

### Maine Narrow Gage Railroad & Museum

[Docket Number FRA-2005-21014]

The Maine Narrow Gage Railroad & Museum (MNGR), a 2-foot gage museum railroad, seeks a waiver of compliance from the requirements of Title 49 Code of Federal Regulations (CFR) 230.51 Water glasses and gage cocks, number and location. The MNGR is not engaged in general railroad transportation, and provides only railroad tourist excursions on a limited schedule. The MNGR currently consists of approximately two miles of track, all located within the waterfront district of Portland, Maine, and adjacent to a park.

This waiver would be for MNGR locomotives numbers 3 and 4, and specifically requests that the minimum reading for the water glasses on these two locomotives be retained at 1½ inches above the highest part of the crown sheet as originally designed, constructed, and operated since 1912. The current requirement, as specified by title 49 CFR 230.51, requires a minimum water reading be visible at 3 inches above the highest part of the crown sheet. If locomotives numbers 3 and 4 are brought into compliance with the regulatory requirement, raising the water glasses would result in the top or full reading being equal height with the top of the boiler. Thus, when the water glass indicates full, there is very little remaining volume for steam to accumulate, and water may carry over into the dry pipe, an unsafe condition. In addition, the boilers on these two locomotives are 37⅞ inches in diameter, which is significantly smaller than that found on standard gage locomotives. The petitioner believes that due to the difference in boiler diameters, an equivalent level of safety exists with their water glass at 1½ inches above the highest part of the crown sheet when compared to a standard gage locomotive set at 3 inches.

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-2005-21014) and must be submitted in

triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, Washington, DC 20590-0001. 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 DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington. 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://dms.dot.gov>.

Anyone is able to search the electronic form of all 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 19377-78). The statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC on July 13, 2005.

**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 Jersey Transit Corporation (Supplement to Waiver Petition Docket Number FRA-1999-6135)**

As a supplement to New Jersey Transit Corporation's (NJ Transit) Petition for Approval of Shared Use and Waiver of Certain FRA Regulations (the original shared use waiver was granted by the FRA Railroad Safety Board on December 3, 1999 and a five year

extension was granted by the FRA Railroad Safety Board on May 2, 2005), NJ Transit seeks a permanent waiver of compliance from additional sections of Title 49 of the CFR for continued safe operation of its Southern New Jersey Light Rail Transit (SNJLRT) River Line. NJ Transit submits that this request is consistent with the waiver process for Shared Use. See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000); see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).

The River Line is a temporally separated light rail system, sharing track with Conrail, operating through 19 communities, often as close as 100 feet from residences, schools, hospitals, and businesses. NJ Transit estimates that at moderate levels of service, the River Line generates over 5400 audible warnings per day over its 54 highway-rail grade crossings and street intersections on the shared trackage of the Bordentown Secondary from milepost 3.4 to milepost 33.1. NJ Transit proposes that the quality of life of the residents of these communities is significantly impacted by frequent intrusion of horns and bells, resulting in numerous complaints from residents and elected officials. In order to mitigate these concerns, NJ Transit adopted the use of the 86dB(A) setting of the two-level horn on the SNJLRT vehicle as the standard highway-rail grade crossing audible warning device and developed specific light rail operating rules regarding audible warnings at grade crossings on the River Line.

On April 27, 2005, the FRA issued the Final Rule on Use of Locomotive Horns at Highway-Rail Grade Crossings, 69 FR 21844 (2005), with an effective date on June 24, 2005. Although NJ Transit states that its audible warning operating practices on the River Line are generally in compliance with the rules contained in 49 CFR parts 222 and 229 Use of Locomotive Horns at Highway Rail Grade Crossings; Final Rule, it seeks waivers from parts of this rule because of variances in the following areas: The River Line light rail vehicle audible warning decibel level, the use of the River Line vehicle bell in Burlington City, NJ, operating practices for near-side station stops in close proximity to fully activated and deployed grade crossing warning devices, one highway-

rail grade crossing in Bordentown, NJ and the horn blowing pattern for specific highway-rail crossings in close proximity to one another.

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.

Because the final rule on Use of Locomotive Horns is now in effect, and because it was not FRA's intention in issuing that rule to require compliance by light rail vehicles operating in joint use situations with the horn decibel level required for conventional rail equipment, FRA may issue temporary relief in this proceeding addressing that issue, following the expiration of ten (10) days from the date of publication of this notice in the **Federal Register** absent persuasive filings indicating that a contrary course of action should be taken.

All communication concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-1999-6135) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC, 20590. 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://dms.dot.gov>.

Issued in Washington, DC on July 13, 2005.

**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) has 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.

#### **Santa Clara Valley Transportation Authority (VTA) (Supplemental Waiver Petition Docket Number FRA-1999-6254)**

As a supplement to VTA's existing Shared Use/Temporal Separation waiver, originally granted by the FRA on July 7, 2000 (a six month extension was granted on June 29, 2005 to accommodate the time needed for this Supplemental Petition process), VTA seeks a permanent waiver of compliance from sections of Title 49 of the CFR for operation of its new Vasona Corridor Light Rail Project Extension (Vasona Line) which features "limited connections" such as a shared corridor operation and an at-grade rail crossing of the light rail track by a UPRR freight spur within this shared corridor. See *Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment*, 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems*, 65 FR 42626 (July 10, 2000).

In this regard, VTA has constructed this new extension of its 37-mile light rail system on 5 miles of the existing 15 mile long Union Pacific Railroad (UPRR) Vasona Industrial Lead. This new light rail operation will serve the cities of southwest San Jose, CA and Campbell, CA and is scheduled to open on August 12, 2005. VTA owns this 5 mile long portion of the shared corridor. As such, VTA and UPRR have executed an Operations and Maintenance Agreement, which includes an exclusive operating easement, allowing UPRR to fulfill its obligations as a common carrier of freight by continuing its existing freight operations within the purchased corridor. *This agreement requires VTA to inspect, maintain, and repair all tracks, signal systems and automatic warning devices along the freight track within that portion of the corridor shared with LRT tracks (VTA and UPRR operate on separate tracks within this corridor).* UPRR presently operates two to three round-trip freight

trains each week, during daylight hours, over this shared corridor, at speeds not exceeding 25 mph. To avoid impacts to the surrounding communities, freight operations will continue to operate during daylight hours.

In order for UPRR to continue to provide service to a flooring businesses along this shared corridor in San Jose, CA, VTA is seeking a permanent waiver of compliance from Title 49 of the CFR for operation of its new Vasona Light Rail Line over an at-grade rail crossing "limited connection" with a UPRR freight spur switched from the Vasona Lead at MP0.41 Race Interlocking. For this crossing, VTA seeks permanent waiver of compliance from sections of title 49 of the CFR, specifically: part 214, subpart B Bridgeworker Safety Standards, subpart C Roadway Worker Protection, part 217 Railroad Operating Rules, part 219 Control of Alcohol and Drug Use, part 220 Railroad Communications, part 221 Rear End Marking Devices, part 223 Safety Glazing Standards, part 225 Accident Reporting, part 228.17(a)(2) Hours of Service (for VTA dispatchers only), part 229 Locomotive Safety Standards, part 231 Railroad Safety Appliances, part 233 Signal Systems Reporting Requirements, part 236 Signal and Train Control Systems, Devices and Appliances-Interlocking, part 238 Passenger Equipment Safety Standards, and part 239 Passenger Emergency Preparedness.

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 1999-6254) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. 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. Nevertheless, in view of the fact that VTA intends to commence operations on August 12, 2005, FRA reserves the right to grant temporary relief prior to the expiration of the comment period so that rail service may