2030. The No-Build Alternative provides the baseline for establishing the environmental impacts of the proposed alternatives, and assumes the following projects will be completed:

- Extension of the Stage 1 Metrorail Line from the existing Earlington Heights station to a new station at the MIC.
- MIC–MIA Connector fixed guideway people mover system linking MIA and the MIC.
- Increase in Tri-Rail service frequencies to 20-minute headways during peak periods between MIA and Mangonia Park Station in Palm Beach County.

Transportation System Management (TSM) Alternative—The TSM Alternative is defined as lower cost, operationally-oriented improvements to address the transportation problems identified in the corridor. It also provides a baseline against which the effectiveness of the Build Alternative is evaluated and rated for federal New Starts funding, and would include the following:

- Express, limited-stop bus service along the Dolphin Expressway.
- Enhanced bus service on major east-west arterials.
- Park-and-ride facilities at the same locations as the Build Alternative and sized to meet the forecasted demand.
- Enhanced bus stations at the same locations as the Build Alternative.
- The TSM Alternative also includes all improvements identified under the No-Build Alternative.

Build Alternative—The Build Alternative consists of an approximately 10.1 mile, two-track, elevated, heavy rail extension of Metrorail from the MIC at MIA west to FIU, with proposed stations at the NW 57th Avenue/Blue Lagoon, NW 72nd Ave./Palmetto Expressway, NW 87th Avenue, NW 97th Avenue, NW 107th Avenue, and FIU. The LPA that was developed as a result of the initial environmental studies prepared in the 1990's continues to form the basis of the current SDEIS effort. The Build Alternative connects FIU with the MIC at MIA by following the Florida Turnpike northward from FIU and then the Dolphin Expressway eastward to the MIC. It would be developed as a direct extension of the existing Metrorail system. Several land use and development changes have occurred since the previous studies that require some minor refinement of the alignment and station location options. These refinements are being developed in consultation with state and local agencies and the surrounding community. The intent of these refinements to the alternative is to stay generally within the original corridor while looking to improvements that would enhance the ridership potential of the line, reduce costs where feasible, and further mitigate environmental impacts.

IV. Probable Effects/Potential Impacts for Analysis

The FTA and MDT will evaluate all significant environmental, social, and economic impacts of the alternatives analyzed in the SDEIS. Environmental and social impacts proposed for analysis include land use, zoning, and economic development; secondary development; land acquisition, displacements, and relocation of existing uses; historic resources; visual and aesthetic qualities; neighborhoods and communities; environmental justice; air quality; noise and vibration; hazardous materials; ecosystems; water resources; energy; safety and security; utilities; traffic and transportation; natural areas; threatened and endangered species; ground water and potentially contaminated sites; wetlands; and floodplain areas. The SDEIS will also evaluate secondary and cumulative impacts. Potential impacts will be assessed for the long-term operation of each alternative and the short-term construction period. Measures to avoid, minimize, or mitigate any significant adverse impacts will be identified.

V. Public Involvement

A comprehensive public involvement program has been developed and a public and agency involvement Coordination Plan will be created. The program includes a project Web site (*http://www.miamidade.gov/transit*); outreach to local and county officials and community and civic groups; a public scoping process to define the issues of concern among all parties interested in the study; a public hearing on release of the supplemental draft environmental impact statement (SDEIS); establishment of walk-in project offices in the corridor; and development and distribution of project newsletters.

VI. FTA Procedures

In accordance with FTA policy, all Federal laws, regulations, and executive orders affecting project development, including but not limited to the regulations of the Council on Environmental Quality and FTA implementing NEPA (40 CFR parts 1500–1508, and 23 CFR Part 771), the 1990 Clean Air Act Amendments, section 404 of the Clean Water Act, Executive Order 12898 regarding environmental justice, the National Historic Preservation Act, the Endangered Species Act, and section 4(f) of the DOT Act, will be addressed to the maximum extent practicable during the NEPA process. In addition, MDT may seek § 5309 New Starts funding for the project and will therefore be subject to the FTA New Starts regulation (49 CFR part 611). This New Starts regulation requires the submission of certain specified information to FTA to support a MDT request to initiate preliminary engineering, which is normally done in conjunction with the NEPA process. Pertinent New Starts evaluation criteria will be included in the Final Supplemental Environmental Impact Statement.

Issued On: May 17, 2006.

Yvette G. Taylor,

FTA Regional Administrator.

[FR Doc. E6–7865 Filed 5–23–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–22176; Notice 2]

Nissan Motor Company and Nissan North America, Denial of Petition for Decision of Inconsequential Noncompliance

Nissan Motor Company, Ltd. and Nissan North America, Inc. (Nissan) have determined that certain vehicles that they produced in 2004 through 2005 do not comply with S9.2.2 of 49 CFR 571.225, Federal Motor Vehicle Safety Standard (FMVSS) No. 225, ''Child restraint anchorage systems.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Nissan has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of the petition was published, with a 30 day comment period, on August 25, 2005 in the **Federal Register** (70 FR 49972). NHTSA received a comment from Advocates for Highway and Auto Safety (Advocates) as well as a comment by Nissan responding to Advocates' comment.

Affected are a total of approximately 24,655 model year (MY) 2005 Infiniti FX vehicles manufactured from September 1, 2004 to July 13, 2005, and 65,361 MY 2005 Nissan Maxima vehicles manufactured from September 1, 2004 to July 11, 2005. There was also mention in the **Federal Register** notice of 167

MY 2005 Infiniti Q45 vehicles with rear power seats manufactured from September 1, 2004 to June 30, 2005; however, this reference was in error and the Infiniti Q45 vehicles are not the subject of this petition.

A child restraint anchorage system consists of two lower anchorages and a tether anchorage that can be used to attach a child restraint system to a vehicle. These systems are sometimes referred to as LATCH (Lower Anchorages and Tethers for Children) systems and are intended to help ensure proper installation of child restraint systems.

S9.2.2 of FMVSS No. 225 requires:

> With adjustable seats adjusted as described in S9.2.3, each lower anchorage bar shall be located so that a vertical transverse plane tangent to the front surface of the bar is (a) Not more than 70 mm behind the corresponding point Z of the CRF [child restraint fixture], measured parallel to the bottom surface of the CRF and in a vertical longitudinal plane, while the CRF is pressed against the seat back by the rearward application of a horizontal force of 100 N at point A on the CRF.

The lower anchorage bars in the subject vehicles do not comply with this requirement. Nissan states that tests performed for NHTSA by MGA Research revealed a noncompliance in a 2005 Infiniti FX, and Nissan subsequently investigated its other vehicle models on this issue.

Nissan believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. However, NHTSA has reviewed the petition and has determined that the noncompliance is not inconsequential to motor vehicle safety. The Agency stated in the March 5, 1999 final rule (64 FR 10786) that,

> This final rule is being issued because the full effectiveness of child restraint systems is not being realized. The reasons for this include design features affecting the compatibility of child restraints and both vehicle seats and vehicle seat belt systems. By requiring an easy-to-use anchorage system that is independent of the vehicle seat belts, this final rule makes possible more effective child restraint installation and will thereby increase child restraint effectiveness and child safety. 64 FR 10786.

The language of the March 5, 1999 final rule clearly indicates that ease of use is consequential to the proper installation of child restraints and ultimately the safety of the child passenger. The ease of use for the child restraint anchorage system is directly impacted by the rearward location or depth of the anchorage bars.

In its petition, Nissan first states that the vehicles comply with the alternative requirements S15 of FMVSS No. 225, which were available as a compliance option until September 1, 2004. Advocates makes the comment that this is irrelevant because it was not a legal method of compliance at the time the vehicles were built, which is correct.

When the agency established the safety standard on March 5, 1999 (64 FR 10786), the final rule did not permit the International Organization for Standardization (ISO) compliance option. The agency received petitions for reconsideration of the final rule from the Alliance of Automobile Manufacturers (Alliance), as well as others. On August 31, 1999 (64 FR 47568), the agency allowed manufacturers to comply, as an option, with the requirements set forth in a draft standard issued by the ISO group until September 1, 2002. This provision was later extended to September 1, 2004.

The ISO requirements permitted lower anchorage strength that was less than that required by the March 5, 1999 final rule and did not specify a horizontal force to be applied to the CRF when measuring the distance between Point Z and the anchorage bar. The reasons for permitting this interim compliance option are discussed in the August 31, 1999 notice:

> These amendments are made to provide manufacturers lead time to develop lower anchorages that meet the strength requirements of our standard. Lower anchorages meeting the draft ISO requirements will provide an improved means of attaching child restraints. While the 11,000 N strength requirement is preferable to the ISO 8,000 N requirement, we are balancing the benefits associated with lower anchorages meeting the draft ISO requirements in the short run against the possibility of there being no improved means of attaching child restraints. Lower anchorages meeting the draft ISO requirements will still provide an improvement to parents who have difficulty attaching a child restraint correctly in a vehicle or whose vehicle seats are incompatible with child restraints. In the short term, we are adopting an alternative allowing compliance with a lesser requirement as a practicable temporary approach that would reap benefits not otherwise obtainable during the interim. The agency is thus amending the standard to enable manufacturers to provide child restraint anchorage systems in vehicles as quickly as possible. 64 FR 47570.

Thus, the ISO provisions and specifically S15 were permitted as an interim step to provide some improvements to the public as quickly as possible while balancing the testing and lead time necessary for manufacturers to provide a system that complies with the regulation.

Prior to September 1, 2004, Nissan was able to comply with the S15 requirement for anchorage bar depth by applying a horizontal force that exceeded the 100 N requirement of S9.2.2, since S15 did not specify a limit on horizontal force. NHTSA's compliance test data for the 2005 Infiniti FX35 show that it took a horizontal force of 213 N to achieve the 70 mm distance, more than twice the 100 N horizontal application force limit in the current standard.

The March 5, 1999 final rule specified a horizontal force application of 5 N at point A on the CRF for determining the distance between point Z and the anchorage bars. A force application was specified to obtain an objective measurement. The June 27, 2003 response to petitions for reconsideration (68 FR 38208) revised the horizontal application force specified in S9.2.2 to 100 N. General Motors had requested that the 5 N requirement be deleted or increased; the Alliance requested deletion or an increase to 150 N. In the June 27, 2003 notice the agency discussed the decision to increase the force limit to 100 N.

> On reconsideration, while a force specification is needed for objectivity, increasing the force level will result in a larger area provided to vehicle manufacturers for installing the LATCH lower anchorages, which facilitates the installation of the anchorages. We estimate that a 5th percentile adult female would be able to exert a 100 N force pushing back on a child restraint without problem. 68 FR 38214.

The 213 N force necessary to achieve a measurement of 70 mm in the Infiniti FX35 far exceeds what was determined to be reasonable (100 N) in the June 27, 2003 notice. This means that more than twice the permitted force would be needed to achieve a distance of 70 mm or less between point Z and the anchorage bars.

Second, Nissan states that the extent of the noncompliance is not significant. Specifically, it says:

> The left and right lower anchorages in the MY 2005 FX vehicle were located 76 mm and 83 mm behind Point Z, respectively, when tested by MGA under the procedures of S9.2.2. During its subsequent investigation using the MGA CRF, Nissan measured the lower anchorage location in the left and right rear seats in five other FX vehicles. The average distance from Point Z was 78 mm, and the greatest distance was 81 mm. The average distance for the four 5-seat Nissan Maxima vehicles tested was 76 mm, and the greatest distance was 81 mm. The average distance for the three 4-seat Maxima vehicles tested was 92 mm, and the greatest distance was 94 mm. At most, this reflects a distance of less than an inch beyond the distance specified in the standard, and the difference

is less than one-half of an inch for the FX and the 5-seat Maxima models.

Advocates commented that the safety issue is not the actual distance of the noncompliance but rather the effect of this noncompliance on safety. It states that even a ''noncompliance that involves a minimal deviation from the standard can be critical if it prevents the proper installation of child restraints in vehicles.'' NHTSA agrees. The 70 mm maximum distance between point Z on the fixture and the front of the anchorage bar was established to ensure easy installation of a child restraint system (CRS) and to reduce the likelihood of an improperly installed CRS. Locating the anchorage bars at this distance or less ensures that the anchorage bars are accessible and easy to use.

In the March 5, 1999 final rule (64 FR 10786), the agency increased the anchorage bar location to the current 70 mm maximum distance after the ISO working group increased its limit from 50 mm to 70 mm. In requiring the 70 mm limit, NHTSA stated,

> * * * NHTSA believes that most vehicles, except those with highly contoured seats, will have the bars 50 to 60 mm from the CRF. At this distance the agency believes that the bars would generally be visible at the seat bight without compressing the seat cushion or seat back.

Permitting lower anchorages at distances beyond 70 mm affects the ease of installation and proper installation of LATCH equipped child restraint systems, and compromises the benefits realized by a compliant child restraint anchorage system. The measurements of the subject lower anchorages exceed the requirements of S9.2.2 by up to 24 mm. Therefore, NHTSA finds that the extent of the noncompliance is significant.

Third, Nissan conducted a survey program to assess the ease of installing CRSs in these vehicles, and set out the results as an attachment to its petition. Nissan points out that there were few unsuccessful attempts and says that the results ''clearly demonstrate that the noncompliance * * * does not adversely affect the ease of installation of the CRSs * * *.'' Nissan also indicates that the latchings were accomplished in an average time of between 22 seconds and 39 seconds.

Advocates calls into question the validity of Nissan's survey conclusions, based on Nissan's use of its employees as testers and its dismissal of several failures because they were by one installer. NHTSA also finds Nissan's conclusions to be questionable.

Survey participants were women employees of Nissan. No description is given of the women involved in the study except that they ''* * * included some relatively small women and some mothers * * *.'' Nissan indicates that ''These results show that, despite the noncompliance, parents and other consumers in the real world have very little difficulty installing CRSs in the vehicles covered by this petition.''

Nissan made no attempt to obtain a sample that is representative of the general population but indicates that its results are generalizable. In the real world, parents include men, who were not included in this study. It seems by selection of a sample consisting of all women, Nissan assumes women would have more difficulty than men in installing CRSs to the lower anchor in the vehicle seat or that women would be more likely to install a CRS. But these may be incorrect assumptions. Men also install CRSs and there may be male physical attributes that may affect the ability of males to connect CRSs to the anchor. For example, in the tight space in the bight of the vehicle seat where the anchors are located, men—generally having larger hands than women—may have a more difficult time locating the anchor and connecting to it.

Further, each of the twelve installers had the benefit of a short demonstration on how each of the CRS hardware types was to be installed for the vehicles in question. The installers were also shown a diagram from the owner's manual that illustrated the location of the anchorages in the seat. They were then shown a sample of a lower anchorage removed from a seat so that they would know what to look for in the seat. NHTSA is not convinced that this survey is predictive of likely real-world problems that would be encountered by members of the general public who were not given similar, detailed instructions immediately prior to attempting to install a CRS. Also, even with this detailed briefing, 20 of the 336 installation attempts by this group were unsuccessful.

It should be noted that Nissan did not include a control vehicle (with lower anchors that comply with the standard) in their study for comparison purposes. Also, the sample size is very small (12 participants, and one participant's results were discounted). The ability to generalize the results of this study to the population at large is very doubtful.

In addition, NHTSA finds no basis for dismissing several failures as anomalous because they were by a single installer. Nissan reports that 20 (1.9 %) attempts failed during the trials but adds that one participant accounted for 12 of the 20 failed attempts to latch the child restraint to the anchor and indicates its belief that her performance was ''* * * anomalous and not predictive of the general public in installing CRSs * * *.'' Nissan suggests that if the results from installer number 9 are discarded, then overall there would only be 8 unsuccessful attempts (0.3% for the FX, 0.0 % for the 5-seat Maxima, and 2.3% for the 4-seat Maxima) to latch a child restraint to the anchor. However, installer number 9 did not fail across the board. She accomplished 72 successful child restraint installations out of 84 attempts. Installer number 9 may represent a segment of the distribution of child restraint installing capabilities of the general public. In other words, there may be a significant number of number 9s in the general population. The sample, as stated earlier, is very small (and biased), and it could be the case that a sample of this size might have one or more data points that appear to be outliers but may prove not to be if a larger sample were taken. One other installer in Nissan's survey (installer number 8) had 4 unsuccessful installations and was retained in the study's assessment.

Also, it should be noted that Nissan apparently did not obtain feedback from the participants concerning the unsuccessful installation attempts so it is impossible to know if the location of the anchor had any bearing on the installers' ability to attach the CRS to the anchor.

For these reasons, NHTSA is not convinced that the results of this survey program make the case that this noncompliance does not have an effect on safety.

Fourth, Nissan dismissed two complaints that were filed with NHTSA's Office of Defects Investigation in January of 2004. Nissan contacted the complainants eighteen months after the complaints were filed and determined one no longer had their notes and the second may have been installed using an improper procedure. NHTSA does not agree with Nissan that these complaints should be deemed irrelevant. Both complaints were filed by certified child safety technicians. Both complainants, as part of their jobs, installed child restraints in numerous other vehicles. NHTSA also contacted both complainants and determined it was their professional opinion at the time the complaint was registered that installation of child restraints into these vehicles was very difficult and worthy of sending a complaint to the agency.

These complaints did not account for NHTSA's decision to test the Infiniti FX. NHTSA reviews vehicles continuously and identified the Infiniti FX as a test vehicle based on preliminary

inspections that indicated a possible problem with the anchorage bar depth. After the noncompliance was determined to exist with the Infiniti FX, a check of the complaint database uncovered these complaints. The complaints are consistent with the test results that indicate the anchorage bars are too deep in the seat bight for easy installation.

Fifth, Nissan states that ''other vehicle characteristics in these models compensate for the lower anchorage location to allow for ease of installation,'' including seat foam that compresses easily and suppleness of leather seats. Nissan has presented no objective data to support this assertion, and it is contradicted by NHTSA test data for the Infiniti FX35, which indicate that over twice the allowable horizontal load must be placed on the CRF to compress the foam before the 70 mm distance can be achieved.

In conclusion, the fact that LATCH anchorages in some Nissan vehicles are at between 6 and 24 mm deeper in the seat bight than allowed by FMVSS No. 225 is consequential to safety. These LATCH anchorages may not be readily accessible and may not enable proper anchoring of the CRS to the vehicle, particularly since force considerably in excess of that specified in the standard would have to be exerted in order for the installer to make proper use of the anchorages in some circumstances. Moreover, since the anchorages are located deeper in the seat bight, improper anchoring of the CRS to other vehicle seat components such as wires and frame elements is more probable. The consequentiality may be significantly increased if a CRS has rigid attachments that are designed to attach to a vehicle anchorage located within the 70 mm distance. The agency believes that this noncompliance could well result in children riding in child restraint systems that are improperly installed and, therefore, do not provide the protection these systems are designed to provide. This is the danger the rule was intended to prevent.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Nissan's petition is hereby denied.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

Issued on: May 18, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6–7866 Filed 5–23–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Improving the Safety of Railroad Tank Car Transportation of Hazardous Materials

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

ACTION: Notice of public meeting.

SUMMARY: PHMSA and the Federal Railroad Administration (FRA) invite interested persons to participate in a public meeting to address the safe transportation of hazardous materials in railroad tank cars. PHMSA and FRA are initiating a comprehensive review of design and operational factors that affect rail tank car safety.

DATES: *Public meeting:* May 31–June 1, 2006, starting at 9 a.m. and ending at 5 p.m. both days.

ADDRESS: *Public meeting:* The Hotel George, 15 E Street, NW., Washington, DC 20001.

Oral presentations: Any person wishing to present an oral statement should notify Lucinda Henriksen, by telephone, e-mail, or in writing, at least four business days before the date of the public meeting. Oral statements will be limited to 15 minutes. For information on facilities or services for persons with disabilities or to request special assistance at the meetings, contact Ms. Henriksen by telephone or e-mail as soon as possible.

FOR FURTHER INFORMATION CONTACT: Lucinda Henriksen (*Lucinda.Henriksen@dot.gov*), Trial Attorney, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Ave., NW., Washington, DC 20590 (202–493–1345) or William S. Schoonover (*William.Schoonover@dot.gov*), Staff Director, Hazardous Materials Division, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590, (202–493–6050).

SUPPLEMENTARY INFORMATION: The Federal hazardous materials transportation law (Federal hazmat law, 49 U.S.C. 5101 *et seq.,* as amended by section 1711 of the Homeland Security Act of 2002, Public Law 107–296 and Title VII of the 2005 Safe, Accountable, Flexible and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU)) authorizes the Secretary of the Department of Transportation to ''prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.'' The Secretary has delegated this authority to the Pipeline and Hazardous Materials Safety Administration (PHMSA).

The Hazardous Materials Regulations (HMR: 49 CFR parts 171–180) promulgated by PHMSA under the mandate in section 5103(b) govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate. The Hazardous Materials Regulations—or HMR—are designed to achieve three goals:

(1) To ensure that hazardous materials are packaged and handled safely during transportation;

(2) To provide effective communication to transportation workers and emergency responders of the hazards of the materials being transported; and

(3) To minimize the consequences of an incident should one occur.

The hazardous material regulatory system is a risk management system that is prevention-oriented and focused on identifying a safety or security hazard and reducing the probability and quantity of a hazardous material release. We collect and analyze data on hazardous materials—incidents, regulatory actions, and enforcement activity—to determine the safety and security risks associated with the transportation of hazardous materials and the best ways to mitigate those risks. Under the HMR, hazardous materials are categorized by analysis and experience into hazard classes and packing groups based upon the risks they present during transportation. The HMR specify appropriate packaging and handling requirements for hazardous materials, and require a shipper to communicate the material's hazards through use of shipping papers, package marking and labeling, and vehicle placarding. The HMR also require shippers to provide emergency response information applicable to the specific hazard or hazards of the material being transported. Finally, the HMR mandate training requirements for persons who prepare hazardous materials for shipment or who transport hazardous materials in commerce. The HMR also include operational requirements applicable to each mode of transportation.

The Secretary of Transportation also has authority over all areas of railroad