

W. W. Schaefer Engineering & Consulting, P.A. (CA #6809)

7480 150th Court North
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Phone (561)744-3424

December 6, 2010

Re: Recommendation for additional nomenclature to be placed into product approval rule 9N-3 in order to protect manufacturer's ownership rights of documents uploaded into the state approvals.

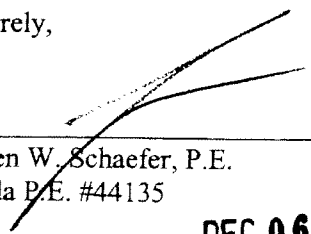
The state requires that manufacturer owned documents be uploaded into each state approval. Because all documents uploaded with the state are considered as public record, they are susceptible for printing and use on a local level, by engineer's and manufacturer's other than those listed on the approval documents, for comparative and rational analysis approval of products not manufactured by the manufacturer owning the approval. This is not just unjust and unfair to the manufacturer who spent tens of thousands of dollars on the development, testing, engineering and submittal fees involved with obtaining the approval, it is also a serious potential danger to the public who is the end owner of those products potentially being misrepresented by these quasi-certifications. In addition, these quasi-certifications extend liability to both the engineer and manufacturer whose names and seals are on those documents being used.

Mo Madini has expressed an opinion that this is a local issue and not a state approval issue. W. W. Schaefer Engineering & Consulting, P.A. and all the manufacture's represented by W. W. Schaefer Engineering strongly disagree. It is the state approval system that allows for documents to be placed as public record with no rights of ownership, not the local officials, and it is the state approval system that allows for no protection of those approvals. In addition, the local approval rule 553.8425 is an obvious spin-off of the state rule. Without ownership protection of the approvals on the state rule 9N-3 level, the local officials have no choice but to except comparative and rational analysis certifications signed and sealed by an engineer. While the local officials tend to agree that it is disappointing that an engineer and/or manufacturer would use documents owned by another for their own certifications and financial gain; evident in a recent meeting held with the Palm Beach County building Officials, their hands are tied since there is no specific rule being broken.

In light of this situation, we recommend the following nomenclature be added into the product approval rule 9N-3: **"Ownership of all documents uploaded into a state approval shall be the ownership of the manufacturer listed on that approval. All Florida state approvals and those documents uploaded into those approvals may be used only for that product for which the approval represents. Use of a state approval or the documents within that approval for comparative analysis and/or certifications, local or otherwise, of a product not produced by the manufacturer listed on the state approval, is forbidden without written consent from the listed manufacturer."**

We hope that the state POC committee will recognize that a problem exists with the rule 9N-3 as it is presently written. We also hope that the POC committee and the state department will take ownership of their rule and make changes necessary to protect those who follow the rule and list their products with the state. If a manufacturer is to be forced by the state to upload proprietary documents onto a state web site and thus have those documents filed and listed as public record, those documents & the rights of the manufacturer's should be protected by the state.

Sincerely,


Warren W. Schaefer, P.E.
Florida P.E. #44135

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