



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUL 18 2003

Mr. Jason Perrone
Neeley Sales Co. Inc.
P.O. Box 523
Highway 25 South
Greenwood, South Carolina 29648

Ref. No.: 02-0139

Dear Mr. Perrone:

This responds to your letter regarding self-certification of packages initially tested and certified by an independent laboratory. We apologize for the delay in responding and hope it has not caused any inconvenience.

You stated that your company imports and distributes 1.4G consumer fireworks. These fireworks are packaged in fiberboard boxes for purposes of transportation. The boxes were constructed, tested and certified by an independent laboratory, and remained unchanged for the past ten years. The boxes have been periodically recertified by other laboratories. Since all of the specifications are the same, when the boxes are made again, you would like to perform the appropriate performance tests, and print your company's name on the box as the box certifier. You ask if there is any prohibition against self-certifying UN performance-oriented packagings.

The answer is no. A manufacturer is defined as the person whose name and address or symbol appears as part of the specification markings required in Part 178 or, for a packaging marked with the symbol of an approval agency, the person on whose behalf the approval agency certifies the packaging. In this context, a manufacturer may or may not be the actual fabricator of the packaging. The mark may or may not represent the person or party who makes the packaging or conducts the performance tests, but represents the person or party who certifies, by applying the mark displaying a name and address or manufacturer's symbol, that the packaging was manufactured to a successfully tested design type and complies with all applicable requirements of Part 178. If a customer is willing to assume responsibility for certifying compliance, a packaging fabricator may fabricate a packaging to a tested UN standard, but not place any packaging certification marks on the packaging. The customer would then self-certify as the manufacturer by placement of the complete required UN standard marking on



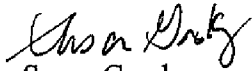
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the packaging. To satisfy the UN certification marking requirements of § 178.503(a)(8), at the direction of the customer, a packaging manufacturer may mark the packaging with the customer's name and address or symbol, if used. (See §§ 178.2(e) and 178.503)

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,



Susan Gorsky

Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards

NEELEY SALES CO. INC.

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5-7-02

Engram
\$178.503
Marking
02-0139

ATTN: Ed Mazzullo
Office of HazMat Standards

Dear Mr. Mazzullo,

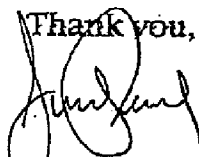
I have just spoken with Christine Whitney in the Dept. of Approvals and she said that perhaps you could help me solve a problem I am having interpreting a portion of 49CFR.

Our company imports and distributes 1.4g consumer fireworks. We use cardboard boxes to transport our assortments. These boxes have remained unchanged for at least the past ten years. When they were initially constructed they were tested and certified by an independent lab. They have been periodically recertified in other labs at a significant cost. Since all of the specs are the same, when we have these boxes made again it would be much simpler and cheaper to have our company name printed on the cartons as the box certifier and perform the appropriate tests ourselves instead of paying other people to do it.

The problem is that every box company I have spoken with is hesitant to make boxes for us because they have not heard of self-certification or else they believe it is a misinterpretation of 49CFR. I believe if you were to explain the policy and point out relevant sections of the regulations that these companies would be much more at ease. Several companies have mentioned that they feel that even if our name appeared

on the box that they could somehow be held liable as the manufacturer. Although I have cited the regulations and provided literature from the American Pyrotechnics Association, my say-so just doesn't have a very authoritative ring to it.

I would certainly appreciate a letter that conveys the essence of recertification as quickly as your schedule permits.

Thank you,

Jason Perrone