

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

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.*  
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**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.

**ADDRESSES:** You may submit comments on this action, identified by 0648–AX00, to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov); or

- Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Brett Wiedoff, NMFS PIR, 808–944–2272.

**SUPPLEMENTARY INFORMATION:** At its 142nd meeting held from June 16–19, 2008, the Council adopted a control date of June 19, 2008, applicable to persons who are contemplating entering the CNMI-based longline fishery for pelagic fishes. The purpose of the control date is to notify fishermen that after June 19, 2008, they may not be guaranteed access to the fishery if the Council recommends, and NMFS approves, establishing a limited entry program or other measures to manage the fishery. The Council has not yet recommended limiting new entry or imposing any other management measures in this fishery.

This control date addresses the Council's concern over the potential for rapid and uncontrolled expansion of the CNMI longline fishery. This concern is based on previous rapid and uncontrolled expansions of the pelagic

longline fisheries in Hawaii and American Samoa, and the resulting concerns about localized depletion of resources and impacts on small-boat fisheries. In Hawaii from 1988 to 1990, the longline fleet doubled from 50 to 100 vessels. In American Samoa from 1996 to 1997, the fleet tripled from 7 to 21 vessels. To control these previous rapid expansions, the Council recommended and NMFS implemented limited entry programs in both of these fisheries (in 1993 and 2004, respectively). The Council adopted the June 19, 2008, control date to notify current and potential fishery participants that it may also consider limiting participation in the CNMI-based longline fishery, if necessary.

Two domestic longline vessels began fishing in U.S. EEZ waters around CNMI in 2007, and other longline vessel operators have expressed interest in fishing there. Some of these other operators already hold the necessary general longline permits issued by NMFS allowing them to participate in the open-access CNMI fishery. If a rapid expansion of the fishery were to occur, there is a potential for gear conflicts between the longline fishery and the CNMI small-boat pelagic troll fishery, which harvests many of the same species targeted by longline vessels. A large and uncontrolled longline fishery could cause localized depletion of pelagic fish stocks, which would jeopardize the sustainability of the small trolling fleet. There is also a potential for longline vessels to fish at the CNMI's offshore seamounts. The seamounts are important to the pelagic trolling fleet, and localized depletion of fish stocks at the seamounts would have significant negative impacts on the troll fishery.

The Council established a control date of June 2, 2005, for pelagic longline and purse seine fisheries in the U.S. EEZ of the western Pacific (70 FR 47782, August 15, 2005) in response to concerns about overfishing of bigeye tuna Pacific-wide and yellowfin tuna in the central and western Pacific. The

June 19, 2008, control date supersedes the previous control date, as it applies to the CNMI longline fishery.

The Council and NMFS seek public comment about whether or not a control date is needed, whether this is an appropriate control date, and how the control date might be applied to a future management program for the CNMI-based pelagic longline fishery, if such a program is developed by the Council and NMFS.

Control dates are intended to discourage speculative entry into fisheries, as new participants entering the fisheries after the control date are put on notice that they are not guaranteed future participation in the fisheries. Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the CNMI pelagic longline fishery. Fishermen are not guaranteed future participation in the fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of landings or sales, may be used to determine eligibility for participation in a limited access fishery. The Council or NMFS also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

#### **Classification**

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 17, 2008.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

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