

	<h2>Safety Alert</h2>
<p>13 January 22</p>	<p>PHMSA Extends Cylinder Requalification Waiver to May 16, 2022</p> <p>* * * *</p> <p>FMCSA Issues Regional Emergency Declaration for Transportation of Propane, Other Heating Fuels</p>

PHMSA Extends Cylinder Requalification Waiver to May 16, 2022

The Pipeline and Hazardous Materials Safety Administration has [extended its prior notice](#) that it will not take 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 (HMR; 49 CFR Parts 171-180) except that the cylinder is overdue for periodic requalification by no more than 12 months through May 16, 2022.

PHMSA understands 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 Omicron strain of the COVID-19 virus and 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.

PHMSA had previously issued a similar notice of enforcement discretion for Division 2.2 cylinders on April 6, 2020 that was extended through January 15, 2022. This notice extends the enforcement waiver through May 16, 2022.



FMCSA Issues Regional Emergency Declaration for Transportation of Propane, Other Heating Fuels

The Federal Motor Carrier Safety Administration has issued a [Regional Emergency Declaration](#) to provide hours of service relief for heating fuel delivery drivers. The declaration provides relief from 49 CFR 395.3 (daily and weekly driving time limits) for drivers providing direct assistance supporting emergency relief efforts transporting heating fuel, including propane, natural gas, and heating oil, in 31 Affected States.

According to the FMCSA, heating oil also includes kerosene and biodiesel. The Emergency Declaration is valid through February 6, 2022, but may be extended.

The 31 Affected States are: Alabama, Arizona, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

The FMCSA Emergency Declaration provides regulatory relief for commercial motor vehicle operations supporting emergency relief efforts. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts as set forth in this Emergency Declaration.

At the end of a delivery where the driver has exceeded the normal daily or weekly driving time limits under this declaration, the driver may return empty to the company's terminal or the driver's normal work reporting location without complying with 49 CFR § 395.3. The driver must then take a 10-hour break before returning to normal operations.



If the Governor or a State has also issued an emergency declaration relating to this emergency, that State Declaration may provide additional regulatory relief. For example, New York has issued an Emergency Declaration that provides companies and drivers some additional relief. Drivers should keep copies of the Regional and State declarations in their cab throughout the duration of the Emergency.

If you have any questions on these matters, please contact GAWDA Counsel Rick Schweitzer at (703) 946-2548 or rpschweitzer@rpslegal.com.