

STATE OF FLORIDA  
BUILDING COMMISSION

In the Matter of

NO-BURN SE INC.,

Case #: DCA08-DEC-257

Petitioner.

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**DECLARATORY STATEMENT**

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Chris Birchfield of No-Burn SE Inc., which was received on September 5, 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. Petitioner manufactures fire-retardant coatings that are field-applied to the exposed surfaces of wood substrates as an interior finish in the interior of new and existing construction to achieve flame-spread and smoke-developed indices.
3. The Petitioner intends to market its products for use in buildings constructed in accordance with the Florida Building Code.
4. The Petitioner inquires whether its fire-retardant coatings are subject to state product approval by the Commission in accordance with Rule 9B-72, Florida Administrative Code?

**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, Florida Administrative Code [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.

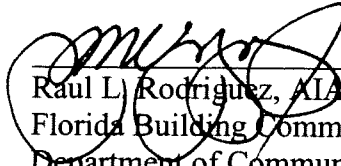
(2) This rule applies to approval of products and systems, which comprise the building envelope and structural frame, for compliance with the structural requirements of the Florida Building Code.

3. Petitioner's products are not elements of the building envelope or structural frame and are, therefore, outside of the scope of state product approval pursuant to 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

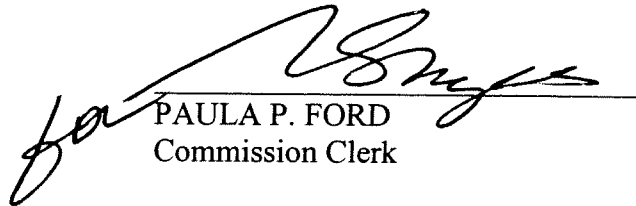
the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

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.

  
PAULA P. FORD  
Commission Clerk

**Via U.S. Mail**

Chris Birchfield  
No-Burn SE Inc.  
407 Old Hwy. 50  
Suite A  
Minneola, Florida 34715

**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