



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 gas industry may be experiencing difficulty in obtaining cylinders due to the increased demand for these medical gases, stockpiling of cylinders by their customers, 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) and 49 CFR 180.209.

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 medical gas provided the cylinder meets all requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171 through 180) 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 relief applies only to transportation by motor vehicle and does not extend to transport by air, vessel, or railroad.

Prior to filling, all cylinders must receive and pass a pre-fill inspection in accordance with 49 CFR 173.301(a)(2).

This notice is limited to the filling and offering of cylinders containing Division 2.2 non-flammable medical 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 document is a temporary notice of enforcement discretion. Regulated entities may rely on this notice as a safeguard from departmental enforcement as described herein.

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 of Enforcement Discretion expires June 30, 2021.

Issued December 30, 2020, in Washington D.C.



William S. Schoonover  
Associate Administrator  
for Hazardous Materials Safety