



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

Docket Number FRA-2014-0082

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 11, 2014, Mr. Brian Wise, General Manager of the Mount Rainier Scenic Railroad (MRSR), 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 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA-2014-0082.

Specifically, MRSR requests a waiver from the stenciling requirements of 49 CFR 215.303, *Stenciling of restricted cars*, and the reflectorization requirements of 49 CFR 224.3, *Applicability*, for three skeleton log cars (Car Numbers CW 238, CW 187, and CW 208), and two flatcars with log bunks (Car Numbers CW 251 and MRSR 449).

MRSR states that it is a tourist railroad operation that operates between Elbe, and Mineral, WA. The subject equipment is operated by MRSR on a portion of the Tacoma Rail-leased track from Milepost (MP) 45.3M in Elbe to MP 51.9M in Mineral. This track is FRA Class 1. MRSR is operated by paid employees and volunteer members of the Western Forest Industries Museum (WFIM)—a non-profit organization under the laws of

the State of Washington—and is entirely for historical and educational purposes. WFIM was incorporated in the State of Washington in 1965, and has operated as a historic tourist railroad since 1981.

MRSR does not interchange the equipment subject to this petition with the general system of railroad, although it does have a connection to facilitate the movement of rail equipment onto MRSR trackage for preservation purposes.

MRSR seeks relief for operation of this freight equipment for use in tourist railroad operations and for “photo freights,” which are freight trains of historical equipment operated for the purposes of providing an opportunity for the public to view freight trains of a bygone era. MRSR also operates passenger cars in conjunction with its tourist operations. Photo freight trains provide an additional source of income for MRSR to enable MRSR to maintain and preserve the museum collection. As an operating railroad museum, MRSR maintains freight equipment restored with original markings and reporting marks in an effort to interpret the history of West Coast logging railroads in the early 20th Century. Freight cars are maintained and operated exclusively on the MRSR for interpretation and occasional photo freight events. These cars are typically operated while empty in photo freight service. Photo freight events are only held periodically on MRSR with the cars typically operating in this service no more than two to four times per year. The cars listed in this petition may also double as maintenance-of-way cars (e.g., flatcar, when not in photo freight service).

MRSR has a good compliance history. The museum continues to endeavor to maintain all equipment, operation and track to FRA compliance standards. Throughout the operation of MRSR, FRA has not found it necessary to issue any violations for failure

to comply with FRA mechanical safety regulations. MRSR has not experienced any derailments or accidents with the equipment referenced in this petition since the railroad began operations in 1981. MRSR also states that the subject cars are operated at a maximum speed of 10 mph and typically travel no more than 30 miles per day.

MRSR believes granting of the waiver sought in the petition will benefit MRSR by allowing continued use of historic freight equipment for tourist, interpretive, and educational purposes. MRSR generates revenue from its operations which help fund the ongoing preservation activities of the museum. In addition, the local economy also benefited as a result of MRSR tourist trains and museum activities.

MRSR indicates that all equipment operated on MRSR is maintained by the museum using knowledgeable employees, museum members, and outside contractors as needed to perform freight car safety inspections. MRSR will conduct a detailed inspection of each restricted freight car once every 10 years, which will include raising each car off its trucks for inspection of the car's center plate and truck center bowl. Each car will be serviced and repaired prior to being returned to service. Records of such inspection will be maintained by MRSR.

Regarding the stenciling waiver, MRSR stated that it does not interchange these restricted freight cars with any railroad and as such, the cars are in captive service. In addition, the stenciling requirements would destroy the historical appearance of the freight cars that have been preserved for historical, education, and interpretive purposes.

Regarding reflectorization relief, MRSR states that these requirements would destroy the historical appearance of the freight cars which have been preserved for historical, educational, and interpretive purposes. Application of the reflectorized tape or decals on wood-bodied equipment is difficult. Further, there is no practical safety purpose served by applying reflectorization because of the captive service and the extreme care under which MRSR operates such equipment, as well as the fact that the equipment is rarely operated in times other than daylight hours. During the Christmas season, the last train on each operating day operates during hours of darkness on the return trip. On those occasions, crossings not equipped with automatic crossing protection will be protected by flagmen equipped with lights and fuses to warn approaching motorists and to illuminate the cars. Current MRSR management is not aware of any train or vehicle accidents at grade crossings involving MRSR trains.

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 document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on September 23, 2014.

Ron Hynes,
Director, Office of Safety Compliance and Assurance.

[FR Doc. 2014-23202 Filed 09/29/2014 at 8:45 am; Publication Date: 09/30/2014]