

BEFORE THE
FEDERAL RAILROAD ADMINISTRATION

DOCKET NO.: _____

**PETITION OF THE HERITAGERAIL ALLIANCE, INC.
FOR WAIVER OF COMPLIANCE PURSUANT TO 49 CFR Part 211.7 and 49 CFR Part
230.6**

David M. Wilkins
1554 E 8640 S
Sandy, UT 84093-1579
david.wilkins@onepost.net
*Counsel for HeritageRail Alliance,
Inc.*

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Pursuant to 49 C.F.R. 211.7, HeritageRail Alliance, Inc. (“HRA”) submits this petition for waiver of compliance of certain provisions of 49 CFR Part 230, Steam Locomotive Inspection and Maintenance Standards.

I. Introduction

The year 2020 brought the SARS-CoV-2 (“COVID-19”) pandemic to all parts of the United States. As a result, many tourist and heritage railroads, the primary operators of steam locomotives under the jurisdiction of the FRA and 49 CFR Part 230 did not operate. Most operators of steam locomotives max out their fifteen calendar years between inspections, as established under 49 CFR Part 230.17, instead of an actual 1472 days of service. With locomotives out of service the entire year of 2020, HRA is asking for a general waiver, giving operators an additional one (1) year of operation under 49 CFR Part 230.17 to operators of steam locomotives covered by 49 CFR Part 230, if that locomotive did not accumulate any service days in the year 2020.

II. Substance of Regulation that Petitioner Seeks Waiver From

HRA seeks a one-time waiver of the calendar year (elapsed time) provisions of 49 CFR Part 230.17. The regulation imposes a requirement that a steam locomotive undergo a

comprehensive inspection either after the expiration of 1472 service days (as defined in 49 CFR Pat 230.18), or fifteen years, whichever comes first.

III. Interest of the Petitioner

Petitioner HRA is a 501(c)(6) trade association that represents the interests of the tourist railroad and railroad museum industry in the United States and Canada. Originally established as two organizations, the Association of Railway Museums, and the Tourist Railroad Association, Inc., HRA and its predecessors have been an advocate for the heritage railroad industry for over a half a century. HRA, in representing the interests of its members, sees that the granting of a one-time, industry wide waiver, would be beneficial to all operators of steam locomotives, not just HRA members, who would financially benefit from having another full calendar year of operation before the next 1472 day inspection.

IV. Nature and Extent of the Relief Sought by HRA

HRA is seeking a one-year, blanket waiver for all operators of steam locomotives under the jurisdiction of the FRA. If that operator reaches 15 calendar years, before the use of 1472 service days, then that operator may have an additional one (1) year of operation before the next 1472-day inspection. This waiver would be applicable to anyone operating a locomotive under the jurisdiction of the FRA, not just HRA members.

V. Estimation of Costs and Benefits.

The COVID-19 pandemic has been difficult on certain aspects of the American economy, including railroad museums and tourist railroads. Many have not operated this year due to lockdowns, and the imposition of local and state public health orders. These requirements have made it unfeasible to operate or has forced heritage railroads to operate at a greatly reduced capacity. Many operators of steam locomotives have chosen to not operate one or all their steam

locomotives this year, and these locomotives have not accumulated service days in 2020. Many of these operators rely on ticket revenue to fund future 1472-day inspection costs on their steam locomotives. With no, or greatly reduced ticket revenue from decreased or non-existent ridership, these organizations will be placed into a hardship when their steam locomotives come due for their next 1472-day inspection.

In surveying its membership, HRA determined that a waiver would be of significant financial benefit to its members, saving anywhere from \$100,000 to \$200,000 per locomotive. Some operators have more than one locomotive, thus the savings would be more for them. A 1472-day inspection and associated work is a significant investment into the operational future of the steam locomotive. Most operators plan to spread that expense over fifteen calendar years of operations, during which they have time to set money aside for the next 1472-day inspection. Due to the unprecedented COVID-19 pandemic, most operators will only be able to spread their inspection and repair expenditure over only 14 years. Delaying the financial costs of a 1472-day inspection one additional year, while allowing the locomotive to operate and generate income needed to pay for the inspection and allow operators to realize their original amortization schedule.

Ever since the enactment of 49 CFR Part 230, the FRA has granted waivers to operator seeking to operate their steam locomotives past the 15-year period, so such an extension is not new or unheard of. These waiver extensions are typically accompanied by a visit by the local FRA inspector, and HRA would not object to a similar requirement for any operator wishing to avail themselves of this blanket waiver.

VI. Conclusion

The COVID-19 pandemic of 2020 is an unprecedented event in recent American history. The results of the pandemic have imposed significant financial challenges on tourist railroads and railroad museums, the core of HRA's membership. The allowance of a one-year extension for operators who reach fifteen calendar years before the next 1472-day inspection, and who did not accumulate any service days in 2020, would be of great financial benefit to HRA's core membership, as well as other operators of steam locomotives under FRA jurisdiction. Therefore, the HeritageRail Alliance, Inc., respectfully requests that the FRA issue the requested one-year blanket waiver.

Filed this 4th day of December 2020.

HERITAGERAIL ALLIANCE, INC.

/s/ David M. Wilkins
David M. Wilkins
General Counsel
HeritageRail Alliance, Inc.