



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

1200 New Jersey Avenue S.E.  
Washington, D.C. 20590

## **NOTICE OF ENFORCEMENT DISCRETION REGARDING CYLINDERS THAT HAVE EXCEEDED THEIR PERIODIC REQUALIFICATION TEST DATE**

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) understands that due to the Coronavirus Disease 2019 (COVID-19) public health emergency, many members of the medical and industrial gas industry may be experiencing difficulty in obtaining cylinders due to the increased demand for these gases or a disruption in the normal business model for cylinder exchanges. This has made it difficult for the industry to consistently obtain cylinders which can be filled in accordance with the requalification provision specified in 49 CFR 173.301(a)(6).

PHMSA gives 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) except that the cylinder is overdue for periodic requalification by no more than 12 months. Depending on the cylinder type, periodic requalification is required at either a 5-year or 10-year interval. This enforcement discretion is in response to unprecedented changes in business practices related to the COVID-19 outbreak and is intended to minimize disruptions in the supply chain, especially those related to providing medical gases to the health care industry. This enforcement discretion will be exercised by the Federal Motor Carrier Safety Administration and PHMSA. This relief applies only to transportation by motor vehicle, and does not extend to transport by air, vessel, or railroad.

Prior to filling and offering for transportation, all cylinders must be inspected in accordance with the applicable Compressed Gas Association Pamphlet and DOT requirements. Any cylinder that does not pass the prefill inspection criteria must not be filled.

This notice is limited to the filling and offering of cylinders containing Division 2.2 gases when such cylinders are no more than 12 months past their periodic requalification test date. These cylinders must be in compliance with all other requirements of the HMR. This Notice of Enforcement Discretion is effective while the Department of Health and Human Services determination that a public health emergency related to COVID-19 exists or 90 days from its date of issuance, whichever is sooner.

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for Hazardous Materials Safety