



North Carolina Department of Administration

Beverly Perdue, Governor
Moses Carey, Jr., Secretary

Division of Purchase & Contract
William Sam Byassee, State Purchasing Officer

MEMO TO: State Agencies, Institutions, Community Colleges, Universities, and Public Schools

FROM: Sam Byassee *Sam Byassee*

SUBJECT: Safety Listings of Various Equipment

DATE: May 16, 2011

As you may know, P&C has discovered that there is some State equipment, recently purchased but not yet delivered, which lacks the safety listings required by North Carolina law. The specifics of these legal requirements, and other relevant details, are included for your reference in Attachment A. **This memorandum sets out the procedure to handle equipment which has been delivered to you to fulfill a State contract, but has failed an acceptance inspection (regardless of who conducted it) because it lacked the required safety listing—and the appropriate label that indicates that listing.**

This problem equipment generally will be a product or composite system that is powered by connection to a building electrical system, whether plug-in or hard-wired, but typically **excludes** equipment powered by a safety-listed Class 2 power supply (the typical AC/DC adapter). The list of laboratories approved by the NC Department of Insurance to provide product safety listing labels is shown in Attachment B. Listing labels from any other laboratory are not acceptable.

The party responsible for resolving the issue when delivered equipment lacks the required safety listing **depends on who solicited the procurement**. If the procurement solicitation was released by your agency, then the North Carolina Administrative Code **requires your agency or institution to insure that the purchased items comply with the safety requirement in North Carolina law**. However, if the procurement solicitation was released for your agency by P&C, then P&C must insure that the items purchased comply with the law.

If P&C issued the solicitation, then we will request that the vendor obtain the proper safety listing at the vendor's expense, since the Contract General Terms & Conditions for our bids require that every product include any applicable listings. If the contractor for any reason refuses to comply with this request, P&C will consult with the user to explain the options remaining to resolve the matter, and take into consideration, as it attempts to resolve the issue with the vendor, any preferences the user may express.

Note that if you are a community college, you should have received an email dated May 6, 2011 from the NC Community College System office. That memo offers two alternative suggestions for community colleges to pursue an expedited resolution for the lack of safety listing label.

To reduce or eliminate this safety listing problem in the future, the Invitations For Bids and RFQs solicited by P&C—as well as the various solicitation templates intended for agency use—will emphasize more strongly the requirement for a proper safety listing. Although this requirement has been in the NC General Contract Terms & Conditions for many years, we believe that increased emphasis in the solicitation document will reduce the chance of it being overlooked by bidders. The various revised templates are expected to be ready in a few days. Also, P&C procurement specialists are placing particular emphasis on ensuring vendor compliance with this listing requirement before the bid is awarded.

Mailing Address:
1305 Mail Service Center
Raleigh, NC 27699-1305

Internet Home Page: www.ncpandc.gov
Phone: 919-807-4500

Location Address:
116 West Jones Street
Raleigh, NC 27603-8002

ATTACHMENT A

The Division of Purchase and Contract has recently learned that certain equipment currently within the procurement process, mostly equipment used in community college shop training programs, does not have the safety listings required by North Carolina law. Specifically, Article 4 of North Carolina General Statutes, Chapter 66, Section 25 (hereinafter “Article 4,” a copy of which is attached hereto, as Attachment C), states that “[a]ll **electrical materials, devices, appliances, and equipment** [(“hereinafter collectively referred to as “electrical equipment”)] shall be evaluated for safety and suitability for intended use[,] ... [t]his evaluation shall be conducted in accordance with nationally recognized standards and shall be conducted by a qualified testing laboratory” (i.e., Underwriters Laboratories (“UL”) or other approved qualified testing laboratory by the Commissioner of Insurance (the “Commissioner”)). (Emphasis added.) The sale of electrical equipment in North Carolina not meeting the requirements of Article 4 is prohibited (hereinafter referred to as “Prohibited Electrical Equipment”). Furthermore, use of Prohibited Electrical Equipment may expose the owner (State, agency, institution, university or community college) to liability if a student, faculty member, employee and/or other person were injured or killed using such Prohibited Electrical Equipment or liable for any property damage caused by the use of the Prohibited Electrical Equipment.

Enforcement of Article 4 is the responsibility of the “Commissioner or his designee or the electrical inspector of any State or local governing agency” and they “may initiate any appropriate action or proceedings to prevent, restrain, or correct any violation of this Article.” Although P&C is not primarily responsible for enforcing Article 4, P&C and the State’s purchasers have an obligation not to permit or authorize the purchase of Prohibited Electrical Equipment. In other words, the State’s purchasers and procurement specialists are gatekeepers who are to ensure that each piece of electrical equipment purchased for State or community college use is safe for its intended purpose and meets all the requirements of Article 4. The foregoing obligation is found in Paragraph 11 of the North Carolina General Contract Terms and Conditions (“Paragraph 11”),¹ and the purpose of this memo is to:

- Remind all agencies, universities and community colleges of the standards referenced in Paragraph 11;
- Make sure purchasers and procurement specialists are including Paragraph 11’s standards in the N.C. General Contract Terms and Conditions and that the specifications and evaluation criteria in the procurement make specific reference to Paragraph 11 at a minimum (note: purchasers and procurement specialists should determine whether more detailed specifications/standards are required depending on the type of electrical equipment, material, device and/or appliance being procured in order to provide vendors, evaluators and inspectors with further guidance);
- Evaluators are to review bids and manufacturer’s product literature to make sure vendors and suppliers will be complying with Paragraph 11’s standards; and
- Using agencies/inspectors are to verify that the electrical equipment received from contractors are in compliance with Paragraph 11’s standards before accepting delivery and/or making payment for electrical equipment.

The end goal of enforcement of Paragraph 11’s standards is to ensure that all electrical equipment being supplied to State agencies, institutions, universities and community colleges has been tested for safety pursuant to Article 4 and has been approved in accordance with national standards and by qualified independent testing laboratories.

Consistent with the above law and Paragraph 11, all electrical equipment covered by Article 4 that does

¹ Under this Paragraph, the State’s purchasers and procurement specialists also have a duty to ensure the safety of all equipment operated under pressure or connected to a gas fuel source under different statutes, regulations and/or building/fire safety codes.

not have the proper safety listing should not be accepted by the user or the user's representative, which includes P&C's statewide inspectors, who will be following this directive during their inspections of pending and future electrical equipment procurements. Again, Article 4 covers all "electrical materials, devices, appliances and equipment," which may be summarized as anything that can be plugged into an electrical socket or is in some other manner connected to an electrical power source. (See also, Commissioner's webpage at the following hyperlink for a list of approved laboratories and list of equipment categories http://www.ncdoi.com/OSFM/Engineering/BCC/engineering_bcc_third_party.asp.) The procedures below should be followed with respect to pending and/or future procurements:

1. For electrical equipment that has been delivered and awaiting an acceptance inspection by a P&C inspector, the acceptance inspection will include a check for proper safety listing on equipment, and will result in a rejection of units found to be lacking such listing. Then, in accordance with 1 NCAC .05B .0902 and 1 NCAC .05B .0906, the agency issuing the solicitation shall resolve any differences with the specification and/or contracts requirements.
2. For electrical equipment which is being currently solicited ("out on bid" or "on the street"), bid addenda will need to be issued, either by P&C, or by the soliciting entity, as applicable, using language similar to that in the revised IFB and RFQ templates (see below), under "Product Safety Listing."
3. For electrical equipment on bids which have already been opened and are under evaluation, but not yet awarded, if necessary, clarification should be sought by the purchaser or procurement specialist in order to confirm that covered equipment does hold the proper safety listing. Sometimes the manufacturer's literature included with the bid may confirm that the proper safety listing is included, which may eliminate a need for clarification. However, for best verification the equipment may be searched by make and model on the listing laboratory's website. For example, products for which U.L. listing is claimed may be looked up at <http://database.ul.com/cgi-bin/XYV/template/LISEXT/1FRAME/index.htm>. For assistance, from that Web page click on the link for "Quick Guide to the Online Certifications Directory."

To reduce or eliminate the question about safety listing from this point on, future IFB and RFQs solicited by P&C, as well as the various solicitation templates intended for agency use, will include an emphasized requirement for the proper safety listing. Note that the requirement has been in the NC General Contract Terms & Conditions for many years, but it needs increased emphasis via presentation in a conspicuous place in the solicitation document, in order to reduce the chance of being overlooked by bidders. The various revised templates are expected to be ready on or about May 20, 2011.

P&C invites all State agencies, institutions, universities and/or community colleges to respond to this memo with any authority that would establish exceptions to the foregoing statutory requirements and/or different interpretations of the foregoing statutory requirements.

**THIRD PARTY AGENCIES ACCREDITED BY THE NCBCC TO
LABEL ELECTRICAL & MECHANICAL EQUIPMENT AS OF SEPTEMBER 15, 2009**

Applied Research Laboratories

5371 Northwest 161st Street, Miami, Florida 33014
(305) 624-4800

Equipment Categories

6, 8, 12, 14, 15, 18, 21, 22, 24, 31, & 43

CSA International

178 Rexdale Boulevard, Toronto, Ontario, Canada M9W 1R3
(416) 747-2798

Equipment Categories

All

Curtis-Straus

527 Great Road, Littleton, Massachusetts 01460
(978) 486-8880 x 296

Equipment Categories

7, & 26-28

Factory Mutual Research

PO Box 9102, Norwood, Massachusetts 02062
(781) 762-4300

Equipment Categories

4, 5, 9, 13, 17, 19, 24, 28, 31, 32, 39, 43, & 47-51

Intertek Testing Services ITS-ETL

3933 US Route 11, Cortland, New York 13045-2014
(607) 753-6711

Equipment Categories

All except 21

Intertek Testing Services ITS-Warnock

3933 US Route 11, Cortland, New York 13045-2014
(607) 753-6711

Equipment Categories

17, 18, 21, 24, & 25

MET Laboratories

2200 Gateway Centre Blvd., Suite 215, Morrisville, NC 27560
(919) 481-9319

Equipment Categories

7, 10 - 16, 18, 22, 23, 26 - 31, 37 - 40, 43, 44, 47, 48, & 50

National Technical Systems (NTS)

533 Main Street, Acton, MA 01720
(978) 263-2933

Equipment Categories

26, 27, & 28

NSF International

789 North Dixboro Road, Ann Arbor, Michigan 48105-9723
(734) 769-8010

Equipment Categories

11-16, 26-31, 40, 43, & 48

Omni-Test Laboratories

13327 NE Airport Way, Portland, Oregon 97230
(503) 643-3788

Equipment Categories

17, 18, & 21

PFS Corporation

2402 Daniels Street, Madison, Wisconsin 53718
(608) 221-3361

Equipment Categories

17, 19, 20, 21, & Replacement Blowers & coils

QPS Evaluation Services, Inc.

81 Kelfield Street, Unit 8, Toronto, Ontario, Canada M9W 5A3
(416) 241-8857 x 422

Equipment Categories

6-12, 14-16, 22, 23, 26-29, 31, 36, 39, 40, 43, 46-48, 50, & 51

RADCO

3220 East 59th Street, Long Beach, California 90805
(310) 272-7231

Equipment Categories

1, 18, & Replacement blowers & coils

TUV America

65 T.W. Alexander Dr., Research Triangle Park, NC 27709
(800) 888-0123

Equipment Categories

4-8, 10-20, 22, 23, 26-29, 31, 35, 36, 38, 39, 43, 46-48, & 50

TUV Rheinland of North America

762 Park Avenue, Youngsville, North Carolina 27596
(919) 554-3668

Equipment Categories

7-9, 11-14, 16, 26-28, 31, 40, 43, 47, & 48

Underwriters Laboratories, Inc.

12 Laboratory Drive, RTP, North Carolina 27709
(919) 549-1400

Equipment Categories

All

Wyle Laboratories

7800 Highway 20 West, Huntsville, Alabama 35806
(256) 837-4411 x 4125

Equipment Categories

4, 26, & 43

EQUIPMENT CATEGORIES

1. Conductors for General Wiring
2. Flexible Cords
3. Wires and Cables for Special Applications
4. Materials and Components for Special Applications
5. Alarm Signal and Detecting System Components
6. CATV and Radio Distribution System Components
7. Communication System Components
8. Radio and Television Components
9. Energy Management System Components and Controllers
10. Sound Recording and Reproduction Equipment
11. Fixed Office Appliances and Business Equipment
12. Electrical Appliances
13. Electric Space Heating Equipment and Accessories
14. Air Conditioning Equipment and Accessories
15. Heat Pump Equipment and Accessories
16. Refrigeration Equipment and Accessories
17. Gas Fired Heating Equipment and Accessories
18. Gas Fired Appliances
19. Oil Fired Heating Equipment and Accessories
20. Oil Fired Appliances
21. Solid Fuel Heating Equipment
22. Fans and Ventilators
23. Filtering Equipment
24. Duct Materials Including Dampers
25. Chimneys and Vents
26. Electrical Data Processing Equipment
27. Medical, Dental, and X-Ray Equipment
28. Laboratory, Equipment, Electrical Measuring, and Testing Equipment
29. Food Preparation Machines
30. Swimming Pool and Spa Equipment
31. Miscellaneous Fixed Equipment - Amusement Machines, Animal Care, Appliances
Battery Chargers, Cleaning Machines, etc.
32. Fire Extinguishing Equipment
33. Circuit Breakers
34. Fuses
35. Wiring Devices, Attachment Plugs and Toggle Switches
36. Switches and Switching Devices - Other than Toggle
37. Panelboards
38. Switchboards
39. Transformers
40. Electrical Signs and Accessories
41. Ground-Fault Circuit Interrupters
42. Ground-Fault Sensing and Relaying Equipment
43. Industrial Control Equipment - Motor Controllers, Industrial Control Panels,
Motor Control Centers, Motorized Valves, Solenoids, etc.
44. Transient Voltage Surge Suppressors and Filters
45. Lightning Protection System Components and Lightning Protection Devices
46. Metering Enclosures and Meter Sockets
47. Emergency Lighting and Power Equipment System Components
48. Lighting Fixtures, Lamp Holders, and Accessories
49. Auxiliary Gutters, Junction, Pull and Outlet Boxes, and Cabinets and Cutout Boxes
50. Electrical Equipment for Hazardous Locations
51. Grounding and Bonding Equipment
52. Wire Connectors, Lugs, and Terminal Fittings
53. Insulating Tape and Closures