



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

APR 24 2015

Mr. Christopher Adams
Manager, Regulatory Affairs
FIBA Technologies, Inc.
P.O. Box 360
1535 Grafton Road
Millbury, MA 01527

Reference No. 15-0001

Dear Mr. Adams:

This is in response to your January 6, 2015 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to cylinder inspections during the manufacturing process. You ask if tests specified in 49 CFR and the applicable UN pressure receptacle standards may be witnessed by the independent inspection agency (IIA) via use of a real-time video feed, instead of a physical presence at the test site, and satisfy the requirements in §§ 178.35(c)(3)(v) and 178.70(e)(1).

In addition, you note the definition of "witness" in CGA pamphlet C-11, incorporated by reference in § 171.7, states "To see or know by personal presence or personal observation." You indicate your belief that the video method accomplishes the intent of this definition by allowing "personal observation."

Video monitoring by IIAs of applicable tests is not authorized under the HMR and would not satisfy the requirements in §§ 178.35(c)(3)(v) and 178.70(e)(1). The intent of these requirements is that the IIA witness or personally observe all applicable tests on-site.

You may apply to PHMSA for permission to use video monitoring under the terms of a special permit. To apply, you must submit an application to the Associate Administrator for Hazardous Materials Safety that conforms with the requirements prescribed in 49 CFR Part 107, Subpart B. In your application, you must provide justification that the observation method you are considering achieves a level of safety that is equal to or greater than that required under the HMR. You may obtain information on the special permit and

approvals applications process from our website at <http://www.phmsa.dot.gov/hazmat/regs/sp-a>, or by calling PHMSA's Approvals and Permits Division at (202) 366-4511.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Pfund". The signature is written in black ink and is positioned above the typed name and title.

Duane Pfund
International Standards Coordinator
Standards and Rulemaking Division

Wiener
178.37
Cylinders
15-0001

Goodall, Shante CTR (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Tuesday, January 06, 2015 9:46 AM
To: Hazmat Interps
Subject: FW: FIBA Technologies, Inc. - Request for Formal Letter of Interpretation from the DOT
Attachments: 20150105155946480.pdf

Shante/Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: Chris Adams [<mailto:ChrisAdams@fibatech.com>]
Sent: Monday, January 05, 2015 5:09 PM
To: INFOCNTR (PHMSA)
Subject: FIBA Technologies, Inc. - Request for Formal Letter of Interpretation from the DOT

To Whom It May Concern:

I was told by a person attending to the DOT information center that I could send the attached letter to this e-mail address and you would get it forwarded to the right person for review and comment. As the letter indicates, FIBA is seeking from the DOT an answer to a question in the form of a formal letter of interpretation. My contact information is provide in the attached letter if you have any questions. Perhaps tomorrow you could confirm your receipt of this letter and identify the department that you believe will be responding?

Sincerely,

Christopher R. Adams
Manager, Regulatory Affairs
FIBA Technologies, Inc.



FIBA TECHNOLOGIES, INC.
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January 5, 2015

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
Mail Stop: E24-455
1200 New Jersey Ave., SE
Washington, DC 20590

SUBJECT: Request for a Letter of Interpretation

REF.: 49 CFR §§178.35(c)(3)(v) and 178.70(e)

To Whom It May Concern:

FIBA Technologies, Inc. ("FIBA") holds manufacturer registration numbers M5635 and M6235 for its cylinder and tube manufacturing facilities located in Millbury, MA and Littleton, MA respectively. Each of these facilities complies with the DOT regulatory requirements for the manufacture of cylinders and UN tubes as described in 49 CFR Part 178, Specifications for Packagings. Each of these facilities works with DOT approved independent inspection agency (IIA), Steigerwalt Associates, Inc., which holds Independent Inspection Agency number IA11.

At both of our Massachusetts locations, FIBA manufactures DOT Specification 3AA and 3AAX and 3T cylinders per 49 CFR §178.37 and 49 CFR §178.45 respectively and DOT UN refillable seamless steel tubes per 49 CFR §178.71(j). We conduct our manufacturing operations during three (3) shifts when Steigerwalt can support the witnessing activities required by 49 CFR. Our two (2) manufacturing locations are separated by approximately 40 miles. While we certainly have the option of having IIA employees at both locations at all times, that's not the most efficient use of our resources or theirs. To improve efficiencies for both organizations and minimize the planning involved with the logistics of witnessing tests at both locations, it is our hope that a video option will be approved by the DOT.

With regard to the duties of the inspector detailed in 49 CFR 178.35(c), which includes 49 CFR 178.35(c)(3)(v), **Witnessing all tests**, and the responsibilities of the production IIA identified in 49 CFR §178.70(e), **Responsibilities of the production IIA**, FIBA seeks from your office an interpretation as to whether or not a real-time (versus recorded) video display (with a time clock shown) can be used by FIBA and our IIA to comply with the requirement to witness tests.