

other requirements have been satisfied (23 U.S.C. 111, 23 CFR 625.2(a), and 23 CFR 771.129).

Implementation

State DOTs are required to submit requests for proposed changes in access to their FHWA Division Office for review and action under 23 U.S.C. 106 and 111, and 23 CFR 625.2(a). The FHWA Division Office will ensure that all requests for changes in access contain sufficient information, as required in this policy, to allow FHWA to independently evaluate and act on the request. Guidance to assist with the implementation and consistent application of this policy can be accessed electronically through the FHWA Office of Infrastructure's Web page at: <http://www.fhwa.dot.gov/programadmin/index.htm>.

Policy Statement Impact

The policy statement, first published in the **Federal Register** on October 22, 1990 (55 FR 42670), and modified on February 11, 1998 (63 FR 7045), describes the justification and documentation needed for requests to add or revise access to the existing Interstate System.

The revisions made by the publication of this policy statement reflect the direction provided in SAFETEA-LU, clarify the operational and safety analysis to accompany proposed changes in access on the Interstate System, and update language at various locations to ensure consistency with other Federal laws, regulations and FHWA policies. State DOTs should take these factors into consideration when making requests for new or revised access points, but the overall effort necessary for developing the request will not be significantly increased.

(Authority: 23 U.S.C. 111 and 315; 49 CFR 1.48)

Issued on August 18, 2009.

Victor M. Mendez,

Federal Highway Administrator.

[FR Doc. E9-20679 Filed 8-26-09; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34936]

Port of Moses Lake—Construction Exemption—Moses Lake, WA [STB Finance Docket No. 34936 (Sub-No. 1)]; Port of Moses Lake—Acquisition Exemption—Moses Lake, WA

AGENCY: Surface Transportation Board, Department of Transportation.

ACTION: Notice of exemption.

SUMMARY: Subject to a Programmatic Agreement negotiated by the parties and environmental mitigation measures, the Board is granting exemptions under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for the Port of Moses Lake (Port) in STB Finance Docket No. 34936 to construct two segments of rail line in Moses Lake, WA, one between the community of Wheeler and Parker Horn at the mouth of Crab Creek and another between Columbia Basin Railroad Company, Inc. (CBRW) trackage and the east side of the Grant County International Airport, and in STB Finance Docket No. 34936 (Sub-No. 1) to acquire a segment of rail line from CBRW that runs approximately from Parker Horn near Stratford Road to near the Grant County International Airport, which would connect the newly constructed segments. The Port plans to rehabilitate and upgrade this line segment, including the upgrade of two signalized grade crossings. The Port estimates the total mileage of its construction and acquisition proposals to be approximately 11.5 miles in length.

DATES: The exemption will be effective on September 11, 2009. Petitions to reopen must be filed by September 16, 2009.

ADDRESSES: An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34936 and STB Finance Docket No. 34936 (Sub-No. 1), must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of all pleadings must be served on petitioner's representative: Adrian L. Steel, Jr., Mayer Brown LLP, 1909 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 245-0395. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: August 21, 2009.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. E9-20666 Filed 8-26-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Westfield-Barnes Airport, Westfield MA; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Westfield Airport Commission 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. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96-52 (1980). On August 3, 2009, the Airports Division Manager approved the Westfield-Barnes Airport noise compatibility program. All of the proposed program elements were approved.

DATES: *Effective Date:* The effective date of the FAA's approval of the Westfield-Barnes Airport noise compatibility program is August 3, 2009.

FOR FURTHER INFORMATION CONTACT: Richard Doucette, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (781) 238-7613.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Westfield-Barnes Airport noise compatibility program, effective August 3, 2009.

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 Federal Aviation Regulation (FAR), Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR 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 non-compatible 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 FAR 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, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The Westfield-Barnes 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 the year 2014. Westfield requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on April 22, 2009, 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 20 proposed actions for noise mitigation. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The Airports Division Manager therefore approved the program effective August 3, 2009.

Noise Mitigation Measures

Measure N1—Modification of Aircraft Departure Tracks (Continuation of 1990 Measures 2 & 4)

The intent of 1990 NCP Measures 2 and 4 were to modify the location and altitude of aircraft departure tracks utilizing each of the airport's four runways in order to minimize the level of noise caused by aircraft and helicopter overflights on the noise-sensitive population surrounding the airport. Measure 2 called for aircraft operating under Visual Flight Rules (VFR) to perform a series of turns designed to avoid noise-sensitive areas, while Measure 4 recommended that aircraft operating under Instrument Flight Rules (IFR) follow the same procedures. The departure paths recommended by these measures in the 1990 NCP did not significantly change the noise abatement procedures in place at the airport at the time of the 1990 Part 150 study. The FAA approved these measures in their determination of the 1990 NCP.

This measure restates the noise abatement procedures already in place at the airport. The existing noise abatement departure procedure from Runway 02 directs aircraft to turn left to a 360-degree heading upon crossing the airport boundary until clear of noise-sensitive facilities, after which the aircraft can proceed on course. From Runway 20, noise abatement departure flight tracks specify a left turn to a 180-

degree heading upon crossing the airport boundary. Runway 33 departures are prohibited from making intersection departures, in order to maximize the height of aircraft above the mobile home community along the extended runway centerline. Runway 15 VFR departures are currently directed to maintain the runway heading until crossing the ridge line (unless otherwise directed by ATC), which reflects the changes recommended by Measure 2.

Approved as a voluntary measure, subject to traffic, weather, and airspace safety and efficiency. This measure may be implemented totally or in part as deemed feasible and appropriate by the Air Traffic Manager for the safe and efficient movement of air traffic. Times and levels of compliance will be determined by the Air Traffic Manager as specific traffic management situations exist.

Measure N2—Perform a Site Selection/ Feasibility Study for a Noise Barrier South of Runway 02 (Modification of 1990 NCP Measure 5)

1990 Measure 5 recommended the construction of a noise barrier on the south side of the airport near the Runway 02 threshold. A noise barrier, depending on its location, can provide relief to airport neighbors from noise created by aircraft while on the ground, such as the use of reverse thrust, initial departure roll, and engine run-ups. Numerous sites were evaluated in the 1990 Part 150 study; however, only one proved to have the potential to significantly reduce noise exposure.

A noise barrier, constructed of either an earthen berm or manmade wall (or a combination of both) could provide noise attenuation from aircraft ground movements. A berm would be placed in the location closest to the source of noise, subject to an FAR Part 77 obstruction analysis, and would need to provide at least a 5 dB single-event reduction in order to qualify for AIP funding. With the introduction of the F-15 aircraft at BAF, the ability of a noise barrier to reduce noise exposure near the departure end of Runway 02 may reduce the transmission of ground noise from the source (aircraft) to the receiver (densely populated residential land uses located along Old Holyoke Road). It is expected that a noise barrier would provide benefits to residents located south of the Massachusetts Turnpike from noise due to the use of F-15 afterburners during departures from Runway 02. This measure would direct the airport to perform a feasibility study that would evaluate the optimal location and construction technique that would provide the greatest benefit to

airport neighbors, in addition to identifying the costs and benefits associated with its construction.

Approved. The previous study did not contemplate the presence of F-15s. This noise barrier study should not repeat work previously done, but should determine feasibility of a noise barrier to mitigate noise created by the new aircraft.

Measure N3—Encourage the Use of GPS, RNAV, WAAS, and FMS Equipment To Enhance Noise Abatement Navigation (New Measure)

This new measure would encourage the creation and use of advanced navigation techniques for implementation at the airport. The use of RNAV, GPS, FMS, and WAAS systems collectively will allow the better utilization of noise abatement departure procedures as well as more accurate approaches, with the benefit of reducing noise exposure over noise-sensitive land uses around an airport.

The measure recommends the continued use of advanced navigation techniques, and as technology and its adaptation increases, the airport should identify and evaluate the use of alternative arrival and departure corridors and the refinement of existing corridors. No further action would be required, and the recommendation of this measure is a policy statement as opposed to a statement of action.

Approved.

Land Use Mitigation Measures

Measure L1—Offer Voluntary Acquisition to Residential Structures Contiguous to the Future (2014) DNL 70 dB Noise Exposure Contour (New Measure)

Acquisition programs are generally instituted in the most impacted areas around an airport, usually defined as those within the DNL 75 or 70 dB noise exposure contour. The programs are voluntary, and are subject to the provisions set forth in the *Uniform Relocation Assistance and Real Property Acquisition Policies Act* (49 CFR Part 24) (Uniform Act). This measure would offer voluntary acquisition to the residential land uses located contiguous to the DNL 70 dB noise exposure contour. There are approximately 52 parcels affected by this measure in the residential area south of the Massachusetts Turnpike.

Federal funding for noise compatibility projects undertaken by airports is eligible only after an airport has completed and approved a Noise Compatibility Program. Property can be acquired by an airport either through

condemnation (eminent domain) or through voluntary means, such as easements or fee simple purchase. A general outline of the procedures involved in the implementation of this measure follows.

Following the approval by the FAA of this NCP, and assuming AIP grant funding is available, the City of Westfield will, either through its own administrative means or by soliciting bids for professional services, begin the acquisition process. The City's designated party will hire a qualified professional, independent appraiser in order to initially identify a property's fair market value. The property owner is encouraged to attend the initial appraisal. Following the appraisal, the Uniform Act specifies that the appraisal must be reviewed by a qualified review appraiser, whose purpose is to comprehensively assess the validity and reasonableness of the final valuation conclusion. This appraisal will be used to identify the fair market value of a residence, which is the basis for the City's offer. The determined fair market value is considered "just compensation" and does not include relocation costs, which are discussed later in the process. Following the appraisal of the property the airport will begin negotiations with the property owner, with an offer that it believes is just compensation for the property, but not less than the appraised fair market value. The initiation of negotiations officially begins with the City's submission of a written offer to the property owner.

The sale of the property to the City would be similar to the sale of the property to a private seller, and includes the completion of a sales contract, transfer of title, and an executed deed. Following the closure of the sale, the airport owner or designee will provide written notice 90 days in advance of the moving date.

Participation in the acquisition program as offered in this NCP would be voluntary, and participation in the program will qualify a homeowner for the benefits outlined in the Uniform Act and implementing regulations (49 CFR Part 24).

Approved.

Measure L2—Acquire and Relocate the Arbor Mobile Home Park (New Measure)

This measure would allow the City of Westfield to acquire the property on which the Arbor Mobile Home Park resides, located within the DNL 65 dB Future (2014) Noise Exposure Contour, and to facilitate the relocation of mobile home owners and rental tenants. Typically, noncompatible land uses

within the DNL 65 dB noise contours are offered participation in sound insulation programs; however, mobile homes are not eligible for sound insulation under AIP guidelines. The Arbor Mobile Home Park is located directly to the west of the airport and southwest of the terminal and office complex. The property is approximately 5 acres in area and contains approximately 58 residential lots. Under the Future (2014) Noise Exposure Contour, residences in these areas are expected to experience DNL levels ranging from 65 to 70 dB. It is anticipated that this measure would be implemented as follows. The airport would first, either through the City of Westfield or through soliciting professional services, appraise the property, submit a written offer to the park owner, and upon mutual acceptance of the offer, take ownership of the property. The City of Westfield would become the landlord of the property, and could either retain existing management or hire a mobile home park manager to continue to operate the mobile home park during the relocation process. Following the hiring of an acquisition specialist to assist with the implementation of the relocation program, the airport would initiate the relocation of the mobile home park residents.

Approved.

Measure L3—Sound Insulate Residential Structures Within the DNL 65 dB Noise Exposure Contour and Contiguous Areas (Continuation of 1990 Measure 10)

A sound insulation program is an airport-sponsored program designed to reduce the interior audibility of aircraft overflights through modifications and replacement of building materials. In its most common form, a sound insulation program reduces the ability of sound energy to enter a structure through replacement of windows and sealants, the addition of efficient climate control systems, the reduction of structural air passages (modifications to venting), attic or wall insulation, and the installation of solid core doors. Windows and doors, as well as the seals that surround them, are the most common elements of an effective program.

The goal of a sound insulation program is to reduce the interior intrusion of aircraft overflights to a point that minimal interference with daily activities, such as telephone conversations, watching television, and sleep, occur. FAA guidelines specify that the goal of a sound insulation program is an interior noise level of DNL 45 dB, which generally requires a

Noise Level Reduction (NLR) of approximately 20 dB from the outside to the inside of a structure, depending on the noise level in which the structure resides. For example, residences located within the DNL 70 dB noise exposure contour should have an NLR of at least 25 dB, to achieve an interior design goal of DNL 45 dB. The type of mitigation offered in a sound insulation program is related to the NLR of the existing structure, with a minimum goal of achieving at least a 5 dB noise reduction.

A total of 364 residences (including those identified in Measure L1) have been identified as being potentially eligible for participation in a sound insulation program. A residence is considered impacted, and therefore potentially eligible for inclusion in the sound insulation program, if the DNL 65 dB noise exposure contour falls within the parcel boundary of a property. Additionally, properties that comprise a contiguous residential area are also included as potentially eligible. A total of 52 properties are expected to be impacted by noise levels of DNL 70 dB or greater (or comprise a contiguous area), while the remaining residences are expected to be impacted by noise levels of DNL 65 dB or greater or represent contiguous areas adjacent to the DNL 65 dB noise contour. Although attempts have been made through the Part 150 process to identify all residential structures located within the DNL 65 dB noise contour, it is possible that some may not have been identified. This measure is designed to include all potentially-eligible residential structures within the DNL 65 dB noise exposure contour, even if not included in a zone as mentioned above.

Approved.

Measure L4—Remedial Easement Acquisition (Continuation of 1990 Measure 11)

The primary vehicle for obtaining aviation easements in a Part 150 mitigation program is in exchange for sound insulation improvements. However, due to the voluntary nature of the sound insulation program (Measure L3), property owners may elect to decline participation for various reasons, such as having previously performed home renovations. In such cases, an airport sponsor may elect to offer the property owner a one-time fee in exchange for an aviation easement. With the signing of an aviation easement, a property owner gives the airport the right of flight over the property, and also, in some cases, agrees to a restriction of future modifications or changes of land use. An airport will

then hold the easement until sold or released. The aviation easement, as a legal document, would be attached to the property deed and, in the case of sale of the property, would be transferred to any future owners.

Approved.

Measure L5—Sound Insulate Educational Facilities and Places of Worship (New Measure)

No schools or places of worship are located within the DNL 65 dB noise exposure contour. However, noise-sensitive facilities are located immediately adjacent to the DNL 65 dB noise exposure contour, therefore this measure recommends that the airport investigate the feasibility of sound insulating those facilities deemed eligible for mitigation. Five noise-sensitive facilities have been preliminarily identified as potential candidates for sound insulation, based on their proximity to the Future (2014) DNL 65 dB Noise Exposure Contour. Westfield North Middle School and Southampton Road Elementary School, located to the west of the airport, the Russian Evangelical Church and Word of Grace Church, located to the north of the airport along North Road, and Our Lady of Blessed Sacrament Church, located along Holyoke Road south of the airport, all may potentially be eligible for sound insulation.

The airport would first, for each facility, perform acoustic testing in order to determine each building's eligibility for sound insulation. Proposals to sound insulate each facility will be coordinated closely with both the City of Westfield and the FAA. The first step in the process would be to perform a feasibility study, which would identify the building NLR and the impacts of aircraft noise, and also identify the times the facility is open and use of the facility by the community.

Eligibility for sound insulation of noise sensitive facilities is determined not only by the building's NLR, but also on the use of the facility. For example, a facility that is only in use during evening hours when aircraft activity is low may not be deemed eligible. Pending the results of the feasibility study, and ultimately, City of Westfield and FAA approval of the proposal, the design phase, which identifies the type of modifications needed to meet FAA guidelines, would begin, followed by construction and a post modification evaluation. It is expected that the priority for both the feasibility investigation and sound insulation, if eligible, would be begin with Westfield North Middle School and Southampton

Road Elementary School. Pending available funding and the amount of time each of the churches are utilized by members of the community for educational and worship services, feasibility studies and potential sound insulation may be pursued for each.

Disapproved. The Noise Exposure Maps (NEMs) show none of the schools are within the DNL 65 dB noise contour either now or in the future. One of the first criteria for determining whether a measure meets part 150 approval standards is that the area to be mitigated must be within that NEM contour. The airport sponsor has not provided NEMs that show a local standard (i.e., DNL 60 dB) has been adopted by the local jurisdiction with land use authority. Until and unless the schools are located within the adopted NEM contours, the FAA may not consider approval of this measure.

Measure L6—Preventive Easement Acquisition (Continuation of 1990 Measure 14)

Similar to the acquisition of easements through sound insulation and purchase assurance programs, easements can be acquired in order to prevent future incompatible development in specified areas. In the case of easement acquisition of undeveloped or compatible land uses, they can act as a deterrent for future incompatible development. This measure would allow airport and City of Westfield to prevent future incompatible development within the DNL 65 dB noise exposure contour without proper sound attenuation materials or other development controls.

Approved.

Measure L7—Modify Existing Zoning Within the DNL 65 dB Noise Exposure Contour

A very common and effective method for reducing both existing and potential noise-sensitive development in the vicinity of airports is modifications to the existing zoning code. A zoning code establishes permitted and non-permitted uses in geographic areas surrounding an airport, and includes regulations pertaining to elements such as height, density, and siting of buildings. A community relies on its zoning code to promote orderly growth and safe separation of many differing types of land uses. When considering airport noise issues, various approaches to conventional zoning are often considered. Zoning for compatible land uses within a specified boundary, such as the DNL 65 dB noise exposure contour, entails eliminating zoning designations that would allow for

noncompatible development, such as residential districts. Changing these zoning designations from an incompatible land use to a compatible land use, such as commercial or industrial, would promote compatible land uses in noise sensitive areas. Alternatively, a jurisdiction may not desire to eliminate the feasibility of incompatible development, but may rather reduce the density of permitted residential units or to increase the size of residential lots in areas near the airport. An analysis of zoned land within the DNL 65 dB noise exposure contour indicated that approximately 398 acres of incompatibly zoned land uses are within the contour.

Approved. The Federal Government has no authority to control local land use. Local governments have the authority to implement this measure. The FAA prefers that no new noise-sensitive development be allowed within the DNL 65 dB, and this measure will help achieve that goal.

Measure L8—Voluntary Undeveloped Land Acquisitions (Continuation of 1990 Measure 16)

Preventive land acquisition works in a manner similar to preventive easement acquisition, and the two are often paired prior to resale or development of potentially incompatible land. In some instances, land may become available for purchase in a noise-sensitive area, and in order to prevent future incompatible development, an airport or sponsor may choose to purchase the land and apply land use controls designed to discourage incompatible development. Factors to consider in this measure include the amount of available land, the ability of an airport or jurisdiction to make available the funds required to purchase the land, and the development potential of the land in question. Land uses that are generally compatible with airport options may not need to be purchased, as their noncompatible development potential is low. Generally, these types of purchases are eligible for AIP funding; however, the airport may be obligated to utilize the funds resulting from the sale of the land for other noise mitigation purposes or return the funds to the Aviation Trust Fund.

Approved.

Measure L9—Airport Noise Overlay District (Continuation of 1990 Measure 12)

This measure recommends that the City of Westfield pursue the development of an Airport Noise Overlay District (ANOD) based on the Future (2014) Noise Exposure Contour.

An Airport Noise Overlay District can require noise-level disclosure in real estate transactions, and could also require specified noise level reduction in the construction of new structures or the modification of existing structures. The measure can also prohibit non-compatible development within a specified boundary, such as the DNL 65 dB noise contour, or establish “buffer zones” that impose restrictions on noise-sensitive development in the area between the non-compatible area and the fully compatible areas beyond. Typical elements of an airport noise overlay district include a statement of purpose and intent, definitions of common terms, applicability, permitted uses as well as exemptions and nonconforming structures, a permitted use table, and NLR requirements.

The WAC and Airport Staff will need to work in conjunction with City of Westfield officials and staff, and ultimately, the public in order to define the goals, restrictions, and boundaries of an Airport Noise Overlay District. Primarily, consensus on the boundary of an overlay district, whether defined as the DNL 65 dB of the Future (2014) Noise Exposure Contour or a geographic boundary that encompasses areas considered by the City of Westfield to be noise sensitive land uses, needs to be identified. Following that determination, various types of land use restrictions need to be evaluated, including potential restrictions on new non-compatible development, noise disclosure, acquisition of easements, and limitations on modifications to existing structures. Finally, the issue of identifying a buffer zone beyond the limits of areas considered to be impacted by noise exposure should be considered. Ultimately, the recommendations of the WAC can be presented to City of Westfield officials, at which time the ANOD would be subject to the standard public process of all changes to the City of Westfield zoning regulations.

Approved. The Federal Government has no authority to control local land use. Local governments have the authority to implement this measure. The FAA prefers that no new noise-sensitive development be allowed within the DNL 65 dB, and this measure will help achieve that goal.

Measure L10—Environmental Review (Continuation of 1990 Measure 13)

This measure recommends the City of Westfield to include airport staff during the course of administrative review of proposals for land use development in areas either within the DNL 65 dB noise exposure contour or in another defined

boundary, such as an Airport Noise Overlay District (Measure L9). As is currently the practice in the City of Westfield, the airport manager participates in a weekly round table discussion of development that is located in the vicinity of the airport, and may be affected by aircraft overflights. Approved.

Measure L11—Real Estate Disclosure (Continuation of 1990 Measure 15)

Measure L11 directs the Airport Manager to continue pursuing the implementation of real estate disclosure through both coordination with local real estate professionals to include information about airport noise and overflights, and through the inclusion of a noise disclosure ordinance attached to a property deed.

Real estate notices are an effective means of acknowledgement of potential impacts from aircraft overflights in an area surrounding an airport to perspective property owners. Real estate disclosure notices, if implemented by local or State real estate associations, can effectively incorporate information about aircraft overflights, the location of the property in relation to the airport or flight patterns, and potential effects in either a legal document (through an easement) or in real estate marketing materials.

Noise disclosure ordinances typically address property either within the 65 dB DNL noise exposure contour, which is considered incompatible with airport operations according to Federal guidelines, or in other predefined boundaries around an airport. At the City of Westfield discretion, the disclosure ordinance should be expanded to include property within the DNL 60 dB noise exposure contour or the proposed Airport Noise Overlay District.

Approved. The Federal Government has no authority to control local land use. Local governments have the authority to implement this measure. The FAA prefers that no new noise-sensitive development be allowed within the DNL 65 dB, and this measure will help achieve that goal.

Measure L12—Modify Subdivision Regulation

Subdivision regulations apply to large areas of compatibly-zoned land that have yet to be subdivided or that may be changed from one zoning category to another to permit development. The City of Westfield Planning Board administers the Rules and Regulations Governing the Subdivision of Land in Westfield, in accordance with the General Laws of Massachusetts (M.G.L.)

Chapter 41 Section 81K to GG, often referred to as the "Subdivision Control Law." These regulations ensure the proper arrangement of roads, establish open space guidelines, ensure adequate public utilities such as water and sewer service, conformance with applicable City of Westfield Zoning Ordinances, and ensure an orderly and efficient layout of the subdivision. This measure directs the Airport Manager to pursue the inclusion of methods such as the incorporation of noise attenuating standards, noise disclosure, or the dedication of easements in the regulation of proposed subdivisions that may be impacted by aircraft noise as promulgated by the City of Westfield.

Approved. The Federal Government has no authority to control local land use. Local governments have the authority to implement this measure. The FAA prefers that no new noise-sensitive development be allowed within the DNL 65 dB, and this measure will help achieve that goal.

Measure L13—Recommend Building Code Modifications

Modifications to building codes can include elements to address the inclusion of sound insulation materials, such as windows and doors with higher Sound Transmission Class (STC) ratings and other elements designed to reduce the transmission of sound from the exterior environment to the interior of a structure. Building code revisions only address new construction and significant modifications to existing structures. The City of Westfield, in accord with all other jurisdictions in Massachusetts, adheres to the Massachusetts State Building Code, 7th Edition as its guiding document. All construction and renovation of detached one and two family homes are regulated by the Board of Building Regulations and Standards (BBRS). As such, any changes designed to address airport noise would require modifications to the state code. This measure directs the Airport Manager to continue to engage the BBRS to encourage changes in the state building code that include requirements to address noise impacts from aircraft sources. While changes to the State building code are outside of the scope of Part 150, it is recommended that the airport, in conjunction with other airports around the state, further investigate the feasibility and practicality of suggesting these revisions.

Approved. The Federal Government has no authority to control local land use. Local governments have the authority to implement this measure. The FAA prefers that no new noise-

sensitive development be allowed within the DNL 65 dB, and this measure will help achieve that goal.

Program Management Measures

Measure P1—Establish a Noise Mitigation Advisory Committee (Continuation of 1990 Measure 9)

This measure directs the airport and Westfield Airport Commission to establish a Noise Mitigation Advisory Committee to assist with the management and communication of noise issues. The WAC could solicit a group of individuals comprising of the Airport Manager or designee, personnel from various airport tenants, including staff from the MAANG, City of Westfield Planning Department staff, elected officials, and representatives from neighborhood groups or subdivisions. The mission of the committee would be to disseminate information about operations at the airport, to monitor the implementation of various mitigation measures, and to provide an ongoing dialog that links the City of Westfield and surrounding communities with Westfield-Barnes Airport. It is anticipated that the Noise Mitigation Advisory Committee would meet twice per year, depending on the implementation of the mitigation measures recommended in the NCP.

Approved.

Measure P2—Institute a Community Awareness Program (New Measure)

A community awareness program consists of educational materials designed to help members of the public understand the characteristics of operations at the airport. One of the largest obstacles to airport growth and development is a lack of understanding of the type of operations at an airport. A community awareness program provides details about airport tenants, the types of operations flown, and the times of days operations are flown. Additionally, these programs share the pilot's and airport tenant's perspectives, information regarding planning and development, and any temporary construction projects that would change the typical operating conditions at the airport. This type of program could also provide detail on various noise and land use mitigation projects undertaken by the airport.

Changes anticipated to occur at BAF, including the change in mission and fleet of the 104th FW, the associated development projects, and the potential mitigation programs collectively warrant the publication of materials designed to convey this information to the public. This measure directs the

Airport Manager to transmit information as provided in Measure P1 to the larger public in the City of Westfield.

Approved.

Measure P3—Institute a Fly Quiet Program (New Measure)

This measure recommends that the airport create and institute a Fly Quiet Program for use at the airport which would build upon the existing noise abatement departure procedures already in place. A Fly Quiet Program can include a number of measures designed to educate pilots and other aircraft tenants about noise sensitive uses in the airport environs. Among the range of measures that can be included are the installation of signage at each runway end reminding pilots about the noise abatement procedures, the creation of a color-coded map that identifies noise-sensitive land uses in the airport environs, and brochures keeping airport tenants aware of noise-related community concerns, as well as encouraging the use of both NBAA noise abatement procedures and AOPA Noise Awareness Steps.

Approved. Wording for publications and signage, and location of any on-airport signage, must be coordinated with the FAA before final issuance. Publications/signage should not imply that voluntary noise abatement measures are mandatory.

Measure P4—Periodic Evaluation of Noise Exposure (Continuation of 1990 Measure 8)

This measure would direct the Westfield Airport Commission to periodically update the noise exposure maps at the airport either within a five-year time frame or when operating conditions at the airport change (such as the addition of air carrier operations or a further change in mission or operating characteristics of the 104th FW). The implementation of this measure would ensure a continuation of the evaluation of noise exposure, and would also allow for modifications to the boundaries of various land use mitigation programs should the need arise.

Approved. NEMs should be updated as required by the Part 150 Statute.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Airports Division Manager on August 3, 2009. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of Westfield-Barnes Airport, Westfield MA.

Issued in Burlington, Massachusetts on August 3, 2009.

LaVerne F. Reid,

Manager, Airports Division, FAA New England Region.

[FR Doc. E9-20730 Filed 8-26-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35281]

CSX Transportation, Inc.—Trackage Rights Exemption—Commonwealth Railway Incorporated

Notice to the Parties:

On August 12, 2009, a notice of exemption was served and published in the **Federal Register** (74 FR 40642) in this proceeding for the non-exclusive overhead trackage rights granted to CSX Transportation, Inc., by Commonwealth Railway Incorporated (CRI) over CRI's line of railroad between Suffolk, VA, milepost 16.50, and Churchland, VA, milepost 9.90, a distance of approximately 6.60 miles. The notice, at note 2, contained a reference to the need to disclose interchange commitments pursuant to 49 CFR 1180.4(g)(4). Because trackage rights agreements are required to be filed with a party's verified notice of exemption and are available to the public, further disclosure is not required in a notice of

exemption for trackage rights and will not be required in such notices in the future. All other information in the notice remains unchanged.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: August 20, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-20657 Filed 8-26-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held September 23 and 24, 2009.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on September 23 and 24, 2009, in Room 4136 beginning at 9:30 a.m., Franklin

Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT:

Karen Carolan, C:AP:ART, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 435-5609 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held on September 23 and 24, 2009, in Room 4136 beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in 5 U.S.C. 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Kurt Meier,

Deputy Chief, Appeals.

[FR Doc. E9-20636 Filed 8-26-09; 8:45 am]

BILLING CODE 4830-01-P