

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Approval of Noise Compatibility Program; Centennial Airport, Englewood, CO; FAA**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Arapahoe County Public Airport Authority for the Centennial Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150, Airport Noise Compatibility Planning. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96-52 (1980). On August 12, 2008, the Airports Division Manager approved the Centennial Airport noise compatibility program. Of the twelve proposed program elements, FAA approved eight and reserved approval of another two measures pending further study. The remaining two measures were disapproved.

**DATES:** The effective date of the FANs approval of the Centennial Airport noise compatibility program is August 12, 2008.

**FOR FURTHER INFORMATION CONTACT:** Linda Bruce, Federal Aviation Administration, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249-6361, Telephone (303) 342-1264. Documents reflecting this FAA action may be obtained from Ms. Bruce or on the Internet at [http://www.faa.gov/airports\\_airtraffic/airports/regional\\_guidance/northwest\\_mountain\\_environmental/](http://www.faa.gov/airports_airtraffic/airports/regional_guidance/northwest_mountain_environmental/).

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the Centennial Airport noise compatibility program, effective August 12, 2008. Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps.

The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with 14 CFR Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport sponsor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in 14 CFR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law.

Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where

Federal funding is sought, the airport sponsor must submit requests for project grants to the FAA Denver Airports District Office in Denver, Colorado.

The Centennial Airport study contains a proposed noise compatibility program comprised of actions designed for implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 2012. The Arapahoe County Public Airport Authority, Englewood, CO, requested that the FAA evaluate and approve this material as a noise compatibility program for the Centennial Airport, as described in Section 104(b) of the Act. The FAA began its review of the program on February 22, 2008, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 12 proposed actions to address noise on and off the airport. The FAA completed its review and determined that the overall program complied with procedural and substantive requirements of the Act and Part 150. The overall program, therefore, was approved by FAA effective August 12, 2008. Outright approval was granted for eight of the specific program elements. One of these elements proposes the ban of Stage I aircraft from operating at Centennial Airport. Since there is no Federal preemption to banning such aircraft, FAA approved this element. Two other elements proposed involve voluntary measures that the airport sponsor can encourage pilots to use to help minimize aircraft noise.

The only land use planning element proposed by the airport sponsor was approved by FAA. This element involves the airport authority working with the local municipalities to amend zoning requirements, comprehensive plans and development regulations to minimize new, non-compatible land uses near the airport and to minimize the impact on airspace surrounding the airport, including 14 CFR Part 77 imaginary surfaces.

The remaining approved elements involve program management and are intended to assist in the development and operations of a noise abatement office and noise monitoring efforts. These measures include the installation of permanent noise monitoring system to monitor noise levels and compliance with noise abatement measures and the use of a public advisory committee to

monitor programs implemented as a result on the adoption of the NCP, including the Fly Quiet Program guidelines and the Noise Monitoring Program.

The airport sponsor proposed three changes to flight procedures. One of these measures, a change to nighttime flight procedures for jets departing to the north, will require further safety and environmental analysis. The other two programs elements FAA disapproved as they involve proposed changes to flight paths that FAA Air Traffic Control determined would create numerous adverse impacts to safety and efficiency of air traffic control operations. These program elements propose testing 24-hour flight tracks between 350 and 010 degree headings and implementing a 170 degree departure heading to 4 DME or 8,000 MSL (+/- 20 degrees).

FAA disapproved the remaining program element, the proposed ban of Stage 2 aircraft under 75,000 lbs. from operating at Centennial Airport at nighttime, pending further study. Per the requirements of 14 CFR Part 16, this measure requires further study to determine the impact on the national airspace system and air commerce.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Airports Division Manager on August 12, 2008. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office and Internet site listed above and at the administrative offices of the Arapahoe County Public Airport Authority, Englewood, CO.

Issued in Renton, Washington on August 12, 2008.

**Donna Taylor,**

*Manager, Airports Division, FAA Northwest Mountain Region.*

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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) received a request for a waiver of compliance with 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.

#### Town of Ipswich, Massachusetts

*[Waiver Petition Docket Number FRA-2008-0093]*

The Town of Ipswich, Massachusetts (Town) seeks a permanent waiver of compliance from certain provisions of FRA's regulations on the Use of Locomotive Horns at Highway-Rail Grade Crossings, 49 CFR Part 222. The Town intends to establish a Pre-Rule Quiet Zone to formalize existing restrictions on routine sounding of the locomotive horn that were previously continued under the provisions of 49 CFR 222.41(c)(1). The Town is seeking a waiver to extend the filing date for a Detailed Plan, as provided in 49 CFR 222.41(c)(2)(i)(B), which indicates that the Detailed Plan must be filed with FRA by June 24, 2008. The waiver petition requests that the Detailed Plan filed by the Town on July 28, 2008 be accepted as a valid Detailed Plan even though it was filed after June 24, 2008.

Initially, the Town of Ipswich submitted a Detailed Plan dated June 23, 2008, which was not received by FRA until June 30, 2008. The original Detailed Plan stated that the Town intended to reassess the risk index for the Topsfield Road grade crossing after March 2009, 5 years after an accident that occurred at the Topsfield Road location, to determine if additional safety improvements at this grade crossing would be required. FRA rejected this Detailed Plan because it was not received by the agency until June 30, 2008, and it did not include a detailed explanation of, and timetable for, the safety improvements that would be implemented as required by 49 CFR 222.41(c)(2)(i)(B). The Town, after discussion with representatives of FRA and the Massachusetts Bay Transportation Authority (MBTA), resubmitted the Detailed Plan on July 28, 2008, outlining the intended supplemental safety measures for the Topsfield Road grade crossing.

The Town seeks the waiver in order to continue the restrictions on routine sounding of locomotive horns at the grade crossings identified in its Detailed Plan until June 24, 2010.

The Town of Ipswich, the public authority, is filing this waiver request without the support of the MBTA, which is the railroad providing service over the five grade crossings identified in the Detailed Plan. However, the petition contains an explanation of the steps that the Town has taken to reach an agreement with the MBTA, in accordance with 49 CFR 222.15(b). As

stated in the petition, the Town has made a written request to the MBTA to support its waiver request and the Detailed Plan. The Town also conducted a meeting of its Board of Selectmen on August 1, 2008, where an MBTA official in attendance stated that it is the policy of the MBTA to neither support nor oppose requests by municipalities to maintain quiet zones or obtain waivers from FRA regulations.

The Town has also asserted in its waiver petition that the joint submission requirement contained in 49 CFR 222.15(a) would not be likely to contribute significantly to public safety in this instance, based on its plans to install a four-quadrant gate system with enhanced electronic monitoring at the Topsfield Road crossing, where an accident occurred in March 2004.

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-2008-0093) 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 20 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