



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

1200 New Jersey Avenue, SE
Washington, DC 20590

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 an onsite 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, many RIN holders had difficulty obtaining an onsite review and the pre-approval inspection report required by 49 CFR 107.805(b) to be submitted with an application for renewal of their approval. PHMSA responded by issuing six-month extensions to their approvals if sufficient evidence was provided to demonstrate inability to obtain the requisite review. As those extensions reached their expiration dates, PHMSA learned that a number of RIN holders were still unable to comply with the requirements of 49 CFR 107.805 to submit a pre-approval inspection report and recommendation from an authorized IIA. PHMSA therefore waived compliance with 49 CFR 107.805(b) for RIN holders when requesting renewal of their approval if they were unable to obtain an inspection prior to applying for renewal of their approval. This waiver is now reaching its expiration date.

PHMSA understands that some RIN holders are still having difficulty scheduling IIA inspections. To ensure the continued availability of medical and other critical compressed gases, for an additional 45 days PHMSA will continue to waive 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 with an approval expiring between March 1, 2021 and April 15, 2021 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 April 15, 2021.

Issued on March 4, 2021, in Washington D.C.



William S. Schoonover
Associate Administrator
for Hazardous Materials Safety