Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 0.5 mile upstream of Railroad	None	+850	
Yadkin River Tributary 18 ...	At the confluence with Yadkin River	None	+831	Unincorporated Areas of Surry County.
	Approximately 10 feet upstream of Golden Eagle Trail.	None	+885	
Yadkin River Tributary 37 ...	At the confluence with Yadkin River	None	+800	Unincorporated Areas of Surry County.
	Approximately 1,680 feet upstream of John Mickles Road (State Road 2075).	None	+852	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Mount Airy
Maps are available for inspection at Mount Airy City Hall, 300 South Main Street, Mount Airy, NC.

Town of Dobson
Maps are available for inspection at Dobson Town Hall, 307 North Main Street, Dobson, NC.

Town of Elkin
Maps are available for inspection at Elkin Town Hall, 226 North Bridge Street, Elkin, NC.

Town of Pilot Mountain
Maps are available for inspection at Pilot Mountain Town Hall, 124 West Main Street, Pilot Mountain, NC.

Unincorporated Areas of Surry County
Maps are available for inspection at Surry County Building Codes Administration, 118 Hamby Road, Suite 144, Dobson, NC.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 14, 2008.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–16812 Filed 7–22–08; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, and 173

[Docket No. PHMSA–2008–0182]

Petitions for Interim Standards for Rail Tank Cars Used to Transport Toxic-by-Inhalation Hazard Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of petitions for rulemaking.

SUMMARY: This document solicits comments on the merits of two petitions for rulemaking filed with PHMSA seeking promulgation of an interim standard for railroad tank cars used to transport toxic by inhalation hazard (TIH) materials. One petition was filed jointly by the American Chemistry Council, American Short Line and Regional Railroad Association, Association of American Railroads, Chlorine Institute, and Railway Supply Institute, and a second petition was filed by The Fertilizer Institute.

DATES: Comments must be received by August 22, 2008.

ADDRESSES: You may submit comments identified by the docket number PHMSA–08–0182 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

FOR FURTHER INFORMATION CONTACT: William Schoonover, (202) 493–6229, Office of Safety Assurance and Compliance, Federal Railroad Administration; Lucinda Henriksen, (202) 493–1345, Office of Chief Counsel,

Federal Railroad Administration; or Michael Stevens, (202) 366–8553, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration.

SUPPLEMENTARY INFORMATION:

A. Background

By notice of proposed rulemaking (NPRM) published April 1, 2008, under Docket No. FRA–2006–25169 (HM–246) (73 FR 17818–65), the U.S. Department of Transportation (DOT) through the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Federal Railroad Administration (FRA), proposed regulations to improve the crashworthiness protection of tank cars carrying toxic-by-inhalation hazard (TIH) materials. In addition to certain operational restrictions, the NPRM proposed enhanced TIH tank car performance standards for head and shell impacts.

In petitions dated July 3, 2008 and July 7, 2008, the American Chemistry Council, American Short Line and Regional Railroad Association, Association of American Railroads, Chlorine Institute, and Railway Supply Institute (collectively, the Petitioner Group) and The Fertilizer Institute (TFI), respectively, have requested that the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) be amended to authorize interim standards for tank cars transporting TIIH materials. Both petitions suggest that the interim standards would be effective until such time as PHMSA and FRA adopt enhanced performance standards for TIH tank cars. The Petitioner Group and TFI petitions were received and acknowledged by PHMSA and assigned petition numbers P–1525 and P–1524, respectively, under Docket No. PHMSA–2008–0182.

This document is issued to obtain comments on the merits of the petitions and to assist PHMSA in making a decision of whether to proceed to issue a rule responding to the petitions under the ongoing HM–246 tank car rulemaking. A complete copy of each petition is available in the docket for this proceeding. For convenience, the text of the petitions and accompanying tables are reprinted below.

B. Petition P–1525 Is Quoted As Follows:

The American Chemistry Council (ACC), the American Short Line and Regional Railroad Association (ASLRRA), the Association of American Railroads (AAR), the Chlorine Institute (CI), and the Railway Supply Institute (RSI) (Petitioners) submit this petition to PHMSA to implement a new interim standard for tank cars used to transport TIH materials. ACC is a trade association representing 130 member companies that account for approximately 85 percent of the capacity for the production of basic industrial chemicals in the United States. ASLRRA is an organization which represents over 450 member railroads in the class II and class III railroad industry. AAR is a trade association whose membership includes freight railroads that operate 72 percent of the line-haul mileage, employ 92 percent of the workers, and account for 95 percent of the freight revenue of all railroads in the United States. CI is a 220 member, not-for-profit trade association of chlor-alkali producers worldwide, as well as packagers, distributors, users, and suppliers accounting for more than 98 percent of the total chlorine production capacity of the U.S., Canada, and Mexico. RSI is the international trade association of suppliers to the nation's freight railroads and rail passenger systems. The RSI Tank Car Committee members include the major North American tank car builders and leasing companies, who own and lease approximately 70% of the North American tank car fleet.

I. Need For A New Interim Tank Car Standard

On April 1, 2008, PHMSA published a notice of proposed rulemaking containing a new tank car standard for TIH materials.[1] Part of that proposal was that two years after issuance of a final rule, newly constructed tank cars transporting TIH materials would be required to comply with the new standard. Five years after issuance of a final rule, only tank cars constructed of normalized steel could be used to transport TIH materials. Eight years after issuance of a final rule, all tank cars transporting TIH materials would need to be in compliance with the new standard.

The proposed standard represents an innovative approach to tank car design. The purpose of the proposed standard is to significantly reduce the probability of release should a tank car be involved in an accident. However, the tank car industry cannot meet the standard today; the NPRM is truly technology-forcing.

Petitioners strongly support PHMSA's initiative to create a new tank car standard that would appreciably improve the safety of TIH transportation. Petitioners are committed to doing their part to minimize the occurrence of accidents and to reduce the possibility of a release should an accident occur. PHMSA's effort to dramatically reduce the probability of a release of TIH materials through enhanced tank car standards is a goal shared by Petitioners.

However, the publication of the NPRM has had two unintended effects. One, publication has delayed the phasing out of aging tank cars. Two, publication has threatened to cause a shortage of cars needed for the transportation of TIH materials.

Since under the NPRM tank cars not meeting the final standard would have to be removed from TIH service within eight years of issuance of the final rule, the NPRM has had the unintended consequence of providing an incentive for shippers and lessors to stop purchasing new tank cars for TIH transportation, pending the issuance of the final rule. From the perspective of both shippers who own tank cars used to transport their TIH materials and lessors who lease tank cars used to transport TIH materials, investments in new tank cars cannot be justified unless those cars will be used for at least two decades. Note that under DOT regulations, tank cars have a service life of fifty years.[2]

Absent the NPRM, many older tank cars likely would be replaced by tank cars exceeding minimum DOT specifications. Unfortunately, because of the economic disincentive to purchase new tank cars for TIH transportation, those tank cars are not being replaced.

During the meetings on the NPRM held in May, shipper after shipper stated that the NPRM threatened to cause a shortage of tank cars for TIH transportation. The shippers stated that lessors are reluctant to renew leases partly due to a concern that the NPRM's call for a dramatically new tank car design will increase their liability should a tank car meeting minimum PHMSA standards be involved in an accident.

II. An Interim Standard Based On Probability Of Release

Petitioners have a solution to these problems. Petitioners propose that PHMSA promulgate an interim standard that provides for the construction of tank cars that significantly reduce the probability of release of product using existing technology and grandfather those cars for twenty-five years following issuance of the final rule. Such a standard is in the public interest for the following reasons:

- By authorizing the use of tank cars that exceed PHMSA minimum standards for a period of time exceeding the eight-year phase-out period suggested in the NPRM, the disincentive to replace minimum specification cars will be reduced.
- To the extent shippers and lessors replace older cars with cars less likely to release TIH in the event of an accident, safety will be significantly enhanced. Similarly, by reducing the disincentive to replace older cars with cars less likely to release TIH in the event of an accident, PHMSA's goal of replacing older cars will be realized sooner.
- By limiting the grandfather period to twenty-five years, instead of the normal fifty year useful life provided by DOT regulations, PHMSA would prevent creating an incentive to replace cars prematurely prior to the effective date of the final TIH standard to avoid, perhaps, the greater costs involved in constructing cars meeting the final standard.
- PHMSA will avoid the unintended consequence of creating a shortage of cars for the transportation of TIH materials.
- An interim standard providing for a significant reduction in the probability of release is consistent with PHMSA's objective of promulgating a new tank car standard representing a significant improvement over the existing minimum specifications. At the

[1] Docket No. FRA–2006–25169, 73 Fed. Reg. 17818.

[2] 49 CFR 215.203.

same time, such an interim standard would reduce the commercial and liability concerns of lessors that are contributing to a reluctance to enter into new leases for TIH tank cars.

III. The Research Underlying Conditional Probability of Release

Petitioners' proposed interim standard is based on research conducted by the University of Illinois at Urbana-Champaign (UIUC) and the RSI–AAR Railroad Tank Car Safety Research and Test Project (Tank Car Project). UIUC set out to analyze the ''conditional probability of release'' (CPR) of product should a tank car be involved in an accident.[3]

UIUC's work is based on a report assessing lading loss probabilities published by the Tank Car Project.[4] The lading loss report is based on 6,752 cars damaged in accidents. Consequently we can demonstrate with confidence through the CPR method a significant safety improvement.

UIUC calculated the CPR for tank cars used to transport chlorine and anhydrous ammonia, the 105A500W and 112J340W tank cars, respectively.[5] UIUC then compared the CPR for the chlorine and anhydrous ammonia cars with CPRs for enhanced cars. The enhanced cars had thicker heads and shells and improved top fittings protection. In the case of chlorine, the thicker heads and shells were based on the 105J600W specification. For anhydrous ammonia, the thicker heads and shells were based on the 112J500W specification. Because the enhanced cars are existing DOT specification tank cars, the tank car database again served as the basis for the CPR calculation for the head and shell improvements.

The top fittings protection was based on a new top fittings design. The design was intended to survive potential forces exerted on the top fittings in a rollover accident. More specifically, the top fittings were designed to survive a rollover with a 9 mph linear velocity.

IV. Using CPR as the Basis for Improved Performance

UIUC's research points the way to a performance improvement which is PHMSA's ultimate objective in its rulemaking proceeding on TIH tank car standards. In the case of both chlorine and anhydrous ammonia, the CPR improvement as calculated by UIUC is significant. For example, chlorine calculations show an improvement of 63 percent, a reduction from 5 to 2 percent. For anhydrous ammonia, the improvement shown is 71 percent, a reduction from 8 to 2 percent.

Consequently, Petitioners propose an interim tank car design with the following features:

- A design standard achieving CPR improvement from the head and shell through the use of higher DOT class tank cars than currently required by DOT regulations (See the table attached hereto as Exhibit 1);
- An alternative performance standard requiring CPR improvement equivalent or better in the head and shell as compared to the design standard; and
- A top fittings protection performance standard.

The design standard would require that in lieu of 105*300W or 112*340W tank cars, a 105J500W or 112J500W car, respectively, would be required, with a minimum head and shell thickness of 13⁄16′ and a full height ½'' thick or equivalent head shield. A minimum head and shell thickness would be included to prevent a shipper from using a peculiar tank car that, for example, contains shell protection but does not contain sufficient head protection.

Similarly, in lieu of a 105*500W car, a 105J600W car would be required, with a minimum head and shell thickness of 15⁄16′ and a full height ½'' thick or equivalent head shield. For those commodities currently shipped in 105J600W cars, the minimum thickness would also apply, but no upgrading of the DOT class tank car would be required since the 600-pound car is the highest DOT class tank car.

The top fittings protection standard would require a design that could survive a rollover with a 9 mph linear velocity, the criterion used in the UIUC study. Note that AAR's Tank Car Committee has already approved two designs meeting this standard. In addition, AAR understands the Chlorine Institute is developing its own top fittings standard that will meet the 9 mph criterion and DOT regulations. In order to achieve this performance, a stronger top fittings protection system must be permitted in lieu of the bolted-on protective housing now mandated in the regulations. Welded attachment has proven to be an effective method and should be allowed.

For the alternative performance standard, Petitioners propose that DOT use a formula requiring improvements to the head and shell that are at least as good, from a CPR perspective, as the designs standard. Petitioners propose the following formula:

1 − (CPR of tank car − CPR of minimum specification tank car) ≥ tank improvement factor for the commodity.

The tank improvement factor is a factor that achieves a CPR improvement from the head and shell at least as good as the design specifications. The table in Exhibit 1 shows the tank improvement factors for TIH materials commonly transported by rail. As the table indicates, the tank improvement factor for a specific commodity is based on a particular head and shell thickness. The head and shell thicknesses were derived from the formula in 49 CFR 179.100–6, taking into account design criteria such as commodity density, gross rail load, outage, and car length and diameter.

Petitioners also suggest that DOT permit use of an alternative methodology to demonstrate improvement equivalent to the tank improvement factor calculation. Of course, use of such an alternative would be subject to DOT approval.

Finally, in the case of chlorine, ACC and CI have taken the performance criteria one step further. ACC and CI worked with UIUC to calculate an alternative design that would achieve the desired CPR improvement, 45 percent for head and shell improvements, 63 percent including top fittings.

- The chlorine design has a 0.777 inch head, a 0.777 inch shell, and a 0.375 inch jacket with head shield of 0.625 inch.[6]
- This specific alternative design utilizes jacket material which is steel with minimum tensile strength of 70 ksi and minimum elongation in 2 inches of 21%.

The calculations show that the CPR target can be met in more than one way. With this calculation having been made for chlorine, Petitioners also propose that this alternative specification specifically be included in the interim standard.

V. Proposed Regulatory Language

[Petitioners propose specific amendments to 49 CFR parts 171, 172, and 173. The proposed amendments would address definitions, entries in the Hazardous Materials Table, and tank car authorizations for TIH materials. The complete petition may be reviewed by accessing the docket identified at the beginning of this document.]

TABLE I

Commodity name	DOT minimum specification	Tank improvement factor (TIF)	Conditional probability of release
Acetone Cyanohydrin, Stabilized	105J500W	0.67	0.0855
Acrolein	105J600W	0.80	0.0419

[3] While there have been questions raised as to the extent to which safety is enhanced by top fittings modifications in the UIUC report, there is not doubt that the proposed interim tank car would reduce the CPR by a substantial amount and provide for improved accident survivability.

[4] Railroad Tank Car Safety Research and Test Project, ''Safety Performance of Tank Cars in Accidents: Probabilities of Lading Loss'' (RA–05–02 January 2006).

[5] Saat and Barkan, ''Risk Analysis of Rail Transport of Chlorine & Ammonia on U.S. Railroad Mainlines'' (Feb. 27, 2006).

[6] UIUC's CPR calculations assume that an equivalent level of safety performance can be obtained by thickening the head shield and jacket to compensate for equivalent reductions in thickness in the tank head and shell, respectively. Further technical review of the head shield is currently taking place to determine the appropriate thickness. This thickness will be between 0.625 inch and 0.859 inch.

TABLE I—Continued

Commodity name	DOT minimum specification	Tank improvement factor (TIF)	Conditional probability of release
Allyl Alcohol	105J500W	0.67	0.0855
Ammonia, Anhydrous	105J500W	0.69	0.0855
Bromine	105J500W	0.68	0.1028
Chlorine	105J600W	0.69	0.0509
Chloropicrin	105J500W	0.56	0.0855
Chlorosulfonic Acid	105J500W	0.56	0.0855
Dimethyl Sulfate	105J500W	0.57	0.0855
Dinitrogen Tetroxide	105J500W	0.57	0.0855
Ethyl Chloroformate	105J500W	0.57	0.0855
Ethylene Oxide	105J500W	0.67	0.0855
Hexachlorocyclopentadiene	105J500W	0.68	0.1028
Hydrogen Chloride, Refrig. Liquid	105J600W	.....	0.0284
Hydrogen Cyanide, Stabilized	105J600W	0.80	0.0419
Hydrogen Fluoride, Anhydrous	105J500W	0.63	0.0809
Hydrogen Sulfide	105J600W	.....	0.0299
Methyl Bromide	105J500W	0.56	0.0855
Methyl Mercaptan	105J500W	0.67	0.0855
Nitrosyl Chloride	105J500W	0.57	0.0855
Phosphorus Trichloride	105J500W	0.57	0.0855
Sulfur Dioxide	105J500W	0.57	0.0855
Sulfur Trioxide, Stabilized	105J500W	0.56	0.0855
Sulfuric Acid, Fuming	105J500W	0.51	0.0802
Titanium Tetrachloride	105J500W	0.56	0.0855

EXHIBIT 1

Commodity name	Baseline DOT tank (DOT min. or accepted DOT STD)				DOT specification tank car used to calculate TIF				Tank improvement factor (TIF)
	Current DOT specification	Head shields types	Head thickness (in.)	Shell thickness (in.)	Proposed DOT specification meeting TIF	Head shields type	Head thickness (in.)	Shell thickness (in.)	
Acetone Cyanohydrin, Stabilized	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8951	0.8951	0.67
Acrolein	105J500W	No	0.8950	0.8950	105J600W	Full-Height	1.2429	1.2429	0.80
Allyl Alcohol	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8951	0.8951	0.67
Ammonia, Anhydrous	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	1.0300	0.89	0.69
Bromine	105A300W	No	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.68
Chlorine	105J500W	No	0.7870	0.7870	105J600W	Full-Height	1.1360	0.9810	0.69
Chloropicrin	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.56
Chlorosulfonic Acid	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.56
Dimethyl Sulfate	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8179	0.8179	0.57
Dinitrogen Tetroxide	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8179	0.81798	0.57
Ethyl Chloroformate	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8179	0.8179	0.57
Ethylene Oxide	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8951	0.8951	0.67
Hexachlorocyclo-pentadiene	105S300W	No	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.68
Hydrogen Chloride, Refrig. Liquid	105J600W	Full-Height	.....	.....	105J600W	Full-Height	.....	.....	.....
Hydrogen Cyanide, Stabilized	105A500W	No	0.8950	0.8950	105J600W	Full-Height	1.2429	1.2429	0.80
Hydrogen Flouride, Anhydrous	112A340W	No	0.7040	0.7040	105J500W	Full-Height	0.8951	0.8951	0.63
Hydrogen Sulfide	105J600W	No	.....	.....	105J600W	Full-Height	.....	.....	.....
Methyl Bromide	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.56
Methyl Mercaptan	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8951	0.8951	0.67
Nitrosyl Chloride	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8179	0.8179	0.57
Phosphorus Trichloride	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8179	0.8179	0.57
Sulfur Dioxide	105J300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8179	0.8179	0.57
Sulfur Trioxide, Stabilized	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.56
Sulfuric Acid, Fuming	105S300W	Full-Height	0.5980	0.5980	105J500W	Full-Height	0.8125	0.8125	0.51
Titanium Tetrachloride	105S300W	Full-Height	0.5625	0.5625	105J500W	Full-Height	0.8125	0.8125	0.56

C. Petition P–1524 Is Quoted as Follows:

The Fertilizer Institute (TFI) is the national trade association representing fertilizer producers, importers, wholesalers and retailers. TFI's mission is to promote and protect the fertilizer industry. Fertilizer nutrients provide the ''food'' plants need to grow, ensure there is an adequate supply of nutritious food and animal feed, and a bountiful supply of fiber and biofuels to help meet the nation's energy needs. Without fertilizer in general, and in particular ammonia, our nation's food and energy supply would be adversely affected and the world would be without forty percent of today's harvest.

TFI and its anhydrous ammonia shipper members support DOT's efforts for enhanced safety of tank cars, and the anhydrous ammonia industry is committed to doing its part to minimize the occurrence of accidents and to reduce the probability of a release should an accident occur. We have been active participants in the Department of Transportation's (DOT) efforts prior to the April 1 issuance of the notice of proposed rulemaking for enhanced safety standards for tank cars carrying toxic-by-inhalation materials. TFI members ship approximately 52,000 carloads of anhydrous ammonia each year and own or lease over 4,000 tank cars.

Since the issuance of the proposal, and after testimony given during public hearings held in May, it has become evident that there is much confusion and concern not only by

shippers of anhydrous ammonia but from car manufacturers as well. The timeline for compliance, the lack of focus by the Volpe Center on an ammonia concept car, and the action by the Association of American Railroads (AAR) to put into effect CPC 1187, are examples of the concerns raised. Our specific concerns were detailed in comments submitted to the docket on June 2. In our comments we point out that car builders and leasing companies have not been willing to renew current leases due to this confusion. As a result, an unintentional consequence of the proposal will create a serious shortage of cars needed in the near future for anhydrous ammonia. Unless this situation is addressed, it could result in a switch to truck or business interruptions.

TFI has reviewed the petition for an interim standard for tank cars used to transport toxic-by-inhalation (TIH) materials submitted by the American Chemistry Council, American Short Line and Regional Railroad Association, Association of American Railroads, The Chlorine Institute and the Railway Supply Institute.

TFI supports an interim standard for tank cars and many aspects of the petition filed by the above associations. However, since attempts to include stipulations for an interim anhydrous ammonia tank car could not be agreed to by some of the associations above, TFI submits this petition for an interim tank car standard for anhydrous ammonia to DOT for consideration.

The Current Anhydrous Ammonia Tank Car

The ammonia industry has specific reasons for requesting an accommodation for the current 112J340W car:

- Making an accommodation will also allow more time for infrastructure upgrades to handle the eventual 286,000 pound car. Without an appropriate phase-in schedule, there could be serious business interruptions in the marketplace or a switch to truck transportation.
- The 112J340W cars in ammonia service are on average only 10–12 years old. Without an extended life, there will be reluctance for these car companies to remain in the ammonia market. Some leasing companies have already indicated that they will not renew leases upon expiration of the current lease agreements for the 112J340W ammonia tank cars due, in part, to uncertainties surrounding this NPRM. This could cause a shortage of ammonia cars available for lease and force ammonia shippers to find alternate sources of transportation.
- The tank cars involved in the Minot, N.D. accident were 105J300W non-normalized cars with half head shields welded to the jacket, tank and head thickness of .5625, and equipped with F double shelf couplers. The typical 112J340W car, the current ammonia car, built since 1989 has improved TC–128B normalized steel specifications that include in excess of .608 heads and shells that proved themselves in the Minot derailment. In response to the Minot derailment, ammonia shippers voluntarily modernized their fleet of ammonia tank cars, swapping out non-normalized steel cars (pre-1989 built) for normalized steel cars (post-1989 built). Ammonia shippers have already spent considerable effort to change out their fleet from the pre-1989 built car to the current 112J340W. These shippers had the understanding that this effort would be considered with the NPRM.

Interim Standard for Tank Cars in Anhydrous Ammonia Service

TFI's petition requests that DOT consider the following for tank cars in anhydrous ammonia service as an interim standard:

- Require the retirement of all ammonia pre-1989 non-normalized steel cars by Dec. 31, 2010;
- Authorize the use of 112J340W ammonia cars built prior to 2001 until Dec. 31, 2021;
- Authorize the use of 112J340W ammonia cars built after 2001 for a life of 20 years; and
- Authorize the use of an 112J400 pound car enhanced with a thicker jacket for ammonia service beginning Jan. 1, 2009, with a 25 year service life from the date of the final ruling.

Summary

In conclusion, the TFI suggests that the following timeline concerning the design of anhydrous ammonia cars be considered:

Car type	Date car can be built	Service life
Pre-1989	Not in production	Until December 31, 2010.
340	Until Jan. 1, 2009	Pre-2001 built: To December 31, 2021. Post-2001 built: 20 years from built date.
400/500	Jan. 1, 2009 until DOT final rule	25 years from date of DOT final rule.
DOT	Effective date of final rule	Full life.

Ammonia shippers are voluntarily removing pre-1989 non-normalized steel cars from their fleet and this has come at considerable expense. The current 112J340W car has a full head shield and the ammonia industry has voluntarily implemented a five year, rather than ten year mandated, requalification test schedule.

This overall plan is reasonable, makes sound business sense and accomplishes the smooth transition of the ammonia car fleet. TFI and its ammonia shipper members respectively request approval of our request.

D. Purpose of the Notice

The purpose of this Notice is to solicit comments on the merit of petitions for rulemaking filed by Petitioner Group and TFI. Both petitions request PHMSA to issue interim standards for tank cars used for the transportation of TIH hazard material by railroad tank car. The safety implications of the proposals in the petitions will be given careful consideration as we determine whether regulatory action is needed.

Issued in Washington, DC on July 15, 2008 under authority delegated in 49 CFR part 106.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E8–16535 Filed 7–22–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 080702817–8838–01]

RIN 0648–AX00

Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Control Date; Northern Mariana Islands Pelagic Longline Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notification of control date; request for comments.

SUMMARY: NMFS announces that anyone who enters the pelagic longline fishery in the Commonwealth of the Northern Mariana Islands (CNMI) after June 19, 2008 (the ''control date''), is not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) recommends, and NMFS approves, a program that limits entry into the fishery, or other fishery management measures. The Council is concerned about potentially-uncontrolled expansion of the CNMI-based pelagic longline fishery and the potential resultant interactions with and impacts on small-boat pelagic fisheries and localized depletion of pelagic fish stocks.

DATES: Comments must be submitted in writing by September 22, 2008.