



DEPARTMENT OF FINANCIAL SERVICES

TOM GALLAGHER  
CHIEF FINANCIAL OFFICER  
State Fire Marshal

In re the Matter of

ALFONSO FERNANDEZ-FRAGA,  
Petitioner

Case No.: 71926-03-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 October 17, 2003, by the Department of Financial Services, hereinafter referred to as the Department, from Alfonso Fernandez-Fraga, 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 asserts that:

A. The authority having jurisdiction has mandated that we provide one “normal power” circuit and one “emergency power” circuit for lights illuminating the means of egress with an exit stair.

B. We contend that under NFPA 101, Subdivision 7.9.2, two such circuits are not required.

#### QUESTIONS

5. Petitioner’s questions are:

A. Is it the intent of NFPA 101, Subdivision 7.9.2.2 to require one lighting circuit to be on normal power and one on emergency power?

B. If an exit stair is illuminated using two circuits on emergency generator power, both of which are supplied from the same panel, the same transfer switch, and

the same generator, does such an arrangement meet the requirements of 7.9.2.2.?

## DISCUSSION

6. The petitioner asks two questions based on the specific section of 7.9.2 of the Life Safety Code, NFPA 101. Prior to responding, it is necessary to set forth the requirements of the specific subdivisions in question. Section 7.9.2 in its entirety is set forth below.

### 7.9.2 Performance of System.

#### 7.9.2.1\*

Emergency illumination shall be provided for not less than 1<sup>1</sup>/<sub>2</sub> hours in the event of failure of normal lighting. Emergency lighting facilities shall be arranged to provide initial illumination that is not less than an average of 1 ft-candle (10 lux) and, at any point, not less than 0.1 ft-candle (1 lux), measured along the path of egress at floor level. Illumination levels shall be permitted to decline to not less than an average of 0.6 ft-candle (6 lux) and, at any point, not less than 0.06 ft-candle (0.6 lux) at the end of the 1<sup>1</sup>/<sub>2</sub> hours. A maximum-to-minimum illumination uniformity ratio of 40 to 1 shall not be exceeded.

7. The above section requires that emergency light provide for one and one half hour of lighting and prescribes the minimum amount of lighting required at floor level throughout the means of egress.

#### 7.9.2.2\*

The emergency lighting system shall be arranged to provide the required illumination automatically in the event of any of the following:

- (1) Interruption of normal lighting such as any failure of a public utility or other outside electrical power supply
- (2) Opening of a circuit breaker or fuse
- (3) Manual act(s), including accidental opening of a switch controlling normal lighting facilities

8. The above section describes the three conditions that will trigger the implementation of the emergency lighting system.

#### 7.9.2.3

Emergency generators providing power to emergency lighting systems shall be installed, tested, and maintained in accordance with NFPA 110, Standard for Emergency and Standby Power Systems. Stored electrical energy systems, where required in this Code, shall be installed and tested in accordance with NFPA 111, Standard on Stored Electrical Energy Emergency and Standby Power Systems.

9. The above section requires that when an emergency generator or stored electrical energy system is used to meet the emergency lighting requirement, that such systems shall be installed in accordance with NFPA 110 and NFPA 111, respectively.

#### 7.9.2.4\*

Battery-operated emergency lights shall use only reliable types of rechargeable batteries provided with suitable facilities for maintaining them in properly charged condition. Batteries used in such lights or units shall be approved for their intended use and shall comply with NFPA 70, National Electrical Code®.

10. The above section specifies that when battery-operated lighting is used, such lights shall be powered by reliable batteries, approved for that use, and shall comply with NFPA 70.

#### 7.9.2.5

The emergency lighting system shall be either continuously in operation or shall be capable of repeated automatic operation without manual intervention.

11. The above section requires that the system be capable of working continuously and automatically without manual intervention.

12. Finally, during a telephone conference on February 13, 2004, you clarified that the subject stairwell is lighted 99.99 percent of the time by “normal power,” or power provided by a utility company power and the systems to which reference is made in your petition are strictly, or solely, applicable to the backup power system.

NOW, THEREFORE, it is the position of the Division of State Fire Marshal of the Department of Financial Services:

Question 5.A.: *Is it the intent of NFPA 101, Subdivision 7.9.2.2 to require one lighting circuit to be on normal power and one on emergency power?*

Response to Question 5.A.: Yes. In addition to the normal lighting, the Life Safety Code requires a minimum of one redundant system to supply emergency lighting that will meet the performance criteria as spelled out in Section 7.9.2 throughout the means of egress. This system of redundancy can be met by the use of a generator or a battery system.

In your example you state that both sets of emergency lights are tied to one generator, one panel, and one transfer switch. This arrangement must be evaluated for its ability to supply the required level of illumination for the required 90 minutes. If a single redundant system of emergency lighting is chosen and that system meets the performance requirements, it is consistent with the Life Safety Code. Therefore, if two different emergency lighting sources serving the same egress paths are to be supplied

by a single generator, and at least one lighting source is capable of meeting the performance requirements, the system meets the emergency lighting requirements of the Life Safety Code for redundancy.

Question 5.B.: *If an exit stair is illuminated using two circuits on emergency generator power, both of which are supplied from the same panel, the same transfer switch, and the same generator, does such an arrangement meet the requirements of 7.9.2.2.?*

Response to Question 5.B.: Yes, provided the requirements in the response to question 5.A. are met.

According to your representations, the “constant” or “continuous” lighting of the stairwell is from electricity provided by an electric company and the backup lighting is from a generator. There can be as many redundant systems as the building owner or the architect or engineer desires, but only one redundant system is required. Therefore, if as you state the backup system for the “exit stair is illuminated using two circuits on emergency generator power,” and one or the other of those lighting circuits provides the lighting required as indicated above, that arrangement complies with the requirements of 7.9.2.2.

#### 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 Section 120.565, Florida Statutes, and 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 \_\_\_\_\_, 2004.

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Karen Chandler  
Deputy Chief Financial Officer

Copies furnished to:

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