

Issue: DS 2024-040: The petitioner Jalal Farooq of Al-Farooq Corporation is seeking a declaratory statement to clarify whether an engineer can prepare Method 1D and /or Method 1A product approval for a product manufacturer, if the same engineer signed the test report being used to prepare the product approval.

Petitioner seeks clarification of the following question:

Question:

Can an engineer from AFC prepare Method 1D and/or Method 1A product approvals for product manufacturer if the same engineer from AFC signed the test report being used to prepare to product approval, while staying in compliance with Rule 61G20-3.009, excluding products rated for High-Velocity Hurricane Zones?

Background:

Al-Farooq Corporation (AFC) is a FL licensed specialty engineering firm specializing primarily in hurricane-resistant glass and glazing. AFC primarily prepares FL approval applications following compliance Method 1D.

AFC is contemplating a relationship with a testing laboratory in which AFC would be hired as a consultant to become their signing engineer for various products subject to impact testing. In many instances, AFC would then propose to prepare a Method 1D Florida approval for the product manufacturer at the completion of testing.

61G20-3 Product Approval

61G20-3.009 Criteria for Certification of Independence.

A certification of independence shall be provided by a Florida registered architect or licensed professional engineer as applicable or by an officer of the entity, agency or laboratory who is responsible for operation of said entity, agency or laboratory that attests to the following:

- (1) The entity, agency or laboratory does not have, nor does it intend to acquire or will it acquire, a financial interest in any company manufacturing or distributing products tested or labeled by the agency.
- (2) The entity, agency or laboratory is not owned, operated or controlled by any company manufacturing or distributing products it tests or labels.
- (3) The Florida registered architect or licensed professional engineer performing an evaluation does not have nor will acquire, a financial interest in any company manufacturing or distributing products for which the reports are being issued.
- (4) The Florida registered architect or licensed professional engineer performing an evaluation does not have, nor will acquire, a financial interest in any other entity involved in the approval process of the product.

61G20-3.005 Product Evaluation and Quality Assurance for State Approval.

(1) **Method 1.** Products specifically addressed in the Code through performance criteria and standard test methods or standard comparative or rational analysis methods, which cannot be approved through the plan review and inspection process, shall demonstrate compliance with the Code through one of the following:

- (a) A certification mark or listing from an approved certification agency indicating that the product is in compliance with the Code. Indication of compliance shall be by certification to standards adopted by the Code.
- (b) A test report from an approved testing laboratory, which identifies which products are covered by the test report

and provides verifiable documentation indicating the product tested complies with the Code.

(c) An evaluation report from an approved product evaluation entity that covers the subject product and, based upon standard tests or standard comparative or rational analysis, or a combination thereof, indicates that the product was evaluated to be in compliance with the Code and that the product is, for the purpose intended, at least equivalent to that required by the Code.

(d) An evaluation report from a Florida Registered Architect or a licensed Florida Professional Engineer developed and signed and sealed, based upon standard tests or standard comparative or rational analysis, or a combination thereof and indicates that the product was evaluated to be in compliance with the Code and that the product is, for the purpose intended, at least equivalent to that required by the Code.

(e) Rational engineering analysis cannot be used in lieu of a standard test required by the Code for approval of products within the scope of the standard, except that project specific approval by the local authorities having jurisdiction in accordance with alternate methods and materials authorized in the Code.

(f) A legacy report from a nationally recognized model code organization may be used if the report demonstrates compliance with the Code.

(g) Products required to demonstrate compliance using referenced testing standard(s) and also requiring rational analysis that falls outside the scope of the agency certificate designating product certification, must demonstrate compliance using an evaluation report from an approved evaluation entity.

(2) Method 2. Products for which there are no specific standardized tests or comparative or rational analysis methods of evaluation established as required by the Code shall demonstrate compliance with the intent of the Code through one of the following:

(a) An evaluation report from an approved product evaluation entity and provides verifiable documentation indicating the product complies with the intent of the Code.

(b) An evaluation report from a Florida Registered Architect or a licensed Florida Professional Engineer based on testing or comparative or rational analysis or combination thereof, which provides verifiable documentation indicating the product complies with the intent of the Code.

(c) Rational engineering analysis cannot be used in lieu of a standard test required by the Code for approval of products within the scope of the standard, except that project specific approval by the local authorities having jurisdiction in accordance with alternate methods and materials authorized in the Code.

(d) A legacy report from a nationally recognized model Code organization may be used if the report demonstrates compliance with the code.

(3) Products listed in Rule 61G20-3.001, F.A.C., shall be manufactured under a quality assurance program audited by an approved quality assurance entity.

(4) Evaluation Report and Test Report Documentation Requirements. All reports and documentation required in subsections 61G20-3.005(1) and (2), F.A.C., shall contain the information listed below. Design drawings submitted for permitting purposes are not to be construed to be an evaluation report and do not require this information. When the Code requires a standard test as a component of a product approval using the evaluation methods, the test lab must be accredited by an approved accreditation body for the test performed. The entity issuing the evaluation report or certification is responsible to ensure that the test lab is accredited.

(a) Name and address of the manufacturer, evaluation entity, engineer or architect or testing laboratory.

(b) Statement of compliance with the appropriate section or standard of the Code.

(c) Complete description of the product, including all drawings, manufacturer's product designations and materials, except materials specifications identified as proprietary.

(d) Technical documentation, including all substantiating data, supporting the compliance statement. Substantiating data shall include all test reports and calculations which may be referenced within the evaluation report.

(e) Installation requirements. Installation instructions including attachments shall be developed by an evaluation entity, test lab or by the manufacturer's licensed design professional. Exception: Installation instructions for windows including attachment, at minimum shall include the following:

1. Type, and grade of anchor, and/or manufacturer's anchor specifications, including minimum nominal size, minimum penetration into substrate and minimum edge distances;

2. Type, physical dimensions, material and grade of any accessory item or strap, if applicable;

3. Spacing of anchors, shims, accessory items and straps; and

4. Illustrated diagrams of the attachment of the product to the structure.

(f) Limitations and conditions of use.

(g) Certification of independence in conformance with Rule 61G20-3.009, F.A.C.

(h) Name, title and signature of person authorized to sign on behalf of entity or signature, registration number and seal in the case of architects and engineers.

(5) The following documents shall be submitted for approval of listed products or products bearing a certification mark or an approved certification agency as complying with the standards established by the Code:

(a) Name and address of manufacturer and certification agency.

(b) Manufacturer's product model number or identifier and product description.

(c) Indication of the standard the product was tested to.

(d) Performance level of the product and conditions or limitations of use.

(e) Installation requirements. Exception: Installation instructions for windows including attachment at minimum shall include the following:

1. Type, and grade of anchor, and/or manufacturer's anchor specifications, including minimum nominal size, minimum penetration into substrate and minimum edge distances;

2. Type, physical dimensions, material and grade of any accessory item or strap, if applicable;

3. Spacing of anchors, shims, accessory items and straps; and

4. Illustrated diagrams of the attachment of the product to the structure.

(f) Agency certificate designating product certification.

(6) Review and verification of installation instructions required under paragraph 61G20-3.005(4)(e), F.A.C. Prior to posting installation instructions, including anchorage requirements, on the Building Codes Information System on the Internet, www.floridabuilding.org, they shall be reviewed or verified by the evaluation entity, test lab, the architect or engineer of record, or by a manufacturer's licensed design professional.

(7) Review and verification of installation instructions required under paragraph 61G20-3.005(5)(e), F.A.C. Prior to posting installation instructions, including anchorage requirements, on the Building Codes Information System, www.floridabuilding.org, they shall be reviewed or verified by the certification agency or by a manufacturer's licensed design professional.

8th Edition (2023) Florida Building Code - Test Protocols for High-Velocity Hurricane Zones

TESTING APPLICATION STANDARD (TAS) 301-94 TESTING LABORATORY

7. Independence:

7.1 The statement of independence shall be submitted on testing laboratory's stationary and signed by an official of the testing laboratory. The statement shall include the following:

7.1.1 A statement indicating that the laboratory or agency, its associates, entities or legal persons employed or under contract do not have any financial interest in any product manufacturing company other than providing professional testing services.

7.1.2 A statement indicating that the laboratory or agency is not owned, operated or controlled by any company manufacturing or distributing any portion of the product inspected or tested.

Staff Analysis

Question:

Can an engineer from AFC prepare Method 1D and/or Method 1A product approvals for product manufacturer if the same engineer from AFC signed the test report being used to prepare to product approval, while staying in compliance with Rule 61G20-3.009, excluding products rated for High-Velocity Hurricane Zones?

Answer:

Option #1/Petitioner:

Petitioner respectfully believes the answer to this question is “Yes”. Petitioner believes that Rule 61G20-3.009 (1) and (2) are not applicable to this situation, Rule G20-3.009(3) will be maintained and therefore is also not in question.

Petitioner also believes that Rule 61G20-3.009(4) does not apply for a number of reasons:

- A. Petitioner is not an owner, officer, or employee of the laboratory, but will act as an outside consultant, and therefore has no financial interest in the success of the laboratory.
- B. The testing laboratory is not part of the approval process for Method 1D or Method 1A Florida approval applications.

Note that based on TAS 301 Section 7. Independence, petitioner believes that it is not permissible to do the same when considering products to be rated for the High-Velocity Hurricane Zone (HVHZ).

Option #2/Staff:

The answer to the Petitioner’s question is yes. Testing laboratory as an entity is not part of the approval process for Method 1D or Method 1A product approval application and therefore, the issue in question is not in conflict with Rule 61G20-3.009(3) and Rule 61G20-3.009(4). However, pursuant to Section 7 of TAS 301, it is not permissible to do the same when considering products to be rated for the High-Velocity Hurricane Zone (HVHZ.)