

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 Regulations (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 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 an 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, as amended. Where Federal funding is sought, requests for project grants must be submitted to the FAA Western-Pacific Region, San Francisco Airports District Office in Burlingame, California.

The City of Modesto submitted to the FAA on October 2, 2008, the Noise Exposure Maps for evaluation. The FAA determined that the Noise Exposure Maps were in compliance with applicable requirements on January 9, 2009. Notice of this determination was published in the **Federal Register** on January 26, 2009.

The Modesto City-County Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in 49 U.S.C. 47504 (formerly Section 104(b) of the Act). The FAA began its review of the program on December 9, 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 or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The Noise Compatibility Program recommended two noise abatement elements, four land use management elements and one program management element. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program was approved, by the Manager of the Airports Division, Western-Pacific Region, effective June 2, 2010.

Approval was granted for one Noise Abatement Element, four Land Use Management Elements and one Program Management Element. The approved measures included: Designate a commercial service hold area near midfield; Adopt the Modesto City-County Airport Part 150 Noise Compatibility Program by reference in the cities of Modesto and Ceres, and Stanislaus County General Plans; Consistently designate the area northwest of the airport within the City of Modesto and Stanislaus County General Plan; The City of Modesto should consider adopting an airport compatibility checklist for discretionary review of projects within its vicinity; Adopt a Noise Overlay Zone; and Update Noise Exposure Maps and Noise Compatibility Program.

The Noise Abatement Element—Pursue a change to the Department of Defense's Instrument Flight Rule Supplement was disapproved for purposes of Part 150. The FAA disapproved the element due to lack of supporting analysis in the Noise Compatibility Plan. However, the disapproval does not prohibit the City of Modesto from working with the Department of Defense to revise the recommended operational hours in the Instrument Flight Rule Supplement on a voluntary basis.

The FAA determinations are set forth in detail in the Record of Approval signed by the Manager of the Airports Division, Western-Pacific Region, on June 2, 2010. 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 the Modesto City-County Airport. The Record of Approval also will be available on-line at: [http://www.faa.gov/airports/environmental/airport\\_noise/part\\_150/states/](http://www.faa.gov/airports/environmental/airport_noise/part_150/states/).

Issued in Hawthorne, California, on June 18, 2010.

**Brian Q. Armstrong,**

*Acting Manager, Airports Division, Western-Pacific Region, AWP-600.*

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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) has received a request for a waiver of compliance from 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.

#### Orange Empire Railway Museum

[Waiver Petition Docket Number FRA-2010-0102]

The Orange Empire Railway Museum (OERM) seeks a waiver of compliance from certain provisions of the Railroad Freight Car Safety Standards, 49 CFR 215.303, which requires stenciling of restricted cars; as well as 49 CFR 224.3, which requires Reflectorization for freight cars.

OERM owns 66 rail cars that are older than 50 years, and are restricted by the provision of 49 CFR 215.203(a). OERM is seeking special approval to continue to use these cars under proceeding according to 49 CFR 215.203(b).

OERM states that the cars subject to this waiver are used for educational, historical and interpretive purposes as part of the ongoing museum activities of Southern California Railway Museum, Inc, d.b.a. Orange Empire Railway Museum, a California non-profit education corporation. OERM is a historical museum tourist railroad operation located in the City of Perris, California. Continued operation of these cars is central to the education mission and economic survival of the museum.

OERM further states that applying the required stenciling and reflective material would destroy the historical appearance of the cars. The cars will be operated in captive service and will never be interchanged. These cars are rarely, if at all, operated at times other than daylight hours. On the rare occasions when the cars are operated at night and across a public grade crossing, the crossings in question are fully equipped with automatic crossing protection and, by virtue of their locations within an urban area, there is adequate light at the grade crossing to illuminate the cars.

The crossing at 7th street on the Jacinto Industrial Spur is not protected by gates and flashers; however, on the rare occurrence, if ever, when such equipment is moved across said crossing, the museum provides a flagman and speeds will not exceed 5 miles per hour. The 7th Street crossing is scheduled to receive gates, flashers and islands with the introduction of Metrolink service. There have never been any train/vehicle accidents at these grade crossings involving OERM trains.

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-2010-0102) 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 45 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 received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on July 2, 2010.

**Robert C. Lauby,**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

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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) has received a request for a waiver of compliance from 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.

#### Pan Am Railways

[Waiver Petition Docket Number FRA-2010-0107]

The Pan Am Railways (Pan Am) seeks a waiver of compliance with the

Locomotive Safety Standards, 49 CFR 229.129(b)(2), which requires that the sound level of horns of locomotives manufactured before September 18, 2006, be tested before June 24, 2010. Pan Am states in their request that difficulties in meeting the horn requirements for tests made at the rear of their locomotives, even after reconfiguring the existing horns, has created a need to replace horns on the majority of their locomotives, which cannot be done by June 24, 2010. Pan Am requests that the requirement to complete testing of horns on locomotives built prior to September 18, 2006, be extended 130 days, to November 1, 2010.

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-2010-0107) 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 30 days of the date of this notice will be considered by FRA. FRA reserves the right to grant relief in response to this request prior to the expiration of the comment period. Any relief provided will be contingent upon FRA's consideration of any relevant comments submitted to the docket before the close of the comment period. 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