



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 30, 2024

J.P. Gibbons
North American Transportation Consultants, INC.
P.O. Box 1440
Hightstown, NJ 08520

Reference No. 23-0081

Dear Mr. Gibbons:

This letter is in response to your November 21, 2023, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to approval and use of foreign-made international specification packaging. Specifically, you ask whether a U.S. domiciled Designated Approval Agency (DAA) registered solely with PHMSA as prescribed in 49 CFR Part 107 Subpart E may be approved by PHMSA to certify a portable tank—intended for international use only—that is designed and constructed to an international standard not authorized by the HMR. You refer to portable tanks that incorporate fiber-reinforced plastics (FRP) as shells—where reinforcement fiber is one of carbon, glass, or other as permitted materials in the IMDG Code Chapter 6.10—and ask whether an entity may be approved as a DAA to certify such a packaging like other third-party approval entities outside the U.S. even if the packaging is not authorized for use in the U.S.

The answer is no. As a matter of approval program general policy, PHMSA does not approve an entity as a DAA to certify a packaging to a UN specification or other international standard for purposes of international use if that packaging is not also authorized for use in the U.S. Furthermore, PHMSA does not list FRP portable tanks as an authorized packaging, and they may only be transported as prescribed in § 171.25.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#)
Cc: [Hazmat Interps](#)
Subject: FW: Letter to Director - Request for Clarification of Dual Certification Packages
Date: Monday, August 28, 2023 10:16:11 AM
Attachments: [PHMSA Request for Clarification Dual Certification Packages.pdf](#)

Hi Alice,

Please see the attached interpretation request.

Let us know if you need anything else.

Regards,

-Breanna

From: Toni Sullivan <tsullivan@natc-inc.com>
Sent: Thursday, August 24, 2023 4:22 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: JP Gibbons <jpgibbons@natc-inc.com>; Executive Mail <exec@natc-inc.com>
Subject: Letter to Director - Request for Clarification of Dual Certification Packages

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Kelley:

See attached letter from my supervisor, J.P. Gibbons.

Over the last few days, I have not had any success in faxing this to you which is why I am sending the letter via email.

Thank you very much for your assistance.

Toni Sullivan
Office Manager
NATC, Inc.
PO Box 1404
Hightstown, NJ 08520
Phone: 609-426-0555
Fax: 609-443-0004
Email: tsullivan@natc-inc.com



August 14, 2023

Via: Fax 202-366-7435

Director Shane Kelley
Standards and Rulemaking
US DOT - PHMSA – (PHH-10)
1200 New Jersey Ave. SE
Washington, D.C. 20590

RE: Request for Clarification of Dual Certification Packages

Director Kelley:

Several issues have recently arisen requiring clarification of Dual Certification Specification Packages authorized for DOT regulated materials within the USA. The specific concern is for packaging which is certified to both a 49 CFR specification and an international specification standard for transportation. The international standards include UN, IMDG, ADR, RID, TC, and are herein referred to as “UN or other international standard”. It would be appreciated if you could provide a letter clarifying the issues raised herein.

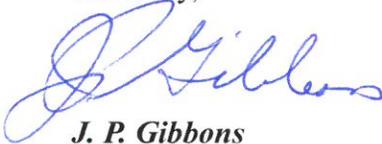
49 CFR (HMR) is clear on who can certify compliance with DOT specification packaging. It is our understanding that any Inspection Agency (or Entity) granted approval by a Competent Authority can provide approval and certification for international specification packaging manufactured within or outside their country. Specifically the following questions are presented:

1. If PHMSA authorizes an Inspection Agency, domiciled in the USA, to approve UN or other international standard packaging, that Agency can perform this function anywhere in the world. Is this correct?
2. As long as the packaging complies with the UN or international standard, any Inspection Agency which is registered and approved with PHMSA can issue an approval for manufacture and service of the certified packaging in any country participating in the Competent Authority Approval Program. Is that correct?
3. If a UN or other international packaging standard is fully complied with, can a PHMSA approved Inspection Agency approve the packaging even if it is not authorized for use in the USA but is used outside the USA?
4. If a packaging is dual certified, meaning it is fully compliant under a DOT specification or Special Permit, and also fully compliant under a UN or other international standard, (authorized in 49 CFR) it can be used as a specification packaging within or through the USA. Is this correct?
5. If the UN or other international specification standard portion of the dual certification is not accepted in the USA, but the packaging is fully compliant with a DOT specification or Special Permit, the packaging may still be used within the USA under that DOT specification or permit. Is this correct?

6. The approval process of a UN or other international specification standard is separate from the PHMSA authorization for use of the packaging within the USA. IS that correct?
7. If 6 is correct PHMSA approved Inspection Agencies and Entities may approve packaging to UN or other international standards, even if the packaging is not allowed within the USA at this time if they comply with the UN or international specification. Is this correct?
8. The fact that PHMSA does not, at this time, allow for a specific type of UN or other international standard packagings, (which carry International Approval, elsewhere)to be used in HazMat service within the USA does not preclude a PHMSA Approved Inspection Agency or Entity from performing the inspection and approval function on such packaging, being manufactured and used outside the USA. Is that correct?

Thank you and your staff for the assistance in this matter. Let me know if there are any questions or issues with this request for clarification of compliance with 49 CFR.

Sincerely,



J. P. Gibbons
President

Cc: PHMSA Guidance File
HMR Training File