



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

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

MAR - 6 2001

Ref. No. 01-0034

Mr. Wade Winters
President
Regulatory Resources
240 Joshua Road
Kennewick, WA 9938

Dear Mr. Winters:

This is in response to your February 1, 2001, letter and conversations with Diane LaValle, of my staff, concerning the UN specification packaging marking requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered below:

Question 1: May an offeror/user add necessary information in a permanent manner to an incomplete packaging certification marking(s) on the bottom of the packaging to make the certification(s) complete per § 178.503(a)? I realize that, because the additional certification marking(s) added by the offeror/user to the bottom of the drum may not be able to withstand drum reconditioning, the packaging is not authorized for reuse/reconditioning (i.e., the drum is a non-reusable packaging).

Answer 1: The offeror/user may add necessary information in a manner conforming to the marking requirements found in § 178.503 if the offeror or user making the marking has a copy of valid test results indicating the packaging conforms to the criteria for that specific marking. The offeror or user, if different from the original company that marked the packaging, may not use the symbol representing the original company unless specific permission and arrangements, such as a written agreement, exist between the offeror or user and the manufacturer. If this permission does not exist, then the offeror or user must self-certify the packaging by using either a symbol representing its company (registered with RSPA) or the company's name and address (as per § 178.503(a)(8)).

Question 2: May an offeror/user of a packaging revise the packaging certification marking(s) displayed on the side of a packaging (per § 178.3(a)(5)), as necessary, in a permanent manner so that packaging certification marking(s) conform to requirements in § 178.503(a)? Please realize that the revised packaging certification marking(s) is based on the packaging certification(s) embossed on the bottom of the packaging and/or specific information or confirmation regarding the packaging certification(s) from the manufacturer.



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Answer 2: The answer to this question is the same as the answer to Question 1. If markings on the side and bottom of a UN specification drum do not match, then the test report would be required to determine which, if either, certification markings are correct. In order to mark a drum as a UN specification packaging, the test report is required in order for the user or offeror to self-certify the drum.

Question 3: May the offeror/user of a packaging in which the side marking is illegible or not present (such as for a packaging manufactured prior to the compliance date of the § 178.3(a)(5) requirement) place the packaging certification marking(s) on the side of the packaging in a permanent manner per § 178.503(a)? Once again, the marking(s) placed on the side of the packaging is based on the packaging certification(s) embossed on the bottom of the packaging and/or specific information of confirmation regarding the packaging certification(s) from the manufacturer.

Answer 3: Again, for a user or offeror to self-certify a packaging, they must ascertain that the packaging conforms to all applicable specification requirements. A copy of the test report for the packaging is required (see § 178.601(i)). "Touching up" a marking to make it more legible, is not self-certification and is permitted.

Question 4: Is it permissible, without obtaining an exemption, to allow upper case letters in the "UN" symbol rather than the lower case letters as indicated by examples in § 178.503(e)?

Answer 4: No, the UN symbol must appear exactly as it is shown in § 178.503(c)(1).

I hope this satisfies your request.

Sincerely,



Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards

Johnsen
§ 178.3(a)(5)
§ 178.503(e)
Marking
01-0034

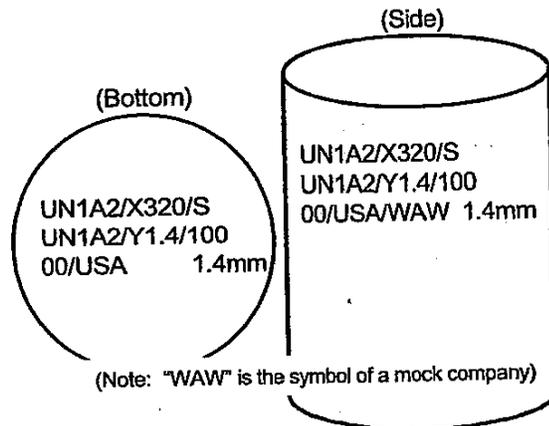
February 1, 2001

Dear Ms. Diane LaValle,

Thank you so much for your attention to the packaging marking concerns I've discussed with you. Your expedient responses have been very much appreciated.

When we talked on the phone this last Tuesday you stated it was permissible for the offeror/user of a United Nations (UN) packaging to complete the package certification(s) in situations where part but not all of the certification marking(s) is displayed. I'm writing today to obtain a written response from RSPA before proceeding to inform various clients and packaging manufacturers.

The issue brought to you last week concerned different examples illustrating partial packaging certification marking on drums. All three of the examples were determined by RSPA not to be in compliance with applicable regulations (i.e., §§ 178.3(a)(5), 178.3(c), 178.503(a), 178.503(a)(1), 178.503(a)(10)). One of the examples provided is illustrated below.



Example of Unauthorized Packaging Certification Marking

An offeror/user can only use a packaging in which the packaging certification marking(s) is complete in its entirety. Unfortunately, either a complete packaging certification marking was not present on the example drum markings, or were inappropriately marked with the letters "UN" on the side of the packaging rather than the required symbol addressed in §178.503(a)(1). Subsequently, I asked you if the offeror/user of the packaging could complete the packaging certification marking so one or both of the certification markings are complete per §178.503(a). You replied "Yes" as long as the additions were accurate based on the manufacturer's testing criteria. You also stated, as an option for packagings with dual certification markings, the offeror/user could render obsolete, in a permanent manner, the inappropriate or unwanted partial package certification marking to display one complete certification marking.

Ms. Diane LaValle
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Because of the magnitude of this issue, would you be so kind as to confirm our discussion by providing a written response to the following questions.

1. May the offeror/user add necessary information in a permanent manner to an incomplete packaging certification marking(s) on the bottom of the packaging to make the certification(s) complete per §178.503(a)? I realize that, because the additional certification marking(s) added by the offeror/user to the bottom of the drum may not be able to withstand drum reconditioning, the packaging is not authorized for reuse/reconditioning (e.g., the drum is a non-reusable packaging).
2. May the offeror/user of the packaging revise the packaging certification marking(s) displayed on the side of a package (per §178.3(a)(5)), as necessary, in a permanent manner to bring the packaging certification marking(s) in compliance with §178.503(a)? Please realize that the revised packaging certification marking(s) is based on the packaging certification embossed on the bottom of the packaging and/or specific information or confirmation regarding the packaging certification(s) from the manufacturer.
3. May the offeror/user of a packaging in which the side marking is illegible or not present (i.e., packaging manufactured prior to the compliance date of §173.3(a)(5)) place the packaging certification marking(s) on the side of the packaging in a permanent manner per §178.503(a)? Once again, the marking(s) placed on the side of the packaging is based on the packaging certification(s) embossed on the bottom of the packaging and/or specific information or confirmation regarding the packaging certification(s) from the manufacturer.
4. Is it permissible, without obtaining an exemption, to allow upper case letters in the "UN" symbol rather than the lower case letters as indicated by examples in §178.503(e)?

Thank you again for your attention in this matter. As you're aware, this issue is an immediate concern that affects literally millions of dollars in packagings. Needless to say, I eagerly await your reply.

For Regulatory Resources, Inc.,



Wade A. Winters, CET, CHMM
President

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