



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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DOCKETS

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400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Don Hausz, President
All-Out Fire Equipment Co., Inc.
385 High Street
Holbrook, New York 11741

PHMSA-2005-23199-4

Re: Termination of Approval

Dear Mr. Hausz:

This denies your request for reconsideration of my decision to terminate your approval (Retester Identification Number (RIN) A261).

On April 26, 2005, I provided you with written notice of my proposal to terminate your approval and the reasons for it. You failed to respond to the Proposed Termination letter. On October 4, 2005, I provided you with written notice of the termination of your approval.

On October 19, 2005, your representative, Mr. John J. Budnick, Esq., requested reconsideration of my decision. The holder of an approval may request that I reconsider a decision to terminate the approval; however, the request must contain specific information. Without the required information, I have no basis to reconsider my decision. Your request failed to provide the necessary information.

First, the request must "state in detail any alleged errors of fact and law."¹ Your request for reconsideration alleged "that there are errors of fact and in errors in your conclusion of law." [sic] You provided no explanation of what those errors are.

Second, the request must include "any additional information needed to support the request to reconsider."² Your request for reconsideration alleged that the above errors were "based upon erroneous and insufficient data now in your possession." You did not provide corrections or additions to the information for me to consider.

You indicated you needed an additional thirty days and indicated you would have additional information from an Independent Inspection Agency by the end of November. Five months have passed since you wrote your letter requesting reconsideration; however, I have received no additional information.

¹ 49 C.F.R. § 107.715(a)(2).

² 49 C.F.R. § 107.715(a)(3).

Your request for reconsideration failed to provide the information required by regulation. Furthermore, you provided no new evidence for me to consider.

A retester of DOT specification and exemption cylinders is required to follow specific testing protocols and procedures set out in the regulations. Based on a review of the inspection detailed in Inspection Report No. 04421033, I find that you have knowingly violated the terms of your approval and have demonstrated a lack of fitness to perform hydrostatic tests on compressed gas cylinders. Your request for reconsideration is denied.

You may appeal this decision to the Administrator of the Pipeline and Hazardous Materials Safety Administration. See 49 C.F.R. § 107.717.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. McGuire", written over a horizontal line.

Robert A. McGuire
Associate Administrator for
Hazardous Materials Safety

CERTIFIED MAIL – RETURN RECEIPT REQUESTED