



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2011-0069]

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 January 24, 2013, Steam Into History, Inc. (Steam) 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-2011-0069.

Kloke Locomotive Works is constructing for Steam a newly built (2013) replica of a steam locomotive that was originally built in the 1800s. York #17, the locomotive that is the subject of Steam's waiver petition, is a replica of Union Pacific #119, which was constructed in 1979 from the same blueprints and tooling that is being used for the construction of York #17. Union Pacific #119 is owned and operated by the U.S. National Park Service at the Golden Spike National Historic Site in Promontory Summit, UT. Steam intends to operate York #17 with its replica Civil War-era train on the former Northern Central Railway in York County, PA.

Steam asks that FRA determine that 49 CFR Part 223 not apply to York #17 because of the language in 49 CFR 223.3, *Application*, which provides an exemption for “locomotives...that are historical or antiquated equipment and are used only for excursion, educational, recreational purposes or private transportation purposes.” Steam states that York #17 is an accurate, historical design locomotive and will be used primarily for educational purposes. It will also be used for excursions, primarily in an historical, educational context. Steam submits that, because of the historic nature and primarily educational mission of York #17, 49 CFR Part 223 should not apply to it.

In the event that FRA determines that York #17 does not qualify for an exemption pursuant to 49 CFR 223.3, Steam requests relief from 49 CFR 223.9, *Requirements for new or rebuilt equipment*, due to its mitigating use of tempered automotive safety-type glazing in the locomotive cab and the open nature of the wooden cab on the locomotive. Additionally, Steam asserts that the historical appearance of York #17 would be unrecognizable with the installation of 49 CFR Part 223 glazing.

Steam submitted a similar waiver petition to FRA on July 28, 2011, but FRA dismissed the petition without prejudice on February 3, 2012, because the design of York #17 was not finalized and a sample car (locomotive) inspection could not be performed.

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 April 8, 2013

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

[FR Doc. 2013-08489 Filed 04/12/2013 at 8:45 am; Publication Date: 04/15/2013]