FIRE EQUIPMENT MANUFACTURERS' ASSOCIATION

Why It's Important to Use Manufacturer Recommended Parts for Pre-Engineered Systems

The listed use of manufacturer recommended accessory and replacement parts is vitally important to avoid compromising pre-engineered systems' performance, reliability, warranty, and listing. It is essential that the recommendations of the manufacturer be followed when servicing these systems to assure operation of the unit at the time of a fire.

Use of "non-complying parts" (i.e. parts not in compliance with established manufacturer's requirements, specifications, and quality standards) could possibly create the following negative results:

- Jeopardize UL Listing
- Jeopardize manufacturer's warranty
- Increase product liability risks
- Void distributor's vendor endorsement
- Violate Federal law (prohibits sale of counterfeit parts)

These results are further explained throughout this document.

VIOLATE NFPA 17 AND 17A NATIONAL SAFETY STANDARD

NFPA 17, *Standard for Dry Chemical Extinguishing Systems*:

10.1.3.1 The specification shall indicate that only equipment that is specifically listed and compatible for use with the extinguishing system shall be used.

9.1.3 Only system components referenced in the manufacturer's design, installation, and maintenance manual or alternative suppliers' components that are listed for use with the specific extinguishing system shall be used.

NFPA 17A, *Standard for Wet Chemical Extinguishing Systems*:

4.1 General. Only system components referenced or permitted in the manufacturer's design, installation, and maintenance manual or alternative components that are listed for use with the specific extinguishing system shall be used.

7.1.1 The following items shall be included in the specifications:

(3) Indication that only equipment referenced in the manufacturer's design, installation, and maintenance manual or alternative suppliers' components that are listed for use with the specific extinguishing system shall be used.

Thus, the use of non-complying parts on an extinguishing system violates the requirements of NFPA 17 and 17A. In acting contrary to this national consensus safety standard, the installer exposes himself to potential litigation and the system owner (where required by law to have systems that comply with NFPA 17 or 17A) may be in violation of the local law as a consequence of the use of non-complying parts.

JEOPARDIZE UL LISTING

Most pre-engineered systems are listed and labeled by UL and bear the UL Listing Mark certifying compliance with accepted National Standards setting down product safety performance and reliability requirements. When UL authorizes a pre-engineered system manufacturer to apply the Listing Mark to the product, it is with the understanding that the system will be installed and serviced using those specific parts that have been tested, listed, and identified by part number specifically for use with the listed pre-engineered system. Product certification by an independent testing laboratory concerned with public safety is advantageous (assurance of quality products) to the installer and his customer. Moreover, building codes, insurance company requirements, state statutes, and other governmental body regulations may require that pre-engineered systems bear the mark of a third-party certification organization as evidence that the system conforms to the requirements of the appropriate nationally recognized standards for safety.

JEOPARDIZE MANUFACTURER'S WARRANTY

Pre-engineered systems usually contain a product warranty to the owner of the system, guaranteeing to repair or replace any part with a flaw in workmanship during the warranty period. This product warranty is intended for the benefit of the end customer. Use of non-complying replacement parts on a warranted system will have the effect of voiding the manufacturer's warranty. A customer logically expects that manufacturer's recommended parts are used in the original installation and when required by periodic maintenance examinations on the system does not place the manufacturer's product warranty in jeopardy.

INCREASE PRODUCT LIABILITY RISKS

Distributors are "sellers" of products and thus are subject to product liability claims for injury or damages caused by the products they sell. Product liability exposure is not limited to manufacturers.

Use of non-complying parts on pre-engineered systems increases the installer's product liability risk if the part is not suitable, fails, or proves to be defective. The installer may be adjudicated negligent in making an unauthorized substitution, a substitution that runs directly contrary to NFPA 17 or 17A, manufacturer's recommendations, or other third-party regulations.

In these cases, there is a conflict between the system manufacturer and the installer that may prevent a "common defense" to the claim. This conflict will naturally increase not only the installer's liability exposure, but also the costs in maintaining his own defense to the claim by the injured party and perhaps a cross-claim for indemnity by the system manufacturer and/or entry of non-complying parts manufacturers into the legal process.

In some cases, the installer who uses a non-complying part that fails may be ultimately liable for injury and damages caused by the failure. For example, the non-complying part manufacturer may be uninsured, undercapitalized, or insolvent, in which case the distributor becomes the principal target defendant.

In these situations, the installer would be considered as the manufacturer of the part. The distributor may then become responsible for the design, manufacture, and marketing of the part even though the installer took no part in these activities and no doubt never contemplated that he could bear full accountability for its nonperformance.

A somewhat similar situation arises when a part is used on a system and the system manufacturer is no longer in business. In this case, there will be one less defendant for the injured person to pursue, which focuses greater attention, and potential liability, on the installer.

VOID DISTRIBUTOR'S VENDOR ENDORSEMENT

The installer may enjoy the benefits of being covered by a "vendor's endorsement" to the manufacturer's product liability insurance policy. This means that, under certain circumstances, the installer is deemed an "insured" under the manufacturer's policy with respect to distribution or sale of the manufacturer's systems in the regular course of business.

However, this insurance covering the installer will not apply to bodily injury or property damage caused by the distributor's unauthorized alteration of the system (which may include the use of non-complying replacement parts), or the distributor's negligence, or any other change to the system.

VIOLATE FEDERAL LAW (PROHIBITS SALE OF COUNTERFEIT PARTS)

The Federal Trademark Counterfeiting Act of 1984 is aimed at curbing the manufacture, distribution, and sale of counterfeit trademark products (including parts) in the United States. The Act subjects all persons and businesses that knowingly traffic in such goods to potential felony prison terms, product forfeiture and destruction, heavy fines (up to $5.0 million for repeat offenders), and triple damages plus attorneys' fees in civil action lawsuits. "Trafficking" in counterfeit trademarked goods encompasses all commercial activity, including manufacture, transportation, distribution, sale, and purchase for resale by anyone who knows or should know that the goods are counterfeit.

By using manufacturer recommended parts, an installer avoids even an unintended violation of the federal trademark law.

CONCLUSION

Installers seeking assurance from a vendor of non-complying parts that the parts are recommended by the manufacturer should insist on certification in writing to that effect.

Policies and recommendations concerning replacement parts, product warranties, etc., must be formulated by each system manufacturer, acting independently, and exercising its own judgment. An installer should exercise caution in the selection of parts as being suitable for use on a particular system. Working together, the manufacturer and installer will be better able to provide proper installation and servicing of pre-engineered systems so that these systems will perform with reliability as intended in the event of a fire.

For more information on recommended manufacturer parts usage, contact the pre-engineered systems manufacturer.

Founded in 1930, the Fire Equipment Manufacturers' Association is an international, non-profit trade association dedicated to manufacturing commercial fire protection equipment to serve as the first line of defense against fire in its early stages.

For more information and a list of current FEMA members, visit the FEMA website at www.femalifesafety.org.

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