and customers across the country.
 - EFCO has had in-house testing done by an approved test lab for many years, on both non-impact and Non-HVHZ impact tests and has never had any issues with it until now.

Question(s):

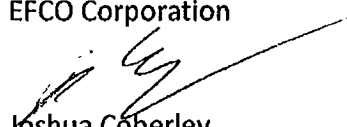
Does Florida Product Approval Rule 61G20-3 allow test reports by an approved test lab which was performed at the in-house testing facility of the manufacturer when application for Non-HVHZ FPA is made via the test report method? Furthermore is this type of testing allowed on applications made via the evaluation report by Florida P.E. method?

Summary:

EFCO believes that the answer to the question is "YES". Because we can find no place in the Florida building code that defines "approved test lab" in a way that specifies the location or prohibits in-house testing by an approved test lab. Also as we have outlined above, the testing is done by a Florida approved test lab, the test report is written by that approved test lab. If the answer to this question is "NO", then, the testing that we have current done is of no value in Florida and the additional testing that we currently have planned must be reevaluated. This will quite possibly force us to forgo attempting to gain Florida product approval on these and other products in the future. Because having the approved test lab come to our facility saves us significant time and money. Don't hesitate to contact me in regard to clarification of this matter. Your response is eagerly awaited.

Respectfully,

EFCO Corporation



Joshua Coberley
Product Design