

*Maximum lading density marking.* The April 18 final rule requires the name plate on an MC 331 cargo tank to include an indication of the maximum density of lading in pounds per gallon (§ 178.337–17(b)(7)). Container Technology and NPGA appealed this provision of the final rule. NPGA states that the marking serves no purpose; Container Technology asserts that lading density is not necessary for compliance with structural integrity requirements and that the mark limits an operator's flexibility to use an MC 331 cargo tank to transport a variety of loadings with different densities.

We do not agree that the mark serves no purpose nor do we agree that it limits an operator's flexibility. A cargo tank is usually designed with a specific lading or loadings in mind. An indication of the maximum lading density that may safely be transported in a cargo tank helps an operator determine whether the cargo tank should be used to transport a specific cargo. The mark is meant to convey the density for the heaviest lading possible to be transported in the cargo tank based on the structural design calculations for the tank. An operator is free to transport lading for which the maximum density is less than the mark indicated on the name plate or to transport smaller amounts of a lading for which the maximum density is greater than the mark indicated on the name plate. For these reasons, the Container Technology and NPGA appeals of this provision in the April 18 final rule are denied.

*Original Test Date Marking.* The April 18 final rule requires the name plate to include the original test date for the cargo tank. NPGA suggests that the mark could cause confusion for enforcement personnel and recommends that it be deleted. We disagree that the mark should be deleted. The original test date is the date the cargo tank manufacturer performed the tests required under Part 178 to assure that the cargo tank meets applicable design specifications. Thus, the original test date is the date that the cargo tank is certified to meet the specification to which it was designed. Including the original test date on the name plate enables the owner and/or operator of the cargo tank and enforcement personnel easily to identify specific requirements applicable to the tank's design and manufacture, without having to go back to the certification documentation provided by the cargo tank manufacturer. The marking of the original test date is in keeping with the intent of the regulations to help clarify marking requirements for all cargo tanks and, taken in whole with the definitions adopted in the HM–213 final rule,

should not be confusing. For these reasons, the NPGA appeal of this provision in the April 18 final rule is denied.

*Pressure greater than MAWP.* The April 18 final rule revised § 180.407(a)(2) to clarify that a cargo tank may not be subjected to a pressure greater than its design pressure or maximum allowable work pressure (MAWP) except during a pressure test; the revision removed an exception from this general requirement for loading and unloading operations. CGA appealed this provision of the final rule, stating that, as rewritten, it conflicts with other provisions of the HMR. CGA, citing § 173.318(b)(4)(i), states that, during pressure transfers, an operator may raise the pressure in an MC 338 cargo tank to exceed the tank's MAWP, but not to exceed the set-to-discharge setting of the tank's pressure relief device.

Section 173.318 sets forth requirements for pressure relief devices on cargo tanks used to transport cryogenic liquids. Paragraph (b)(4)(i) of this section establishes the set-to-discharge setting for pressure relief devices—each pressure relief valve in the primary relief system must be set at a pressure no higher than 110% of the cargo tank's design pressure. This setting provides a tolerance level for the pressure relief system to account for small temporary increases in pressure because of temperature or other variances. The set-to-discharge setting does not mean that the pressure in the cargo tank may safely be raised to a level just below the set-to-discharge setting of the pressure relief devices if that level exceeds the MAWP of the tank. Section 173.33(c) establishes maximum lading pressures for materials transported in CTMVs. Specifically with respect to cryogenic liquids, § 173.33(c) states that the MAWP of a cargo tank must be greater than or equal to the pressures prescribed in § 173.318. Thus, the MAWP of the cargo tank must be greater than or equal to the set-to-discharge pressure for a pressure relief device in § 173.318(b)(4)(i). At no time, except during pressure tests, may the pressure in a cargo tank exceed its MAWP. The revision to § 180.407(a)(2) was made to clarify this point. For these reasons, the CGA appeal of this provision of the April 18 final rule is denied.

*Periodic inspection of insulated cargo tanks.* In § 180.407(d)(1), the April 18 final rule clarified requirements for inspection and testing of insulated cargo tanks where insulation precludes external and/or internal visual inspections. The final rule did not change current requirements for

inspection and testing of such tanks; it merely clarified the requirements to make them easier to understand. CGA appealed this provision of the final rule, suggesting that it reduced the interval for conducting internal inspections and pressure tests on MC 331 cargo tanks from 5 years to one year and that such a change is not warranted. This is incorrect; the NPRM did not propose nor did the final rule adopt a provision to change the pressure test interval for MC 331 cargo tanks. The final rule includes a provision to permit operators of insulated MC 330, MC 331, and MC 338 cargo tanks equipped with manholes or inspection openings to perform an internal visual inspection or a pressure test in conjunction with the required annual external visual inspection (see Note 4 to the table in § 180.407 (c)). The pressure test performed in conjunction with the annual external visual inspection requires only that the cargo tank be pressurized to the level indicated in the table in § 180.407(g)(1)(iv); the operator is not required to complete every element of the pressure test set forth in § 180.407(g). The interval for performing a complete pressure test of an MC 331 cargo tank in accordance with § 180.407(g) remains 5 years. The CGA appeal of the April 18 final rule provision in § 180.407(d) is therefore denied.

*Use of "weep holes" in mounting pads.* Baltimore Tank wants the HMR to require the use of "weep holes" for mounting pads. The NPRM did not propose nor did the final rule adopt any change to the current requirements for "weep holes" in mounting pads. Baltimore Tank's appeal on this issue is beyond the scope of the HM–213 rulemaking and is, therefore, denied.

*Modification, stretching, or rebarrelling of a cargo tank.* The April 18 final rule revised the provisions in § 180.413(d) concerning modification, stretching, or rebarrelling of cargo tanks. Among other requirements, the revision requires a modified, stretched, or rebarrelled CTMV to be certified by a DCE to meet the structural integrity and accident damage protection requirements of the applicable specification. Baltimore Tank appealed this provision of the final rule, suggesting that modifications to a cargo tank may or may not affect the design of the CTMV and recommending changes to the final rule to clarify when recertification of the modified cargo tank is required and when recertification of the CTMV is required.

For purposes of the HMR, a "cargo tank motor vehicle" or CTMV is a motor vehicle with one or more cargo tanks