



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

1200 New Jersey Ave, SE  
Washington, D.C. 20590

10/07/2011

Mr. Brent Raiber  
Cobham Mission Systems Division  
10 Cobham Drive  
Orchard Park, NY 14127

Reference No.: 10-0268

Dear Mr. Raiber:

This letter responds to your e-mail concerning third party inspection of pressurized cylinders that have a Department of Defense (DOD) Certificate of Equivalency (COE) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask the Pipeline and Hazardous Materials Safety Administration (PHMSA) to clarify a previously issued letter of interpretation, issued on October 23, 2003 [Ref. No. 03-0261] and addressed to Carleton Technologies Inc. This letter specified that if a company has a COE for a cylinder, under certain circumstances, the cylinder may be certified by a "resident government inspector," as opposed to using a third party Department of Transportation (DOT) inspector.

Currently, Cobham Mission Systems Division, previously known as Carleton Technologies Inc., employs Defense Contract Management Agency (DCMA) to act as government officials to ensure compliance. In your email, you state that DCMA is the same entity previously identified by Carleton in the prior letter of interpretation as the resident government inspector, and that DCMA is not identified as a current approved third party inspector by PHMSA.


In accordance with the requirements of § 173.7(a), hazardous materials offered for transportation by, for, or to the DOD of the U.S. Government, including commercial shipments pursuant to a DOD contract, must be packaged in accordance with the regulations of the HMR or in packagings of equal or greater strength as certified by DOD in accordance with the procedures prescribed by "Packaging of Hazardous Material, DLAD 4145.41/AR 700-143/AFJI 24-210/NAVSUPINST 4030.55B/MCO 4030.40B."

A "resident government inspector" is not defined in the HMR. However, in the context used in the previously issued letter of interpretation, the term refers to an individual who has been trained in accordance with § 172.704 of the HMR and the DOD regulations, specifically the procedures prescribed by "Packaging of Hazardous Material, DLAD 4145.41/AR 700-143/AFJI 24-210/NAVSUPINST 4030.55B/MCO 4030.40B." In accordance with § 173.7(a), hazardous materials packagings offered for transportation by, for, or to the DOD of the U.S. Government, including commercial shipments pursuant to a DOD contract may be inspected by a "resident government inspector" to determine equivalence to an appropriate DOT specification.

You also seek clarification as to the exact roles and responsibilities required of the “resident government inspector” with regard to § 178.35 of the HMR. Section § 173.7(a) applies to the continued use of a packaging and not to the manufacture of that packaging. The previous letter you referenced, Ref. No. 03-0261, allows for the inspection of a COE cylinder for reshipment in order to determine equivalence to an appropriate DOT specification, but does not address the manufacturing of COE cylinders. A “resident government inspector” may certify a packaging is of equal or greater strength and efficiency to those specifications detailed in the HMR. However, a “resident government inspector” is not authorized to conduct an inspection of a cylinder manufacturer in accordance with § 178.35. Only an independent inspection agency approved in writing by the Associate Administrator may inspect and certify that a cylinder is manufactured in accordance with § 178.35.

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "T. Glenn Foster". The signature is written in black ink and is positioned above the typed name.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

Benedict  
§ 173.7  
Applicability  
10-0268

**Drakeford, Carolyn (PHMSA)**

---

**From:** Betts, Charles (PHMSA)  
**Sent:** Tuesday, December 21, 2010 9:06 AM  
**To:** Drakeford, Carolyn (PHMSA)  
**Cc:** Vos, Brian (PHMSA)  
**Subject:** Fw: Interpretation of Letter of Interpretation  
**Attachments:** COE Letter of Interpretation.pdf

Carolyn-  
Please log in this new request for clarification

---

**From:** Vos, Brian (PHMSA)  
**Sent:** Tuesday, December 21, 2010 07:56 AM  
**To:** Betts, Charles (PHMSA)  
**Subject:** FW: Interpretation of Letter of Interpretation

Charles,

I thought this was a Cylinder question so I forwarded it to Duane Cassidy, but he noted that the sender is asking for further clarification related to the letter of interpretation they already received. Can you either forward this to the proper party or let me know who it should go to so I can send it myself? Thanks! –Brian Vos

---

**From:** Raiber, Brent [<mailto:Brent.Raiber@Cobham.com>]  
**Sent:** Friday, December 17, 2010 3:59 PM  
**To:** Vos, Brian (PHMSA)  
**Cc:** Raiber, Brent  
**Subject:** Interpretation of Letter of Interpretation

Brian,

I am looking for the correct contact at the DOT and was hoping that you could either answer my question or point me in the proper direction. Carleton received a "letter of interpretation" (attached) back in 2003 pertaining to third party inspection of our pressurized cylinders that have a DoD Certificate of Equivalency. Please take a look at the attached document as we require further clarification regarding the qualifications of our "resident government inspectors". The letter seems to indicate that our resident government inspectors do not need to be "DOT Approved" as third party inspectors. Can you or someone at your office please provide some more clarification with regard to the qualifications required for the inspector as identified in the letters attached? We would really appreciate any assistance that you could provide.

Thank you,  
Brent Raiber

**Brent Raiber**  
Design Engineer  
Cobham Mission Systems Division  
T:+1 (716) 667 6240  
F:+1 (716) 662 0747  
[brent.raiber@cobham.com](mailto:brent.raiber@cobham.com)

Carleton Technologies Inc. doing business as Cobham Mission Systems Division [www.cobham.com](http://www.cobham.com)  
Registered office 10 Cobham Drive, Orchard Park, NY 14127 USA

Please consider the environment before printing this email.