

**STATE OF FLORIDA
BUILDING COMMISSION**

In the Matter of

FORTIFIBER BUILDING SYSTEMS GROUP

Case #: DCA05 DEC-047

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the "Commission") by a petition from William C. Hill of Fortifiber Building Systems Group, (the "Petitioner"), which was received on March 2, 2005 and amended on April 27, 2005. Based upon the statements in the Petition and the materials subsequently submitted, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to section 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, *Florida Administrative Code*.
2. The Petitioner manufactures a product line that includes window flashings and weather restrictive barriers subject to the Florida Building Code.
3. Neither material adds to the structural capability of the building. Rather, both contribute in the moisture management of the building envelope.
4. The Petitioner inquires whether Moisture Control products, specifically window flashing and weather resistive barriers, are covered under the scope of Rule 9B-72, *Florida Administrative Code*.

Conclusions of Law

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

2. Rule 9B-72.010(28), *Florida Administrative Code* defines structural component as:

Any part or assembly of a building or structure used or intended to support or shelter any use or occupancy, and which affects the safety of such building or structure or which supports any dead or designed live load and the removal of which part, material or assembly could cause, or be expected to cause, all or any portion to collapse or to fail, or both.

3. Rule 9B-72.010(29)(b), *Florida Administrative Code* specifies sub-categories of windows as: awning, casement, dual action, double hung, single hung, fixed, horizontal slider, projected, pass through, mullions, wind breaker or other for purposes of the Rule. Window flashings are not within the components listed.

4. Rule 9B-72.010(29)(c), *Florida Administrative Code* specifies sub-categories of panel walls as: siding, soffits, exterior insulation finish system (EIFS), storefronts, curtain walls, wall louver, glass block, membrane, greenhouse, or other for purposes of the Rule. Weather resistant barriers are not with in the components listed.

5. Rule 9B-72.010(29)(d), *Florida Administrative Code* specifies sub-categories of roofing products as: built up roofing, modified bitumen roof system, single ply roof systems, spray applied polyurethane roof system, roofing fasteners, roofing insulation, asphalt shingles, wood shingles and shakes, roofing slate, roof tile adhesives, cements-adhesives-coatings, liquid applied roof systems, underlayments, non-structural metal roofing, roofing tiles, and includes waterproofing for purposes of the Rule.

6. These products are more analogous to housewraps. In DCA04-DEC-192 the Commission determined that housewraps did not have approval under Rule 9B-72.

7. In order for consistency with DCA04-DEC-192, Fortifiber's Moisture Control products are not covered under the scope of Rule 9B-72.

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), Fla. Stat. (2004), and with Fla. R. App. P. 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, Florida 32399-2100, and with the appropriate District Court of Appeal not later than thirty (30) 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), Fla. Stat. (2004).

DONE AND ORDERED this 16th day of August, 2005, in Coral Gables, Miami-Dade County, State of Florida.

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

Paula P. Ford
Paula P. Ford
Commission Clerk

Raul L. Rodriguez
Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 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 18th day of August, 2005.

Paula P. Ford
PAULA P. FORD
Commission Clerk

Via U.S. Mail:

William C. Hill
Fortifiber Building Systems Group
419 W. Plumb Lane
Reno, NV 89509

Via Hand Deliver

Mo Madani, Planning Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100