



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

April 28, 2022

W. A. Winter
President
Regulatory Resources, Inc.
137 Mill Crossing Ln.
Springtown, TX 76082

Reference No. 22-0012

Dear Mr. Winter:

This letter is in response to your February 23, 2022, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to requirements for specification packagings. Specifically, you request that PHMSA reconsider the response provided in letter of interpretation (LOI) Ref. No. 18-0063 and ask two additional questions related to maintenance and marking of specification packagings.

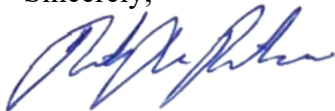
We have paraphrased and answered your questions as follows:

- Q1. You ask whether PHMSA will revise answer “A1” of LOI Ref. No. 18-0063 to state that the HMR requires that the user of the intermediate bulk container (IBC) cover the specification markings when the packaging is used in non-hazardous material service after the packaging’s periodic requalification period has been exceeded.
- A1. The original answer remains valid, and we will not issue a revision of LOI Ref. No. 18-0063. A packaging that requires periodic requalification and that has exceeded the requalification period may not be filled with a hazardous material and transported until the required requalification has been completed. A packaging that has exceeded its marked qualification period is clearly no longer an acceptable packaging to fill with a hazardous material and offered for transportation; however, it is not necessarily in violation of § 171.2(g). We suggest that the user cover the specification marking if the packaging is not being used in accordance with that marked specification to avoid the appearance of non-compliance and to prevent future users from mistaking the packaging’s permitted uses.
- Q2. You ask whether PHMSA will clarify how a packaging may display a UN or DOT specification marking, yet not meet the requirements of Part 178.

- A2. A packaging that does not meet the requirements of its specification may not display a UN or DOT specification marking. However, as noted above, the expiration of a periodic requalification does not—in and of itself—indicate that a packaging no longer meets its specification. Rather, the packaging is no longer authorized for use in hazardous material service until such a time it is requalified to ensure compliance with specification and general packaging requirements. The packaging may not be filled with a hazardous material and transported after the expiration of qualification, but the specification marking is not necessarily required to be covered, obliterated, or obscured once the qualification period has been exceeded. Again, in such circumstances, we suggest that, if a person in possession of a packaging intended to be used for non-hazardous material service, they should cover the specification marking to avoid confusion.
- Q3. You ask how a shipper can determine whether a packaging that displays a UN or DOT specification marking can continue to meet the requirements of its specification when it is used for a non-hazardous material that may exceed the limitations for the specification (e.g., caused fatigue that reduced the integrity of the packaging) or was repaired or altered in an impermissible way.
- A3. In accordance with § 173.28(a), packagings and receptacles used more than once must be in such condition, including closure devices and cushioning materials, that they conform in all respects to the prescribed requirements of the HMR. Before reuse, each packaging must be inspected and may not be reused unless the packaging is free from incompatible residue, rupture, or other damage which reduces its structural integrity. A person who damages or uses a UN or DOT specification packaging in such a way that the structural integrity of the packaging has been reduced, resells that packaging to another person, and indicates that the packaging is acceptable for use in hazardous material service is in violation of §§ 171.2(j).

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

Sincerely,



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

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#)
Cc: [Hazmat Interps](#)
Subject: FW: Resubmission of Request for Letter of Interpretation
Date: Friday, February 25, 2022 2:15:41 PM
Attachments: [RRI Request for Clarification - LOI 18-0063 \(Nov, 2020\).pdf](#)

Hi Alice,

Please see the attached LOI request.

Let me know if you have any questions.

Regards,

-Breanna

From: wade@regulatoryresources.net <wade@regulatoryresources.net>
Sent: Wednesday, February 23, 2022 12:04 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Resubmission of Request for Letter of Interpretation

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.

Good day,

I've attached letter request for clarification originally submitted in November 2020 for which I have yet to receive PHMSA's comments. Please note, the company address and phone number has changed. Our new address and contact information is:

Regulatory Resources, Inc.
137 Mill Crossing Ln
Springtown, TX 76082
Ph: 509-308-4885
Email: wade@regulatoryresources.net

Thank you. I look forward to your interpretation.

All the best,

W. A. Winter

Regulatory Resources, Inc.
Your Training and Compliance Professionals
www.regulatoryresources.net

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