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SUBJECT: Unlicensed underground contractors

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PREFACE: The Construction/Development Industry needs everyone's help with a continuing problem for all commercial general contractors, owners/developers, fire sprinkler contractors, underground contractors, and fire officials. Underground fire piping!! This letter is merely an attempt to clarify the current laws that govern this issue. Yes, it may be lengthy, but please take the time to review these pages. This is a serious legal issue because it deals with **life safety systems**, NOT comfort systems.

CURRENT PRACTICES: For many years site/utility Contractors have installed underground fire mains and fire hydrants. In later years, it became part of the "tradition" to have the fire sprinkler contractor, who generally only installed the above ground piping, to "bless" the underground installation for the unlicensed underground contractor. In Florida, this has been done illegally since the passage of Florida Statute 633 regulating this specific activity, about 10 years ago.

"Traditionally" this was the practice and has worked very well for North Florida Counties. Not so for South Florida. Therefore, the law was clarified to include ANYONE providing layout, design, fabrication, installation, inspection, renovation or repairs to ANY fire protection system. The most important words here, are fire protection system and its subsequent definition. While not as prevalent, these traditional methods of installing underground fire mains are still in practice today. This document represents Advanced Fire Protection Services Inc.'s plea to our areas many well meaning General Contractors and Underground Contractors not licensed by the State Fire Marshal.

This document in no way reflects negatively on any General Contractor or Underground Contractor. To the contrary, we are blessed to have many good Contractors in our area. This is simply an education issue. All the affected parties MUST read and abide by the Florida Statutes, and change the way we have been doing business or insist our Legislators change the law. Either way is fine with our Company, but for now, it has become a SERIOUS issue with the State Fire Marshal's Office.

THE PROBLEM: The problems with the "traditional" way of doing business are many;

1. The unlicensed contractor cannot legally perform the work, and is guilty of a second degree misdemeanor punishable as provided in s. 775.082 or 775.083
2. In addition to the above penalties, the fire protection contractor (aboveground contractor) shall be subject to revocation of certification if found to be involved.

3. The General Contractor has the liability of hiring an unlicensed contractor. Remember, as prudent business owners, we must always assume there will be a casualty loss and we will be forced into the court system. In the case of a fire protection system, **we must also assume there will be a death!**
4. Under Florida Statutes (FS 633.541), a Fire Protection Contractor MAY NOT,
 - 4.1. knowingly allow unlicensed contractors to perform work,
 - 4.2. obtain a permit for unlicensed contractors,
5. The unlicensed underground contractor gets the profit for doing the work and the aboveground contractor (sprinkler contractor) gets ALL the liability and responsibility. This usually includes 2 free trips to the job site.
6. In some cases we have found the underground work not to be in compliance with NFPA Standards which are generally NOT known by Utility Contractors. These systems are different from potable systems and must be governed by fire protection installation standards.

FLORIDA STATUTE EXCERPTS:

1. 633.021-5(A) "Contractor I" means a contractor whose business includes the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service all types of fire protection systems, excluding pre-engineered systems."
2. 633.021-5(E) "Contractor V means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point at which the piping is used exclusively for fire protection and ending no more than 1 foot above the finished floor."
3. **633.021-8 "A fire protection system is a system individually designed to protect the interior or exterior of a specific building, structure, or other special hazard from fire. Such systems include, but are not limited to, water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, CO2 systems, foam extinguishing systems, dry chemical systems and Halon and other chemical systems used for fire protection use. Such systems also include any overhead and underground fire mains, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines, thermal systems used in connection with fire sprinkler systems and tanks and pumps connected to fire sprinkler systems." (NOTE: this includes any fire hydrants and associated mains that are totally dedicated to fire protection – no potable connections.)**
4. **633.021-18 "Point of service means the point at which the underground piping for a sprinkler system using water as the extinguishing agent becomes used exclusively for the sprinkler system. The point of service is designated by the engineer who sealed the plans for a system of 50 or more heads or by the contractor who designed the plans for a system for a system of 49 or fewer heads."**
5. 633.541-1 It is unlawful for any organization or individual to engage in the business of layout, fabrication, installation, inspection, alteration, repair or service of a fire protection system...without being duly certified and holding a valid and existing certificate, except as hereinafter provided."
6. 633.541-2 "A fire protection contractor certified under this chapter may not:
 - (a) Enter into a written or oral agreement to authorize, or otherwise knowingly allow, a contractor who is not certified under this chapter to engage in the business of, or act in the capacity of, a fire protection contractor.
 - (b) Apply for or obtain a construction permit for fire protection work unless the fire protection contractor or the business organization qualified by the fire protection contractor has contracted to conduct the work specified in the application for permit.

7. 4A-46.040 (2) "The complete system begins at the point of service as defined in Section 633.021 (18), Florida Statutes, and ends at the most remote head inside the facility"
8. 4A-46.040 (3) "In order to ensure that sufficient water is available at the point of service to provide the water inside the facility as required by the plans, the contractor who installs the underground portion shall be responsible for conducting the acceptance tests required by Section 1-11, NFPA 13 and shall personally, sign and maintain on file the Contractors Material and Test Certificate for Underground Piping as specified in NFPA 13, as adopted in Rule 4A-46.035."
9. 4A-46.040 (3)(a) "If the above ground pipe is installed by a contractor other than the one who installed the underground, the contractor shall be responsible to obtain a copy of the underground certificate from the underground contractor and maintain it on file before connection to the underground is made. **If the contractor is unable to obtain the certificate, he shall notify the State Fire Marshal.**"

SOLUTION:

1. General Contractors and Owners must insure both aboveground and underground contractors are certified by FLORIDA STATE FIRE MARSHAL'S OFFICE, not DBPR. Ask for a certificate. REMEMBER: All Class I and II Fire Protection contractors (most commercial sprinkler contractors) can perform both aboveground and underground piping functions.
2. Existing utility contractors interested in underground fire protection system piping NEEDS to achieve the Class V certification, or cease and desist.
3. Engineers need to insure the point of service is documented

It is our intention to send this letter to selected general contractors, utility contractors, engineers and all fire inspectors in our area. Please feel free to make copies and distribute. This letter **is not a formal statement from the Florida State Fire Marshal's Office**, but has been reviewed by Lloyd Weeks from that office. His office is located in Fort Walton Beach and is available at 833-9129 for any questions or testing information.

In closing, it is our sincere intention to educate all involved parties so that we will be in compliance. This will ultimately translate into a smooth transition for the General Contractors and Owners. After all, it is everyone's best interest to insure a smooth, efficient, compliant and profitable job. Hope to see you on the next one!

Sincerely,

Thomas M. "Mike" Brown
President
Advanced Fire Protection Services Inc.