



**TOM GALLAGHER**  
CHIEF FINANCIAL OFFICER  
STATE FIRE MARSHAL  
STATE OF FLORIDA

In re the Matter of

Hendrik S. Demello,  
Petitioner,

Case No.: 78448-04-FM

Petition for Declaratory Statement  
to the Florida Department of  
Financial Services

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DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon the Petition for Declaratory Statement received on September 14, 2004, by the Department of Financial Services, hereinafter referred to as the Department, from the Hendrik S. Demello, hereinafter referred to as Petitioner. Upon consideration thereof, and being duly advised, the Chief Financial Officer as State Fire Marshal, finds as follows:

1. The Chief Financial Officer as State Fire Marshal, has jurisdiction over the subject matter and the parties to this matter.
2. This Declaratory Statement is premised upon the assertions of fact set forth in the Petition for Declaratory Statement. Any modification to those assertions of fact could alter the conclusions set forth in this Declaratory Statement. None of the assertions of fact are admitted by the Department as being true and Petitioner's question is being answered purely as a hypothetical one. If any of the facts asserted by

the Petitioner are untrue or materially incomplete the conclusions of this Declaratory Statement could be significantly different.

3. If the Petition for Declaratory Statement contains various legal assertions, conclusions, and arguments, those assertions, conclusions, and arguments are not adopted by the Department and are not used as legal premises or authority for the conclusions of this Declaratory Statement. Legal assertions, conclusions, and arguments are considered only to illustrate the manner in which Petitioner may be an affected person entitled to have the Department issue this Declaratory Statement.

#### BACKGROUND and FACTS ASSERTED

4. Petitioner states that:

A. The project which is the subject of the question below involves a mini-storage facility.

B. The authority having jurisdiction is requiring a sprinkler system for a single story self-storage building.

C. Petitioner's position is that the code as well as NFPA 13 and NFPA 230 address rack and bulk storage, not mini-storage facilities.

#### QUESTION

5. Petitioner's question is:

Are fire sprinklers required on a single story self-storage building regardless of the construction type or the size of the building, or both?

#### DISCUSSION

6. Mini-storage facilities are unique when compared to the traditional storage occupancy.

7. The specific subdivision of NFPA 1, 2000 edition, pertaining to your question is cited in subdivision 8-15.2, NFPA 1, 2000 edition, “Special Provisions.”

8. The parent subdivision, 8-15 and subsequently 8-15.1 require compliance with NFPA 101, the Life Safety Code.

9. The definition of a storage occupancy in both NFPA 1 and NFPA 101 is the same and reads:

*6.1.13.1\* Definition — Storage Occupancy. An occupancy used primarily for the storage or sheltering of goods, merchandise, products, vehicles, or animals.*

10. Examples of typical storage occupancies include barns, bulk oil storage, cold storage, freight terminals, grain elevators, hangars, parking structures and stables.

11. The focus of fire safety for storage occupancies is on horizontal and vertical fire spread through flue spaces created by various storage configurations of commodities.

12. While it is difficult to control the types of storage within mini-facilities, the Life Safety Code provides for egress, fire alarm protection and fire sprinkler protection based on many factors.

13. The classification of the hazard of contents in a storage occupancy must be established as low, ordinary or high hazard.

14. Some of the Life Safety factors affecting storage occupancies are consistent with a mini storage type facility.

15. In a storage occupancy, the Florida Fire Prevention Code’s Life Safety Code modification (subdivision 42.2.4.1, NFPA 101, 2000 edition), a single means of

egress is permitted when the area consists of one story, is less than 2500 square feet in area and the travel distance is 50 feet or less.

16. Storage occupancies of low hazard are exempt from fire alarm requirements while ordinary and high hazard areas are exempt for areas of less than 100,000 square feet.

17. NFPA 101, subdivision 42.3.5, 2000 edition, specifically requires no method of extinguishment for a storage occupancy.

18. In referring to the specific subdivision of NFPA 1 cited, subdivision 8-15.2, the language indicates compliance with fire sprinkler requirements for three types of storage arrangements.

19. These include storage of combustibles up to 30 ft. or the storage of Group B and Group C plastics in any configuration or the storage of Group A plastics (except free-flowing) up to 25 ft.

20. While there is very little control over the items that are in the subject kind of storage unit, normally only combustible material<sup>1</sup> would typify the use of the mini-storage occupancy commonly used for the storage of household items and the stocks of small businesses.

21. In order to require fire sprinkler systems within a storage occupancy, one must consider the application of both the Life Safety Code and the provision of NFPA 1 so specified.

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<sup>1</sup> "Combustible material" is defined in NFPA 101, 2003 Edition, Subdivision 3.3.135.1, as: "A material that, in the form in which it is used and under the conditions anticipated, will ignite and burn; a material that does not meet the definition of noncombustible or limited-combustible."

22. The applicable portions of the Life Safety Code for a storage occupancy provides incentives for fire sprinklers in a storage facility, yet clearly exempts such buildings from fire sprinkler installation.

ACCORDINGLY, the question is answered as follows:

23. The use of one specific subdivision of NFPA 1 to require fire sprinklers in an occupancy that is clearly exempt from this requirement in the Life Safety Code, both of which are applicable to the occupancy is not consistent with the Florida Fire Prevention Code. In making a determination of the application of a code provision, one must consider the typical use of the space in question. The mini-storage facility's use is more consistent with the Life Safety Code factors of fire safety than those of NFPA 1. Therefore, it is not the intent of subdivision 8-15.2 of NFPA 1 to mandate the installation of fire sprinklers in a one-story mini-storage facility that is consistent with the Life Safety Code's Florida specific provisions. The provisions of subdivision 8-15.2 of NFPA 1 apply to a storage building with large storage areas that are not typically found in the mini-storage arrangement.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Declaratory Statement is entitled to seek review of this Declaratory Statement pursuant to Rule 9.110, Florida Rules of Appellate Procedure, because pursuant to Section 120.565, Florida Statutes, a Declaratory Statement constitutes final agency action and is therefore subject to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, acting as the agency clerk, at 612 Larson Building, Tallahassee, Florida, and a copy of the same with the appropriate district court of appeal, within thirty days of rendition of this Declaratory Statement.

ENTERED at Tallahassee, Leon County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2005.

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Karen Chandler  
Deputy Chief Financial Officer

Copies furnished to:

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