

## **NOTICE OF ADMINISTRATIVE DISCRETION AND GUIDANCE FOR RENEWAL OF REQUALIFICATION IDENTIFICATION NUMBER (RIN) APPROVALS DURING THE CORONAVIRUS DISEASE 2019 (COVID-19) PUBLIC HEALTH EMERGENCY**

*This Notice provides guidance to RIN holders seeking renewal of their approvals who, due to restrictions and limitations during the COVID-19 public health emergency, are not able to obtain the Independent Inspection Agency (IIA) pre-approval inspection required by 49 CFR 107.805.*

### **Background**

In order to inspect, test, certify, repair, or rebuild certain types of cylinders and pressure receptacles, a person must be approved by PHMSA under 49 CFR 107.805. When PHMSA grants an approval, it issues a RIN that generally expires five years from the date of issuance. An applicant seeking approval must arrange for an IIA to perform a review of its inspection or requalification operation.

At the onset of the COVID-19 public health emergency, due to the travel restrictions and quarantine requirements imposed by various government agencies, it was not possible for many RIN holders to have an IIA visit their facilities, complete the required inspection, and provide the pre-approval inspection report that is required by 49 CFR 107.805(b) to be submitted with an application for renewal of their approval. PHMSA responded by issuing 6-month extensions to their approvals. These short-duration extensions are now reaching their expiration dates.

During the initial months of the public health emergency, since the IIAs were not able to travel and conduct inspections, the IIAs developed a backlog of inspections for the RIN holders. Some RIN holders are still experiencing difficulty obtaining their required IIA inspections and associated pre-approval inspection report. The IIAs are still working to clear this backlog.

A number of RIN holders, including those seeking both normal and short-duration approvals, have advised PHMSA that due to the ongoing COVID-19 public health emergency and the backlog of inspections at IIAs, they still are unable to schedule a pre-approval inspection from an IIA. Thus, the RIN holders are unable to comply with the requirements of 49 CFR 107.805 to submit a pre-approval inspection report and recommendation from an authorized IIA, which will be evaluated under 49 CFR 107.709.

PHMSA is waiving compliance with 49 CFR 107.805(b) for RIN holders when requesting renewal of their approval if they are unable to obtain an IIA inspection prior to applying for renewal of their approval. If a renewal is granted under these provisions, it will only be granted for twelve months and not for the usual five-year period. In addition, the renewal will not relieve the RIN holder from the requirement to obtain an inspection from an IIA prior to any subsequent renewal. This alternative procedure provides an approval holder additional time in scheduling and obtaining inspection by an approved IIA. All applications for renewal of RINs processed under this guidance will be reviewed by PHMSA's Field Operations staff for fitness review prior to issuance of a renewed approval.

### **Applicability:**

- This guidance applies only to current RIN holders who are unable to comply with the pre-approval inspection application requirements of § 107.805 due to COVID-19 public health emergency related issues. It does not apply to new applicants.

### **Application Requirements:**

- An application must meet the general requirements of § 107.705 and the requirements of § 107.805, with the exception that the application may not meet the IIA inspection requirement.
- Applicants requesting renewal without an IIA inspection report and recommendation are required to submit the following additional information as part of their application:
  - A general explanation of the reasons why an inspection could not be conducted in a timely manner.
  - Documentation showing that at least 60 days prior to the expiration date of their current approval, the applicant has made a reasonable attempt to schedule an inspection with an IIA. This can be demonstrated by providing documentation that shows a minimum of 2 IIAs were contacted to set up an inspection and that the IIAs were unable to perform the required inspection in a timely manner. If the 60-day requirement cannot be met, PHMSA will evaluate the reasoning provided and render a decision in accordance with § 107.709(c).
  - Documentation of standard operating procedures used for requalifying cylinders and current training records in accordance with the requirements of § 172.704. This training review would normally be performed by the IIA; however, without IIA verification, this information must be submitted for PHMSA review.
- PHMSA may require an applicant to undergo a virtual inspection prior to granting an approval under this notice.
- A RIN holder is not required to use the same IIA each time they require inspection of their RIN facility. A listing of IIAs authorized for pre-approval inspection is available at: <https://www.phmsa.dot.gov/hazmat/pressure-vessels-approvals/domestic-independent-inspection-agencies>.

This document is a temporary notice of administrative discretion. To the extent this notice includes guidance on how regulated entities may comply with existing regulations, it does not have the force and effect of law and is not meant to bind the regulated entities in any way. This Notice is effective through March 1, 2021.