

and suggests that, if read literally, the new requirement could require the rear bumper to extend past the center of the rear head. This was not our intent. In this final rule, we are revising the requirement as suggested by NPGA.

Section 178.337-17—Marking. The April 18 final rule requires a name plate on an MC 331 cargo tank to include information about the weld material used on the cargo tank. Container Technology and NPGA suggest that this is unnecessary and that MC 331 cargo tanks typically incorporate several different weld methods and materials. Both appellants suggest that this requirement be deleted. We agree that the requirement is unnecessary. In this final rule, it is deleted from the requirements for information to be included on an MC 331 cargo tank name plate.

The April 18 final rule requires a name plate to include an indication of the pressure to which the cargo tank was tested during its manufacture. NPGA recommends that this mark be deleted, stating that it is not clear how this information will assist operators and enforcement officials. We agree that the original test pressure number is of little value and could create confusion for operators when determining the pressure to which a cargo tank must be retested in accordance with § 180.407(g). In this final rule, therefore, the requirement to include a cargo tank's original test pressure on the name plate is removed.

The April 18 final rule also included a requirement for a specification plate on an MC 331 cargo tank to include the maximum loading and unloading rates. NPGA notes that this was not proposed in the HM-213 NPRM nor were the reasons for including the information on the specification plate discussed in the preamble to the final rule. NPGA suggests that the requirement should therefore be deleted. We agree; in this final rule, the requirement for including maximum loading and unloading rates on an MC 331 specification plate is deleted.

Section 180.405—Recertification of MC 306, MC 307 or MC 312 CTMVs. The April 18 final rule included a provision permitting a cargo tank originally manufactured to the MC 306, MC 307, or MC 312 specification, unless the cargo tank has been stretched, rebarrelled, or modified, to be recertified to its original certification provided certain conditions are met (see § 180.405(b)(2)). Baltimore Tank appealed this provision of the final rule, suggesting that rebarrelled, stretched, or modified MC 306, MC 307, or MC 312 cargo tanks should be treated in the

same manner as unmodified cargo tanks and permitted to be recertified provided appropriate records are available to verify the original certifications.

Modifications to non-specification cargo tanks, which includes "decertified" cargo tanks that no longer meet a specification standard, need not be performed in accordance with the standards set forth in Part 180. Our concern in limiting the exception in § 180.405(b)(2) to cargo tanks that have not been stretched, rebarrelled, or modified was to prevent a "decertified" tank that was modified without reference to the Part 180 regulations from being recertified as a specification cargo tank. However, we agree with Baltimore Tank that if the operator can provide documentation to verify that a cargo tank originally built to an MC 306, MC 307, or MC 312 specification was stretched, rebarrelled, or modified in accordance with the procedures in Part 180 and the National Board Inspection Code, then the cargo tank may be recertified to its original specification under the same conditions as for unmodified MC 306, MC 307, or MC 312 cargo tanks. In this final rule, we are revising § 180.405(b) to permit modified MC 306, MC 307, and MC 312 cargo tanks to be recertified to their original specification under certain conditions.

Section 180.413—Leak testing. The April 18 final rule revised paragraph (c) in § 180.413 to clarify leak test requirements performed after maintenance or replacement of piping, hose, valves, or fittings that does not involve welding. The revised paragraph (c) requires a leak test to be performed at not less than 80 percent of the design pressure marked on the cargo tank. NPGA appealed this provision, noting that § 180.407(h)(1)(i) permits an MC 330 or MC 331 cargo tank in dedicated liquefied petroleum gas service to be leak tested at not less than 60 psig (414 kPa) and that the requirement adopted in the April 18 final rule greatly exceeds the 60 psig leak test exception for LPG tanks. NPGA states that the leak test requirement adopted in the final rule will place a significant burden on the propane industry and will be very disruptive to propane distribution operations. NPGA suggests that we revise § 180.413(c) to permit the leak test required after maintenance or replacement operations that do not require welding to be performed at 60 psig (414 kPa). We agree; this final rule revises § 180.413(c)(1) to permit the leak test to be performed in accordance with § 180.407(h)(1).

B. Appeals Denied

Definition of "manufacturer." Fisher and NPGA ask us to reconsider the definition in the HMR for "manufacturer" in § 178.320 of the HMR. The NPRM did not propose nor did the final rule adopt a revision of this definition. The Fisher and NPGA appeals are thus beyond the scope of this rulemaking and are denied. We will address the definition in a subsequent rulemaking and seek comment on any proposed changes to the definition.

Remote controls for internal self-closing shutoff valves. The April 18 final rule adopted a requirement for all newly constructed and currently authorized MC 338 cargo tank motor vehicles (CTMVs) to be equipped with a means of thermal activation for closing the internal self-closing stop valve, except for cargo tanks used to transport argon, carbon dioxide, helium, krypton, neon, nitrogen, xenon, or mixtures thereof; tanks currently in service must be retrofitted by October 2, 2006. CGA appealed this provision of the final rule with respect to MC 338 cargo tanks used to transport non-flammable ladings; CGA suggests that that this is a "very expensive" modification for MC 338 cargo tanks because installation of the remote controls requires modifications to piping in addition to installation of a valve. CGA asks that we reinstate the grandfather provision excepting MC 338 CTMVs constructed prior to 1995 and used to transport non-flammable ladings from the requirement for a means of thermal activation for closing the internal self-closing stop valve.

As discussed in the preamble to the NPRM, this provision reflects discussions conducted by a negotiated rulemaking committee established under Docket No. RSPA-97-2718 (HM-225A). The committee agreed that fusible elements, which provide a heat-activated means for closing a valve, convey a significant safety benefit, and we adopted a requirement for all MC 331 cargo tanks to be so equipped in the HM-225A final rule. The provision applicable to MC 338 cargo tanks adopted in the HM-213 final rule is consistent with the requirements for MC 331 tanks; moreover, we do not agree that installation of fusible elements on MC 338 cargo tanks will be prohibitively expensive. We estimate that the retrofit provision in the final rule will affect about 100 MC 338 CTMVs, at a cost per vehicle of about \$200. For these reasons, the CGA appeal of the final rule provisions concerning installation of fusible links on MC 338 cargo tanks is denied.