

**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.

**Akron Barberton Cluster Railway**

[Waiver Petition Docket Number FRA-2010-0144]

The Akron Barberton Cluster Railway (ABC) seeks a waiver of compliance from certain provisions of the Federal hours of service law (49 U.S.C. Chapter 211; HSL). Specifically, ABC requests relief from 49 U.S.C. 21103(a)(4), which states that a train employee may not be required, allowed to remain, or go on duty after that employee has initiated an on-duty period each day for 6 consecutive days unless that employee has had at least 48 hours off duty at the employee's home terminal.

ABC currently has eight train and engine service employees who typically work three assignments commencing at either 5 a.m., 6 a.m., or 7 a.m. Each assignment consists of 5 days in duration and averages 7 hours on duty. Specifically, the schedules include a Monday through Friday shift beginning at 5 a.m.; a Sunday through Thursday shift beginning at 6 a.m.; and a Tuesday through Saturday shift beginning at 7 a.m. The employees have set hours, set days off and do not layover at away from their home locations. ABC is requesting that employees may work 6 consecutive days followed by 24 hours off duty. ABC included with its waiver request, documentation indicating that its employees unanimously support its request for relief. ABC's entire petition may be viewed at <http://www.regulations.gov> under the docket number listed above.

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-2010-0144) 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>.

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 September 28, 2010.

**Robert C. Lauby**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

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**Hoosier Valley Railroad Museum, Inc.**

[Waiver Petition Docket Number FRA-2010-0138]

The Hoosier Valley Railroad Museum, Inc. (HVRM) seeks a waiver of compliance from certain provisions of the Railroad Freight Car Safety Standards, 49 CFR 215.303, which requires stenciling of restricted cars. HVRM owns four cabooses (Car Numbers: B&LE 1989, EL C345, GTW 75072, and EJ&E 184) and a flat car (Car Number: NKP 1946) that are older than 50 years from their date of original construction, and are restricted by the provision of 49 CFR 215.203(a). HVRM is concurrently seeking special approval to continue to use these cars under proceeding according to 49 CFR 215.203(b).

To support its petition to seek relief from the stenciling requirement, HVRM states that it is an Indiana Corporation and a 501(c)(3) non-profit organization whose mission is to preserve railroad history in northwest Indiana. HVRM exercises complete control in the maintenance of these freight cars. Each car subject to this petition is lettered and painted according to its historic appearance at the time of its construction. Stenciling these cars in order to meet the letter of § 215.303 would violate the historic impression that these cars are maintained to preserve.

The cars subject to this waiver are limited in their service by speed, lading and territory. Specifically, their operation will be confined to the Chesapeake & Indiana Railroad over tracks owned by the Town of North Judson, Indiana, at limited track speed, with light tonnage (if any), in accordance with CFR Part 215. These cars will never be subject to regular railroad interchange operations at the hands of a strange crew unfamiliar with their characteristics.

HVRM further stated that its restricted cars will always be operated in context that ensures that each car and its sensibilities are readily accessible and known both to HVRM as operator, and to FRA as railroad safety regulation enforcer. HVRM believes that the greatest inconvenience to the FRA's inspectors would be the identification of obvious defects as to type and obsolete parts on the cars without the benefit of supporting paperwork in hand. This inconvenience could be easily remedied by HVRM making available to the FRA's