

adopting the revised definition, as proposed.

Design Certifying Engineer and Registered Inspector. We proposed to change the requirements for Design Certifying Engineers (DCEs) or Registered Inspectors (RIs) to allow experienced persons to act as DCEs or RIs even if they had not registered by the grandfather clause date of December 31, 1995. DCEs and RIs must still meet the registration requirements in Subpart F of Part 107, which include familiarity with all current regulatory requirements and certification. In addition, the proposed definitions for both a DCE and an RI specify that a DCE and RI must have the knowledge and ability to determine whether a cargo tank design and construction meets the applicable specification.

The National Tank Truck Carriers (NTTC) proposed relaxing the RI requirements even further and eliminating the three-year requirement. We disagree. The functions performed by an RI are sufficiently complex that three years' work experience is necessary to assure that an RI has acquired essential knowledge and experience. In this final rule, we are adopting the definitions as proposed, with the addition of language to specify that the work experience requirements refer to cargo tank testing and inspection.

Corroded/abraded. Commenters generally support our proposal in the NPRM to clarify the term "corroded or abraded." However, several commenters suggest that this definition does not provide sufficient clarification and could lead to enforcement problems. Baltimore Cargo Tank comments that enforcement personnel " * * * will be compelled to deem any kind of surface mark on the cargo tank wall * * *" as meeting the definition as proposed. The American Trucking Associations suggests citations may be issued as a result of paint scratches and other cosmetic blemishes.

The use of the term "corroded or abraded" relates primarily to a requirement to perform an inspection or test, such as those requirements in § 180.407(e) that require that, if a corroded or abraded area is observed by a visual inspection, it must be thickness tested. In this final rule, we are adopting a definition for "corroded or abraded," to address commenters' concerns. Thus, in this final rule, "corroded or abraded" is defined to mean any visible reduction in the material thickness of the cargo tank wall or valve due to pitting, flaking, gouging, or chemical reaction to the material surface that affects the safety or serviceability of the cargo tank.

The term does not include cosmetic or minor surface degradation that does not affect the safety or serviceability of the cargo tank.

Corrosive to the tank/valve. We proposed to revise the definition of "corrosive to the tank/valve" because of the many requests for clarification that we have received. The regulations require additional and more frequent inspections (internal inspection, thickness testing, upper coupler removal and inspection) for CTMVs transporting a lading that may adversely affect tanks or valves, causing leaks and other safety hazards. The reference to § 173.136 (definition of a Class 8 material) in the current definition has caused confusion. We did not intend that lading designated as "corrosive to the tank/valve" would be limited to Class 8 materials or to materials that cause corrosion at a rate of 6.25 mm or more per year. Our intent was to include any lading, not just Class 8 materials, that corrodes a tank or valve.

Only two commenters addressed this proposal, and both supported the change. Thus, RSPA will adopt the proposed change to the definition of "corrosive to the tank/valve" to specify that test data and experience must be used to determine if a specific lading is corrosive to the cargo tank wall or valve. The removal of the reference to § 173.136 is intended to clarify that "corrosive to the tank/valve" is not limited to materials with a corrosion rate of 6.25 mm or more per year. Any test data or experience that indicates any amount of corrosion is sufficient to meet the definition.

Maximum allowable working pressure (MAWP). The Truck Trailer Manufacturers Association (TTMA) submitted a petition for rulemaking (P-1272) suggesting that a cargo tank's MAWP should be dependent on the physical characteristics of the cargo tank rather than the lading carried in the cargo tank or the method of loading or unloading the cargo tank. In its petition, TTMA notes that a cargo tank manufacturer will not always know the characteristics of the lading that will be transported in the cargo tank and that a manufacturer will not always know the pressure at which the tank will be loaded or unloaded.

In its petition, TTMA also asserts that the current regulations have resulted in confusion in the regulated industry as to whether the static head of lading should be included in the MAWP. TTMA notes that § 178.345-1(k) defines MAWP as the largest of: (1) The pressure prescribed for the lading in part 173; (2) the vapor pressure of the most volatile lading at 115° F plus the maximum

static pressure exerted by the lading at the maximum lading density plus any pressure exerted by a gas padding; or (3) the maximum pressure in the cargo tank during loading or unloading. TTMA states that it is not clear if the static head is included in the lading pressure prescribed in Part 173 or the loading/unloading pressure.

We agree with TTMA that there should be no ambiguity in the HMR as to the meaning of MAWP. We agree that the MAWP should be based on a cargo tank's physical characteristics, but we believe MAWP should also be linked to the requirements of § 173.33 for use by shippers and carriers. The proper matching of the maximum lading pressure conditions defined in § 173.33(c) with the MAWP of a cargo tank by shippers and carriers is critical to providing safety in cargo tank operations. The maximum lading pressure addresses many factors critical to matching a lading to a cargo tank MAWP, including the static head (pressure) generated by a specific lading or the maximum pressure in a tank during loading or unloading.

For example, § 173.33(c)(iv) requires the sum of the vapor pressure of the lading at 115° F, plus the tank static head exerted by the lading, plus any pressure exerted by a gas padding, including air, in the tank to be less than or equal to the MAWP of the cargo tank. The pressure defined by this summation is the pressure exerted at the bottom of the tank. When a cargo tank is inverted in a rollover, this pressure is applied to the pressure relief devices installed on the top of the cargo tank. Particularly for large diameter tanks and high-density loadings, this resultant pressure could be sufficient to open the cargo tank's pressure relief devices and release the contents of the tank, even if the tank were undamaged.

Thus, it is critical for shippers and carriers to determine that the MAWP of a cargo tank is greater than or equal to maximum lading pressure derived from the conditions specified in § 173.33. Similarly, cargo tank manufacturers should be familiar with the requirements of § 173.33 in order to provide a cargo tank with an MAWP sufficient to meet the needs of shippers and carriers. To strengthen the linkage between § 173.33 and cargo tank MAWP, the NPRM proposed to revise the definition for MAWP to require the MAWP to be greater than or equal to the maximum lading pressure condition prescribed in § 173.33 for each material. The proposal is adopted without change in this final rule.

Minimum thickness. We proposed to add in § 178.320 a definition for