

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.*

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## 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](mailto: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](mailto: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

safety (49 U.S.C. 20101 *et seq.*), and has delegated this authority to FRA. FRA has issued a comprehensive set of Federal regulations governing the safety of all facets of freight and passenger railroad operations (49 CFR parts 200–244). FRA inspects railroads and shippers for compliance with both FRA and PHMSA regulations. FRA also conducts research and development to enhance railroad safety.

Railroads carry over 1.7 million shipments of hazardous materials annually, including millions of tons of explosive, poisonous, corrosive, flammable and radioactive materials. The need for hazardous materials to support essential services means transportation of highly hazardous materials is unavoidable. However, these shipments frequently move through densely populated or environmentally sensitive areas where the consequences of an incident could be loss of life, serious injury, or significant environmental damage.

In the last several years, there have been a number of rail tank car accidents in which the car was breached and product lost on the ground or into the atmosphere. Of particular concern have been accidents involving materials that are poisonous, or toxic, by inhalation (TIH materials). For example, on January 18, 2002, in Minot, ND, one person was killed and 11 more were seriously injured when a Canadian Pacific Railway train derailed. Five tank cars carrying anhydrous ammonia catastrophically ruptured, and a vapor plume covered the derailment site and surrounding area. On June 28, 2004, in Macdona, TX, three people were killed and 41 were seriously injured when a Union Pacific freight train struck a BNSF freight train. The collision resulted in the breach of a tank car and a release of chlorine, a poisonous gas. Property damage and environmental clean-up costs exceeded \$7 million. On January 6, 2005, in Graniteville, SC, nine people were killed and about 75 were seriously injured when Norfolk Southern Railway train collided with a standing train, and a tank car carrying chlorine was breached. Total damages exceed \$6.9 million. In each of these incidents, the primary causative factor was railroad operations, a failed tank structure, or a combination of the two. Only with a full understanding of what happened can the necessary steps for prevention and mitigation be identified and implemented.

PHMSA and the Federal Railroad Administration (FRA) are initiating a comprehensive review of design and operational factors that affect rail tank car safety. The two agencies will utilize

a risk management approach to identify ways to enhance the safe transportation of hazardous materials in tank cars, including tank car design, manufacture, and requalification; operational issues such as human factors, track conditions and maintenance, wayside hazard detectors, and signals and train control systems; and emergency response. The review will not consider security issues. PHMSA and FRA have been working closely with the Transportation Security Administration on developing proposed regulations to enhance the security of rail shipments of hazardous materials; these regulatory proposals should be issued for public comment in the near future.

The public safety meeting now scheduled for May 31–June 1 is intended to kick-off the public involvement in this on-going effort within the Department. PHMSA and FRA are primarily looking to this meeting to surface issues and prioritize them. In addition, PHMSA and FRA will discuss the need for additional public forums and their time and place. Persons wishing to make statements will be afforded an opportunity to do so and a transcript—to be made available to the public—will be taken.

Issued in Washington, DC on May 18, 2006, under authority delegated in 49 CFR part 106.

**Robert A. McGuire,**

*Associate Administrator for Hazardous Materials Safety.*

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–06–24044; Notice 2]

#### Pipeline Safety: Grant of Waiver; Dominion Transmission, Inc.

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

**ACTION:** Grant of Waiver; Dominion Transmission, Inc.

**SUMMARY:** Dominion Transmission, Inc. (DTI) requested a waiver of compliance from requirements for pipelines constructed after March 31, 2000. This waiver will allow DTI to use the most recent, 2006 National Fire Protection Association's (NFPA) 59A, "Standard for Production, Storage, and Handling of Liquefied Natural Gas" and comply with PHMSA's liquefied natural gas (LNG) facility safety regulations.

**SUPPLEMENTARY INFORMATION:**

## Background

DTI requested a waiver from compliance of the regulatory requirements at 49 CFR 193.2301. This regulation requires each LNG facility constructed after March 31, 2000, to comply with 49 CFR part 193 and standard 59A (NFPA 59A). NFPA 59A requires that welded containers designed for not more than 15 pounds per square inch gauge comply with the 1990 Eighth Edition, of the American Petroleum Institute standard 620 (API 620), "Design and Construction of Large, Welded, Low-Pressure Storage Tanks (Appendix Q)." API 620 requires that examinations be performed using radiography to detect the type of flaws most susceptible in the design and construction of large welded low-pressure storage tanks.

DTI is proposing to use the 2006 Tenth Edition, Addendum 1, of API 620, instead of the currently used, 1990 Eighth Edition. This will allow ultrasonic examination as well as radiography as an acceptable alternative non-destructive testing method. The ultrasonic examination consists of full semi-automated and manual examination using shear wave probes, and volumetric examination using a combination of creep wave probes and focused angled longitudinal wave probes.

## Findings

PHMSA considered DTI's waiver request and published a notice inviting interested persons to comment on whether a waiver should be granted (71 FR 13895; March 17, 2006). PHMSA received one comment in support of the waiver from the American Gas Association (AGA). AGA supports DTI's request for a waiver from 49 CFR 193.2301 and is confident that the 2006 Tenth Edition of API 620 will not reduce the integrity of the installation of large welded low-pressure storage tanks at LNG facilities.

## Grant of Waiver

In its May 2005, Report on Comments, the NFPA 59A Committee "accepted in principle" the latest edition of API 620, Tenth Edition, Addendum 1. The Tenth Edition, Addendum 1, of API 620 adds ultrasonic examination as an acceptable method of examination. The proposed wording of the Tenth Edition, Addendum 1, of API 620 deletes "radiographic" inspection and replaces it with "complete" examination. In the Tenth Edition of API 620, "complete" examination is defined as radiographic or ultrasonic examination.

For the reasons explained above and in the Notice of March 17, 2006,