

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 (FRA-2006-25057) and may be submitted by any of the following methods:

- **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 30 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 comment (or signing the comment, 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).

Issued in Washington, DC, on March 26, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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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.

New River Railway Company (Docket Number FRA-2009-0005)

The New River Railway Company (NR) of Devonia, Tennessee, has petitioned for a permanent waiver of compliance for one locomotive (SOU 520) and two rail passenger coaches (NR 290 and NR 808) from the requirements of the Railroad Safety Glazing Standards, Title 49 CFR Part 223, which require certified glazing in all windows. The locomotive, as well as the two coaches, are in good condition with no defective glass.

NR operates between Huntsville and Devonia, Tennessee, a distance of approximately 32 miles, only on Saturday and Sunday. The territory is farm land, dense woodland and tall hills following NR. The operating speed is between 10 and 15 miles per hour (mph) and slowed down to 5 mph at times for passengers to view certain scenery. NR states that there is no history of vandalism involving their operations. NR also states that no one makes the safety glazing for the subject locomotive and the coaches because of the age of the equipment, and that to have the glazing specially made to FRA specifications for this equipment could cost more than the equipment would be worth to start with.

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All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2009-0005) and may be submitted by any of the following methods:

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

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• **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>.

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Issued in Washington, DC, on March 26, 2009

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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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.

Railserve Inc.

[Docket Number FRA-2008-0138]

The Railserve Inc. (RASX) of Atlanta, Georgia, has petitioned for a permanent waiver of compliance for fifteen (15) locomotives from the requirements of the Railroad Safety Glazing Standards, Title 49 CFR Part 223, which requires certified glazing in all windows. The reporting marks on these locomotives are RASX 5487, RASX 1078, RASX 2460, RASX 2558, RASX 8959, RASX 5489, RASX 5077, RASX 1037, RASX 356, RASX 4487, RASX 4489, RASX 8999, RASX 103, RPRY 2402, and LTEX 2503.

These locomotives are used in switching operations inside the DOW A & B Chemical Plants in Freeport, Texas. The switching operations involve interchange with the Union Pacific Railroad Company for inbounds and outbounds only on the trackage that is less than ¼ mile long. RASX states that there is no history of vandalism at the DOW A & B Chemical Plants in Freeport, Texas, and that all of the locomotives are parked inside the plants at all times. The top speed of operations is 5 miles per hour. RASX has stated that to install glass at FRA specifications would be cost prohibitive.

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-2008-0138) and may be submitted by any of the following methods:

- **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>.

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Issued in Washington, DC on March 26, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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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.

SMS Rail Service

[Docket Number FRA-2009-0018]

The SMS Rail Service (SMS Lines) of Bridgeport, New Jersey, has petitioned for a permanent waiver of compliance for three locomotives (SLRS 304, SLRS 305 and SLRS 306) from the requirements of the Railroad Safety Glazing Standards, Title 49 CFR Part 223, which requires certified glazing in all windows. The locomotives are in good condition with no defective glass. SMS Lines operates these locomotives in back-up service within the Pureland Industrial Park in Bridgeport, NJ, and the Valero Refinery in Paulsboro, NJ. There has been no history of broken glass at these locations and there are no overhead bridges or tunnels. The maximum operating speed is 10 miles

per hour. SMS Lines states that they plan to upgrade all three locomotives to FRA Safety Glazing Standards as and when these locomotives are overhauled and repaired. SMS Lines is, therefore, seeking interim relief from the FRA Safety Glazing Standards.

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-2009-0018) and may be submitted by any of the following methods:

- **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.
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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>.

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