

DCA09-DEC-410

December 11, 2009

Paula Ford, Clerk of the Commission
Department of Community Affairs
Building Codes and Standards Office
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-0300

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


Miriam Snipes
Deputy Agency Clerk

Date

12/18/09

**Petition for Declaratory Statement
Before the Florida Building Commission**

The Petitioner, Frank L. Bennardo, P.E., on behalf of RM Enterprises, pursuant to Sections 120.565 and 553.77.(1)(c), Florida Statutes, and the Uniform Rules for Declaratory Statements Chapter 28-105, Florida Administrative Code, hereby submits a request for a declaratory statement from the Florida Building Commission. As grounds for this request the petitioner submits the following:

Petitioner's Name and Address

NAME: Frank L. Bennardo, P.E.
President, Engineering Express
ADDRESS: 160 S.W. 12th Avenue, #106
Deerfield Beach, FL 33442
TEL: 954-354-0660
FAX: 954-354-0443

**Statutory Provision on which the
Declaratory Statement is sought**

As the evaluating engineer of Florida product approvals #FL7215 and #FL3203 for pre-engineered air conditioner stands, the petitioner is requesting clarification as to the applicability and scope of Rule 9B-72, Florida Administrative Code (F.A.C.).

Background:

Approval documentation for product approvals #FL7215 and #FL3202 has been submitted to building departments within the High Velocity Hurricane Zone (HVHZ) for permitting the installation of pre-engineered A/C stands. Although both product approvals allow for use within and outside the HVHZ, these building departments have denied permitting based on the above referenced product approvals, and required that a Miami-Dade Notice of Acceptance be provided for each product.

Additionally, applications for permits both within and outside the HVHZ have been denied due to deviations from the above listed state product approvals, even though site-specific documentation demonstrating compliance with the Florida Building Code, signed and sealed by a Florida licensed professional engineer, had been provided.

Request:

1. According to Rule 9B-72.010 (23), F.A.C., a state product approval means “the approval of a product or system of construction by the Commission for *acceptance of a product on a state or regional basis* consistent with an evaluation conducted pursuant to Rule 9B-72.070, F.A.C.” Is it the intent of 9B-72.010 (23), F.A.C. that a product holding a state product approval for a specific region such as the HVHZ has already shown compliance with the Florida Building Code requirements for that region, and as such does not require a local product approval such as a Miami-Dade Notice of Acceptance for permitting?
2. Is the intent of rule 9B-72.005, F.A.C. to list the products for which a state product approval is *required*, or to list the products for which a state product approval is *applicable*? More specifically, for products falling under the scope of Rule 9B-72.005, F.A.C., is a state product approval required for permitting the installation of said products; or would evaluation documents demonstrating compliance with the Florida Building Code, signed and sealed by a professional engineer licensed in the state of Florida, be permissible on a site-specific basis?
3. For products outside the scope of rule 9B-72.005, F.A.C., for which approval by the Commission is not available, is it the intent of the code that these products are permissible both within and outside the HVHZ based solely on evaluation documents demonstrating compliance with the Florida Building Code, signed and sealed by a professional engineer licensed in the state of Florida?

Respectfully,



DEC 15 2009

Frank L. Bennardo, P.E.
President
ENGINEERING EXPRESS®
#PE0046549 | Cert. Auth. 9885