

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

FOMO PRODUCTS, INC.,

Case #: DCA08-DEC-268

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Sandra Gump of Fomo Products, Inc., which was received on September 12, 2008. Based on the statements in the petition and the material subsequently submitted, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. The Petitioner manufactures Handi Foam Fireblock and Handi Foam Spray which the Petitioner intends to market for use in buildings in Florida constructed in accordance with the Florida Building Code.
3. As identified in an evaluation report submitted with the Petition, Fireblock Foam is a "polyerethane foam plastic sealant that expands to take the shape of cracks and voids. The foam has a flame-spread index of less than 25 and a smoke-devleoped index of less than 450 when tested in accordance with ASTM E 84. The foam is packaged in an aerosol delivery configuration. The foam has been tested in accordance with ASTM E 814 (modified) to establish that the integrity of the fireblocking is maintained when the

fireblocking is penetrated.” Handi-Foam Spray Foam is used as thermal insulating and sealing material in cavities of wall, floor, and ceiling assemblies, and in attics and crawl space applications. Handi Foam Spray Foam adheres to almost any building material, making it an ideal solution numerous applications. Spray Foam is often used to stop air infiltration and complete the building envelope. Handi Foam Spray Foam meets the requirements of ASTM E 84, ASTM 2178, ASTM D 2856, ASTM D 1622, ASTM 2126 , ASTM E 283, ASTM E 96, ASTM C 518.

4. The Petitioner asks whether these products fall within the scope of Rule 9B-72, Florida Administrative Code (F.A.C.)?

Conclusions of Law

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

2. Rule 9B-72.005, F.A.C., states:

(1) Products in the following categories as defined by subcategories of subsection 9B-72.010(31), F.A.C., shall be available for approval by the Commission pursuant to Rule 9B-72.090, F.A.C., for use in the state:

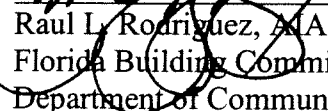
- (a) Panel Walls;
- (b) Exterior Doors;
- (c) Roofing Products;
- (d) Skylights;
- (e) Windows;
- (f) Shutters; and
- (g) Structural components.

(2) This rule applies to approval of products and systems, which comprise the building envelope and structural frame, for compliance with the structural requirements of the Florida Building Code.

3. Petitioner's products do not fall within any of the foregoing categories. The products are not an element of the structural frame or the building envelope. Therefore, the products are not within the scope of state product approval as set forth in Rule 9B-72, F.A.C. The Commission notes, however, that the Petitioner's products and their characteristics are subject to review and approval at the local level.

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), Florida Statutes, and with Fla. R. App. 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, FL 32399-2100, and with the appropriate District Court of Appeal no later than thirty 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), Florida Statutes.


DONE AND ORDERED this 6 of January, 2009, in Coral Gables, Miami-Dade County, State of Florida.



Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Blvd.
Tallahassee, FL 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 8th day of Jan, 2009.


for PAULA P. FORD
Commission Clerk

Via U.S. Mail

Sandra Gump
Fomo Products, Inc.
Post Office Box 1078
Norton, Ohio 44203

Via Hand Delivery

Mo Madani, C.B.O. Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100