

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

ADVANCED MANUFACTURING &
POWER SYSTEMS, INC.,

Case #: DCA09-DEC-260

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Joseph Scofield of Advanced Manufacturing & Power Systems, Inc. which was received on July 6, 2009. Based on the statements in the petition, the material subsequently submitted and the subsequent request by the Petitioner, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. The Petitioner provides approved products for use in equipment enclosures in the state of Florida.
3. Specifically, the Petitioner proposes to utilize free-standing enclosures for generators and related components. The Petition includes pictures of enclosures of sufficient size to allow a person to enter and walk around the equipment.
4. The Petitioner inquires whether such generator enclosures are subject to the Florida Building Code?

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code and Rule 9B-72, Florida Administrative Code, by entering a declaratory statement.

2. Section 101.2, Florida Building Code Building Volume (2007 as amended 10/01/2009) states:

The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

3. Section 202, Florida Building Code Building Volume (2007 as amended 10/01/2009), defines the term building as “Any structure used or intended for supporting or sheltering any use or occupancy.” The Code defines structure as “that which is build or constructed.”

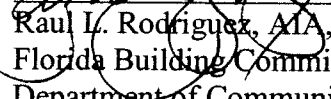
4. There is not general exception in the Code based on whether the building is occupiable although varying code requirements/standards apply depending on use.

5. Based upon the foregoing, the Petitioner’s proposed enclosures are buildings as defined within the Florida Building Code and, as such, are subject to the requirements of the Code.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, and with the appropriate

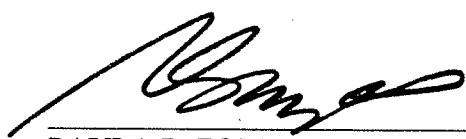
District Court of Appeal no later than thirty days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

DONE AND ORDERED this 11th of November, 2009, 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 Blvd.
Tallahassee, FL 32399-2100

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 11th day of Nov, 2009.


PAULA P. FORD
Commission Clerk

Via U.S. Mail

Joseph Scofield
Advanced Manufacturing &
Power Systems, Inc.
1965 Bennett Drive
DeLand, Florida 32724

Via Hand Delivery

Mo Madani, C.B.O. Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100