



Safety Alert

14 September 2021

PHMSA REINSTATES ENFORCEMENT DISCRETION FOR CYLINDERS EXCEEDING PERIODIC RETEST DATE

The Pipeline and Hazardous Materials Safety Administration has reinstated its enforcement discretion related to Division 2.2 cylinders transported by motor vehicle, which have exceeded their periodic test dates by no more than 12 months. The enforcement discretion is extended through January 15, 2022.

PHMSA had previously issued a notice of enforcement discretion related to retest dates for Division 2.2 cylinders on April 6, 2020 based on increased demand and changes in business practices due to COVID-19. That notice was extended twice but expired on June 20, 2021.

But PHMSA notes that members of the medical and industrial gas industry have continued to experience difficulty in obtaining cylinders due to the ongoing COVID-19 public health emergency. Those difficulties have been exacerbated by the prevalence of the Delta strain of the COVID-19 virus and recent disruptions resulting from Hurricane Ida, both of which have led to an increased demand for certain gases and a disruption in the normal business model for cylinder exchanges. This has made it difficult to obtain cylinders that can be filled in accordance with the requalification provisions specified in 49 CFR 173.301(a)(6) and 180.209.

Thus, PHMSA states that it and the Federal Motor Carrier Safety Administration will not take any enforcement action against any person who fills a DOT specification cylinder used to transport Division 2.2 non-flammable gas provided the cylinder meets all requirements of the Hazardous Materials Regulations except that the cylinder is overdue for periodic requalification by no more than 12 months through January 15, 2022.

If you have any questions please contact:

Rick Schweitzer

office (202) 223-3040

mobile (703) 946-2548

rpschweitzer@rpslegal.com