



Billing Code: 4909-60-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2017 0084; Notice No. 2018-14]

Hazardous Materials: Termination of M-Number and R-Number Approvals Issued Without an Expiration Date

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: All R-number holders and holders of M-number approvals issued without an expiration date that did not show cause why their approvals should not be terminated, or did not apply for a modification of that approval to get a 5-year expiration time frame in response to the Federal Register Notice issued Friday, November 17, 2017, [Docket No. PHMSA-2017-0084; Notice No. 2017-03], are hereby notified that these approvals shall be terminated, 30 days from the publication of this Federal Register Notice.

FOR FURTHER INFORMATION CONTACT: Duane Cassidy, Acting Director, Approvals and Permits Division, Office of Hazardous Materials Safety, (202) 366-5794 PHMSA, 1200 New Jersey Avenue, SE, Washington, DC 20590 or at approvals@dot.gov.

Correspondence regarding the proposed M-number and R-number terminations should be sent to approvals@dot.gov with the subject line “Termination of M-numbers/Termination of R-numbers.”

SUPPLEMENTARY INFORMATION:

I. Introduction

PHMSA is terminating M-number and R-number approvals discussed in the Federal Register Notice issued Friday, November 17, 2017 (82 FR 54465) to streamline all approvals issued by the Approvals and Permits Division. R-number and M-number approvals that were issued without an expiration date, whose holders have not shown cause why their approval should not be terminated or applied for a modification to get a 5-year expiration date, are terminated effective January 1, 2020. PHMSA originally proposed that termination of these approvals would take effect one year from the publication date of the Notice. The Notice, and the comments received by PHMSA, are available on regulations.gov in Docket No. PHMSA-2017-0084.

II. Background

M-number approvals are issued to companies that manufacture or recondition packaging related to hazardous materials to show that the manufacturer holds a registered M Number symbol. This number is used for identification purposes in place of the manufacturer or reconditioner's name and address, as authorized in 49 CFR 178.503. In previous years, PHMSA issued reconditioner approvals, known as an "R-number," to companies that reconditioned packages related to hazardous materials. PHMSA no longer issues R-number approvals and now issues M-number approvals in their place. Prior to 2010, M-number and R-number approvals were issued without expiration dates.

On November 17, 2017, PHMSA issued a Federal Register Notice proposing to terminate R-number and M-number approvals without expiration dates, if approval holders did not modify

their approvals or show cause why their approvals should not be terminated as provided for in 49 Code of Federal Regulations (CFR) § 107.713(c)(1). See 82 FR 54465.

Taking this action will allow PHMSA to regularly review approval documents and track changes. It will ensure that all applicants are subject to the same renewal timelines and requirements to contact PHMSA when pertinent information pertaining to the approval holder, such as operating status and facility locations, has changed.

PHMSA has communicated the details of Notice No. 2017-03 with the regulated community, utilizing various methods (webinars, brochures/pamphlets, YouTube presentations). National Tank Truck Carriers (NTTC) commented, requesting that PHMSA immediately suspend, modify or remove the posting and the opportunity to comment on the policy be given to industry prior to its implementation. PHMSA communicated with NTTC via teleconference meeting. NTTC mistakenly assumed that the Federal Register Notice would affect the Repair / Rebuild R-Stamp certification issued by ASME for cargo tank repair. PHMSA explained that this program would be unaffected by the Federal Register Notice and NTTC officially submitted a withdrawal of their comments from the docket.

PHMSA also interacted with The Sporting Arms and Ammunition Manufacturers' Institute (SAAMI) and the Industrial Packaging Alliance of North America (IPANA). SAAMI opposed the addition of an expiration date, as this would come with the added responsibility of renewal by the applicants. They also questioned PHMSA's action, believing it would affect the M-number marking, as this would cause economic hardship to its members. IPANA contacted PHMSA by phone and questioned whether the announcement covered registration symbols previously grandfathered into the database.

After review of the correspondence received, PHMSA responded with verbal and/or written communications to each of the commenters. PHMSA made SAAMI aware that PHMSA was not changing the marking requirements and that the addition of expiration dates to approvals and permits was initiated as part of PHMSA's 2010 action plan following an audit of Approvals and Permits. As a result, PHMSA implemented expiration dates on all approvals and permits, except for classification approvals. PHMSA also hosted representatives from SAAMI at its headquarters on two separate occasions, once in December of 2017 and again in August of 2018. SAAMI is opposed to the addition of expiration dates on M Number approvals, as they believe that it will impose an administrative burden on their members. On both occasions, PHMSA answered questions in relation to the reasoning for the addition of expiration dates and SAAMI's concern that it would cause hardship to its members due to the responsibility of renewal and maintenance of approval documents. PHMSA expressed that the administrative burden would be minimal, due to a simple application process consisting of a short email submission including information pursuant to 49 CFR § 107.705. Additionally, as this is a registration process, no onsite inspection or fitness action would be required prior to issuance. PHMSA also noted that this effort was to increase the reliability of its data, track out of business companies to limit resource drain on its investigators, and ensure changes to ownership, addresses, and name changes of approval holders are kept up to date as required. PHMSA also explained that expiration dates on approvals allow PHMSA to re-evaluate the need for the approval and the continued fitness of approval holders at regular intervals.

IPANA contacted PHMSA by phone in 2017, and inquired as to whether this cancellation applied to all M Numbers, even those with an expiration date. PHMSA responded to IPANA that the notice applied to all R Number approvals and existing M Number approvals without an

expiration date. PHMSA also noted that it was PHMSA's intent to cover registered symbols further under a separate Federal Register Notice as there are other issues that need to be addressed concerning the use of one approval for several locations. This action is being reviewed by PHMSA and will be initiated at a future date under a separate Federal Register Notice. However, PHMSA also made clear that if an original approval authorizing a grandfathered symbol does not have an expiration date, it will require one.

Subsequently, PHMSA indicated that it would provide increased outreach efforts on the Federal Register Notice regarding M-number and R-number approvals and would host a question and answer webinar on the proposed changes prior to Summer 2018. PHMSA hosted a webinar on May 21, 2018 to provide additional information on the M-Number and R-Number Program Federal Register Notice. PHMSA had 20 entities participate including stakeholders from several companies and associations in the hazmat community. A recording of the material covered was posted on PHMSA's webpage on June 30, 2018.

III. Action

PHMSA is granting an extension of the November 17, 2018 show cause deadline and termination date proposed in the Notice. Holders of R-number and M-number approvals issued without an expiration date that have not shown cause why their approvals should not be terminated as provided in 49 CFR 107.713(c)(1), or have not applied for a modification of their approval in accordance with 49 CFR § 107.705 30 days after the posting of this notice are hereby informed that effective 30 days from the issuance of this notice, these approvals are terminated. The extension of the termination date was to allow for sufficient time to respond to comments from the public and provide outreach on the proposed action.

A holder of an M-number or R-number approval that is terminated according to this Notice may request that the Associate Administrator for the Office of Hazardous Materials Safety reconsider the termination. Pursuant to 49 CFR § 107.715, such a request must: (1) be in writing and filed within 20 days of the date of termination; (2) state in detail any alleged errors of fact and law; (3) enclose any additional information needed to support the request to reconsider; and (4) state in detail the modification of the final decision sought. This notice serves as service of process pursuant to 49 CFR § 105.35(a)(3).

Issued in Washington, DC, on March 18, 2020, under the authority of 49 U.S.C. 5101–5128, as delegated in 49 CFR part 107.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety,

Pipeline and Hazardous Materials Safety Administration.

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