



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2013-0104]

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 September 13, 2013, the New York and Lake Erie Railroad (NYLE) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11, *Requirements for existing locomotives*. FRA assigned the petition Docket Number FRA-2013-0104.

This petition relates to operation of Montreal Locomotive Works (MLW) Locomotive FPA-2U, Reporting Marks NYLE 6758, and Locomotive FPA-4, Reporting Marks NYLE 6764, that are prohibited from operation on the general system of railroads without window glazing that meets the requirements of 49 CFR 223.11. These locomotives are in tourist/excursion service and operate on approximately 31 miles of track in rural Cattaraugus and Chautauqua Counties in western New York State. The locomotives were previously covered under Waiver FRA-1998-4822 when they were in biweekly service on NYLE's sister railroad, the Oil Creek and Titusville Lines (OCTL) in rural northwestern Pennsylvania. OCTL never had problems with window breakage due to vandalism and never had to replace glass due to breakage from flying objects.

Maximum authorized speed on NYLE is 25 mph, the same as it was on OCTL. The cost of installing compliant glazing on these historic locomotives remains prohibitively expensive.

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

Robert C. Lauby
Associate Administrator for Railroad Safety
Chief Safety Officer