

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.

- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

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 (65 FR 19477) or at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on June 25, 2010.

**Michael J. Logue,**

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### American Short Line and Regional Railroad Association

[Waiver Petition Docket Number FRA-2010-0103]

The American Short Line and Regional Railroad Association (ASLRRA), on behalf of its member railroads, seeks a waiver of compliance with the Locomotive Safety Standards, 49 CFR 229.129(b)(2), which requires that the sound level of locomotive horns manufactured before September 18, 2006, be tested before June 24, 2010.

ASLRRA member railroads own approximately 4,000 locomotives, most of which were manufactured before September 18, 2006. ASLRRA estimates that over 50 percent of these locomotives have not yet been tested. ASLRRA states in their request that there are a number of reasons that the testing has not progressed as rapidly as needed to meet the requirement, the amount of time needed to test each locomotive, site requirements, weather conditions, and community noise complaints. ASLRRA requests that the requirement to complete testing of horns on locomotives built prior to September 18, 2006, be extended to December 30, 2012, for its membership.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2010-0103) and may be submitted by any of the following methods:

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Communications received within 30 days of the date of this notice will be considered by FRA. FRA reserves the right to grant relief in response to this request prior to the expiration of the comment period. Any relief provided

will be contingent upon FRA's consideration of any relevant comments submitted to the docket before the close of the comment period. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

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Issued in Washington, DC on June 25, 2010.

**Michael J. Logue,**

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### Rod and Ellen Fishburn

[Waiver Petition Docket Number FRA-2010-0080]

Rod and Ellen Fishburn (the Fishburns), private citizens residing in Tujunga, California, seeks a waiver of compliance from the Safety Glazing Standards of 49 CFR 223.15, *Requirements for existing passenger cars*. Specifically, the Fishburns have petitioned FRA for a waiver for private railroad passenger car AMTK 800061, *Colonial Crafts*, which was built for the Pennsylvania Railroad in 1949. The

Fishburns operate this car in charter, tourist and excursion service on Amtrak and other railroads.

The Fishburns state that the passenger car is equipped with double pane laminated safety glass and polycarbonate glazing material; with the exception of four passageway and three small auxiliary windows, which are glazed with single pane 1/4" polycarbonate. The Fishburns state that in 20+ years of operating the car, the current glazing has had a perfect safety record protecting both passengers and staff. None of the many objects that have struck the car over the years have penetrated the glazing and entered the passenger compartment. The Fishburns additionally state that operation of the passenger car is a very small business, and the cost of installing compliant glazing would pose an extreme hardship.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2010-0080) and may be submitted by any of the following methods:

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**Michael J. Logue,**

*Deputy Associate Administrator, Safety Compliance and Program Implementation.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### DesertXpress Enterprises, LLC

[Docket Number FRA-2010-0098]

The DesertXpress Enterprises, LLC (DXE) seeks a waiver of compliance from certain provisions of Title 49 of the CFR. Specifically, DXE is considering purchasing vehicles that are constructed to and meet European safety standards for crash-worthiness and related safety measures for use on its proposed high-speed rail corridor between Victorville, California, and Las Vegas, Nevada. DXE seeks relief from certain requirements of 49 CFR part 238, Passenger Equipment Safety Standards (§§ 238.115, 238.121, 238.435, 238.447, 238.403, 238.405, 238.407, 238.409, 238.411, 238.413, 238.417, 238.419); 49 CFR part 231, Railroad Safety Appliance Standards (§ 231.14); and 49 CFR part 229, Railroad Locomotive Safety Standards (§ 229.141).

DXE intends to design, develop, and construct an intercity high-speed passenger-only rail corridor, exclusive of freight operations, connecting Victorville, CA, and Las Vegas, NV, along a 183-mile long, double track

alignment. The system will feature a high-speed train operation at speeds up to 150 mph (FRA Class 8), featuring preferred electric multiple unit (EMU) technology train-sets based upon the Regina system, which was developed by Bombardier in Sweden. Most of the alignment will run parallel to the Interstate-15 (I-15) highway corridor, making maximum use of excess freeway right of way and minimizing impact upon the largely undeveloped land alongside the highway. There will be no highway-rail grade crossings with road vehicles.

DXE is considering purchasing non-FRA compliant EMU Regina train-sets for this high-speed rail system, and is requesting this relief primarily as a result of DXE's decision to construct and operate this project as a grade-separated, passenger-only system, with no freight trains or any other dissimilar trains operating on the line and no highway-rail grade crossings. DXE asserts that an added level of safety is further provided by DXE's exclusive, grade-separated system, in combination with advanced positive train control, broken rail detection, unique highway/rail barrier protection, and use of an intrusion detection system. According to DXE, these EMU's will offer higher reliability than typical FRA-compliant equipment, higher energy efficiency due to light vehicle weight, and better performance due to power-to-weight ratio which will enable these train-sets to climb steep grades. No push-pull or locomotive-hauled trains will be used, so that in the event of a collision, only identical train-sets will be involved, thereby simplifying the design requirements for crash-worthiness.

Noting that certain provisions in 49 CFR part 231 pertaining to safety appliances are statutorily required, and therefore not subject to FRA's waiver authority, DXE also requests that FRA exercise its authority under 49 U.S.C. 20306 to exempt DXE from certain provisions of Chapter 203, Title 49 of the United States Code because the EMU Regina vehicles will be equipped with their own array of safety devices resulting in equivalent safety.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.