

- *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 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 April 12, 2010.

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 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.

National Railroad Passenger Corporation

[Docket Number FRA-2009-0104]

The National Railroad Passenger Corporation (Amtrak), has petitioned for a permanent waiver of compliance from

the requirements of the Fire Safety Standard, 49 CFR 238.103, which requires materials used on the passenger car, meet the test performance criteria for flammability and smoke emission characteristics as specified in Appendix B of this section.

Amtrak stated that their current fleets of 205 operating diesel locomotives are the Genesis P42-8 model manufactured by General Electric (GE). These locomotives were manufactured between the years of 1996–2002. The Manufacturing and the material selection process at that time were based on the 49 CFR part 229 regulations. However, due to the inclusion of all locomotives on passenger trains under the 49 CFR part 238 regulations, some materials in the human occupied areas have since become non-compliant under Smoke and Flame Requirements (49 CFR 238.103).

Amtrak and GE have collectively sort out alternate manufactures and materials for eliminating the non-compliant materials from the locomotive cab. However due to the comparatively small fleet of passenger locomotives with freight locomotives, the cost and the manufacturing feasibility of these materials, Amtrak has been unable to obtain alternates for the components in question. Therefore, Amtrak seeks a waiver for use of these materials in the locomotive cab. Several of these materials need to be replenished in the locomotive cabs; however due to the non-compliance, Amtrak has not been able to order these items from vendors. Amtrak listed 13 items in its petition. Amtrak provided descriptions and analyses about these items in support of its petition.

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-2009-0104) 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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New York & Lake Erie Railroad

[Docket Number FRA-2004-19950]

The New York & Lake Erie Railroad (NYLE) of Gowanda, New York, has petitioned for a permanent waiver of compliance for two locomotives, numbered NYLE 1013 and NYLE 308,

