



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2012-0072]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated August 28, 2012, Capital Passenger Car, Inc. (CPC) of Orrville, OH, has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 223–Safety Glazing Standards–Locomotives, Passenger Cars and Cabooses. FRA assigned the petition Docket Number FRA-2012-0072.

CPC has petitioned for a permanent waiver of compliance for a 28-seat parlour car (RPCX 3850) named “C&B Marshall.” This car was built by Pullman in 1947, and since 1989 has operated on lease for passenger excursions that are limited to regional railroads, namely Buffalo and Pittsburgh Railroad, Columbia and Ohio River Railroad, Ohio Central Railroad (Genesee and Wyoming), and Wheeling and Lake Erie Railway. The car typically operates between 1,000 and 2,000 miles per year on about six weekends

at speeds of 45 mph or less, mostly on single-track rail lines through areas largely rural in nature. When not being used, this car is stored at the Orrville Railroad Heritage Society, Inc.'s Pine Street Yard in Orrville, OH, on the Wheeling and Lake Erie Railway.

There are two end windows in the B-end vestibule, one right and one left. Both the right side and left side of the car contain eight windows each. No Type I or Type II FRA-certified glazing is currently installed in the car. However, all side windows are ¼-inch panes of Duplate ASI PPG Safety Glass. Some of these side windows are equipped with double panes. Also, each end window is ¼-inch pane of Duplate ASI PPG Safety Glass. CPC states that barring one incident of vandalism in the spring of 2010 when the car was in storage—resulting in several cracked windows—there has been no accident or injury attributed to window glazing since this car came under its present ownership in 1988. CPC states that besides the prohibitive cost (approximately \$30,000) involved in retrofitting the car with FRA-certified glazing, side-lining the car for this purpose will be catastrophic because most of its revenue comes from the operation of this car on steam and diesel powered excursions. Therefore, CPC is requesting this relief.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

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 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, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION 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.

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),
or online at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on December 17, 2012

Robert C. Lauby
Deputy Associate Administrator
for Regulatory and Legislative Operations

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