

proposed table in § 173.302d had separate UN ID numbers for their adsorbed version in the § 172.101 Hazardous Materials Table that should be cited instead of the non-adsorbed gas entry.

Entegris submitted a comment requesting that rather than adopting DOT-SP 14237, we should adopt DOT SP-16485, which allows for transportation of adsorbed gases in DOT-3AA and DOT-3E cylinders in a manner harmonized with the current requirements for UN pressure receptacles in § 173.302c. Entegris noted that the overpack requirement in DOT-SP 14237 was created to address the unique risks associated with transportation by aircraft, and presents a significant obstacle to efficient transportation by other modes. They noted that § 173.302c does not require the use of overpacks for UN pressure receptacles containing adsorbed gas, nor does DOT-SP 16485.

PHMSA response. We appreciate the comments we received on this topic. In this final rule, we are not adopting DOT-SP 14237, nor are we inserting requirements for adsorbed gases in DOT specification cylinders into the HMR in § 173.302c. PHMSA's decision is based on the lack of consensus on this subject and technical concerns we have surrounding the modal requirements, minimum test pressure criteria, and authorized requalification. There are multiple existing DOT SPs that authorize the transportation of adsorbed gases in DOT specification cylinders. These permits authorize different adsorbed gases and utilize different DOT specification cylinders to contain the substrate and adsorbed gas, and have different operational controls. Incorporating the provisions of multiple special permits that authorize different materials, multiple specification and non-specification cylinders, and have differing operational controls, is challenging for PHMSA to attempt at the final rule stage without soliciting comments on the regulatory solution that melds the provisions and conditions of multiple permits together. The incorporation of adsorbed gases presents additional difficulties due to the risks presented by the highly toxic nature of the gases currently transported in adsorbed form, leading us to proceed with caution in adopting a standard into the HMR.

Therefore, PHMSA believes that the most appropriate way to authorize adsorbed gases in DOT specification cylinders in the HMR is to conduct a more thorough review of existing systems authorized by special permit and propose a solution in a separate

rulemaking, rather than risk creating imperfect regulatory requirements. We will further evaluate international standards for adsorbed gas transportation and existing DOT special permits for determination on how best to adopt provisions for adsorbed gases in DOT specification cylinders into the HMR. Adsorbed gases may continue to be transported in UN pressure receptacles in accordance with existing instructions in § 173.302c, or in DOT cylinders under the terms of a special permit. We will consider revisiting this issue in a future rulemaking.

VI. Agency Initiated Editorial Corrections

PHMSA regularly reviews and revises the HMR to correct errors and clarify any regulations that are unclear or confusing. PHMSA is making the following changes in this final rule.

Section 107.803

Section 107.803 provides approval procedures for independent inspection agencies (IIA) conducting cylinder inspections and verifications as required by parts 178 and 180. In its application for approval status, the IIA must provide information, including a detailed description of its qualifications and ability both to perform and verify inspections. However, at present, the application information requirements of § 107.803(c)(3) only reference part 178. In the NPRM, PHMSA proposed to revise § 107.803(c)(3) to include part 180, subpart C, for consistency.

We received one comment on this topic. Bancroft Hinchey supports this revision. Therefore, in this final rule we are adopting this change as proposed in the NPRM.

Section 107.805

Section 107.805 provides approval procedures for persons to inspect, test, certify, repair, or rebuild a cylinder in accordance with the HMR. PHMSA is revising the requirements for application for approval of cylinder qualifiers to include a reference to the option of having a mobile cylinder requalification unit (*i.e.*, a mobile unit). See § 180.203 for further discussion.

We received one comment on this topic. Bancroft Hinchey supports this revision. Therefore, in this final rule we are adopting this change as proposed in the NPRM.

Section 178.70

Section 178.70 provides approval for the manufacture of UN pressure receptacles (*i.e.*, cylinders). Currently, § 178.70(d) restricts the user (manufacturer) from the flexibility that

is provided in the UN/ISO standards. The regulation as constructed results in additional cost and delay without any added safety. The UN/ISO standards are developed based on performance testing and include adequate testing for a wide range of design-type modifications. All UN/ISO standards to which the original design type conforms permit certain modifications to an approved design type. PHMSA has received several requests to revise this regulation to allow an authorized manufacturer to benefit from the UN Model Regulations and produce UN/ISO cylinders. In the NPRM, PHMSA proposed to adopt language consistent with UN/ISO standards to reduce the need for approvals.

We received one comment on this topic. Bancroft Hinchey supports this revision. Therefore, in this final rule we are adopting this change as proposed in the NPRM.

Section 180.203

Section 180.203 specifies definitions that apply to cylinder use, qualification, and maintenance. In the NPRM, PHMSA proposed two revisions to definitions in § 180.203. In this final rule, we are adopting the definition for "mobile unit" with modifications based on comments received, and we are not adopting a new definition for "proof pressure test."

(1) Define and Adopt "Mobile Unit" Requalification Operations

The hazardous materials program procedures of 49 CFR part 107 for approval of cylinder qualifiers do not specify the option of a "mobile cylinder requalification unit." The intent of this type of approval is to allow a cylinder qualifier to perform its requalifying function away from the primary place of business to better serve cylinder owners who need requalification testing and inspection of cylinders. In the NPRM, we proposed to limit the operations of a mobile unit to a 100-mile radius from the primary place of business. Eleven commenters objected to this limit based on economic, safety, and fairness grounds.

PHMSA response. PHMSA will not place a distance limit on the operations of a mobile unit. However, an applicant for a mobile qualifier identification number (RIN) must specify the geographic area(s) in which they are requesting approval to operate. The requirement to provide geographic information on the operating range of a mobile unit is a part of the current approval process for mobile units. However, it is not codified in the language of Part 107 for cylinder