

references the minimum thickness tables for DOT 400 series CTMVs to clarify the correct test criteria.

#### Section 180.409

We are revising paragraph (a) to add a reference to the definition of "Registered Inspector" in § 171.8 to clarify that a person must meet the minimum qualifications set forth in the definition in order to be qualified to perform tests and inspections required by § 180.407(c).

#### Section 180.413

This final rule revises paragraph (a) requirements for performing repairs, modifications, stretching, rebarrelling, or remounting a cargo tank to explicitly state that a facility repairing any specification cargo tanks must adhere to the quality control procedures (e.g. welder qualifications and approved welding procedures) in the National Board Inspection Code (NBIC) except requirements for inspection by an Authorized Inspector, preparation of an R-1 Form, or stamping of the "R" stamp on the cargo tank. This was our intent in 1989 when, under Docket HM-183, we changed the regulations to require that repair facilities hold either a valid National Board Certificate of Authorization for use of the National Board "R" stamp or a valid ASME Certificate of Authorization for use of the ASME "U" stamp. FMCSA has discovered numerous instances where, although a facility holds a valid "U" or "R" stamp, the quality control procedures used to obtain the stamp were not utilized during the repair. One example is the use of "lap patches," which are prohibited under the NBIC. This revision will prohibit this and other un-safe practices being discovered during repairs of non-ASME stamped cargo tanks.

The cleaning and purging requirements are moved from paragraphs (b)(4) and (d)(8) to paragraph (a)(2). The cleaning and purging requirements have been clarified to emphasize the requirements for cargo tanks to be empty and safely purged before repairs. In addition, we are revising paragraph (b) for clarity.

In paragraph (c), we require leak testing for non-welded repairs or the replacement of hoses, pipes, valves, or fittings. In response to comments from NPGA, we also include provisions for cargo tanks in liquefied compressed gas service to be tested in accordance with applicable regulations in § 180.416(f).

In paragraph (d), we are revising the requirements for stretching, modifying, or rebarrelling a cargo tank to clarify the intent of the regulation. Specifically, we

are eliminating the need for testing in accordance with § 180.407, which is currently required by § 180.413(d)(4)(iv). Testing the adequacy of a modification, stretching, or rebarrelling must be accomplished by performing the tests specified in paragraph (d)(3)(iv) of this section (formerly § 180.413(d)(10)). In paragraph (d), we are clarifying that a modification, stretching, or rebarrelling must be certified by a DCE.

We are revising paragraph (d)(3)(v), to require a supplemental specification plate to be installed adjacent to the original specification plate. This change eliminates the provision that currently allows changes to the original specification plate. In addition, paragraph (d)(4), in its entirety, is re-designated as paragraph (d)(3). The provisions of paragraph (d)(5) are reworded and moved to (d)(4).

The provisions contained in paragraphs (d)(6) and (7) to a new paragraph (e) are moved to eliminate confusion about what is required when a cargo tank is re-mounted onto a new chassis. New paragraph (e) is based on a petition (P-1322) from TTMA and clarifies requirements for certification of mounting by a DCE and supervision of the mounting by a Registered Inspector. Current paragraph (e) is re-designated as paragraph (f).

#### Section 180.415

We are revising paragraph (b)(3)(vi) to require a special marking, "K-EPA27," on cargo tanks that have been tested in accordance with EPA requirements for testing cargo tank vapor tightness. This change provides a nationally uniform marking for cargo tanks that pass the annual certification test in accordance with EPA requirements.

#### Section 180.417

This final rule requires additional information to be provided on inspection and test reports to enable owners and operators of cargo tanks to more effectively review the results of the test or inspection. The information required by the revised paragraph (b)(1) provides important data about the cargo tank and its service that may affect the type and method of test to be performed. The cargo tank owner or carrier must provide this information to the re-qualification or maintenance facility. In addition, current paragraph (b)(2) is re-designated as paragraph (b)(3).

We are revising paragraph (d) to clarify what documents must accompany the cargo tank when ownership changes. This change would consolidate these requirements into one section.

## VI. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. We have prepared a Regulatory Evaluation assessing potential costs, benefits and savings of the revisions adopted in the final rule. The Regulatory Evaluation is available for review in the public docket on the DOT Docket Management System Web site, <http://dms.dot.gov>.

In assessing how best to update and clarify the construction and maintenance requirements for CTMVs, we considered three alternatives: (1) Taking no regulatory action; (2) clarifying and updating the regulations, responding to several petitions for rulemaking, and addressing three NTSB recommendations; and (3) responding to NTSB recommendations only. We chose Alternative 2 because it increases safety, reduces compliance costs, and provides greater flexibility in design and construction of cargo tanks.

We estimate the total annual cost savings to the industry resulting from implementation of this final rule would be \$3,230,400 per year. At the same time the industry would incur increased costs of compliance totaling \$3,136,770 the first year and \$1,449,270 each following year. The overall net benefits are \$93,630 the first year and \$2,081,130 each subsequent year.

Increasing clarity and, therefore, understanding of the regulations, facilitates compliance, and reduces risks to the public and environment. While provisions of this final rule result in costs and safety benefits, others would result in savings while not sacrificing safety. Overall, the estimated savings that will result from this final rule are greater than the estimated costs. The provisions with the highest associated costs are based on safety concerns and NTSB recommendations, that are based on serious accidents. The provisions in this final rule will reduce risks to people, property, and the environment.

### B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule preempts state, local, and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various