

The Commission notes that the NYSE used the CTA Vendor Agreement to govern the distribution of its OpenBook and Liquidity Quote market data products.⁶⁷ In addition, according to NYSE Arca, the CTA/CQ Vendor and Subscriber Agreements “have been in effect for many years and enjoy widespread use and acceptance.”⁶⁸ The Exchange represents that, following consultations with vendors and end-users, and in response to client demand, the Exchange:

chose to fold itself into an existing contract and administration system rather than to burden clients with another set of market data agreements and another market data reporting system, both of which would require clients to commit additional legal and technical resources to support the Exchange's data products.⁶⁹

In addition, the Commission notes that the Exchange has represented that it is not imposing restrictions on the use or display of its data beyond those set forth in the existing CTA/CQ Vendor and Subscriber Agreements.⁷⁰ Because the Exchange has not proposed changes to the CTA/CQ Vendor and Subscriber Agreements, the Commission disagrees with one commenter's assertion that the Exchange is “amending and adding to the CTA vendor agreement.”⁷¹

This commenter also believes that the Exchange has not recognized the rights of a broker or dealer, established in Regulation NMS, to distribute its order information, subject to the condition that it does so on terms that are fair and reasonable and not unreasonably discriminatory.⁷² In response, the Exchange states that the CTA/CQ Vendor and Subscriber Agreements do not prohibit a broker-dealer member of a Plan Participant from making available to the public information relating to the orders and transaction reports that it provides to Plan Participants.⁷³ Accordingly, the Commission believes

Commission if the plan sponsors designate the proposed amendment as involving solely technical or ministerial matters.

⁶⁷ See Securities Exchange Act Release Nos. 53585 (March 31, 2006), 71 FR 17934 (April 7, 2006) (order approving File Nos. SR-NYSE-2004-43 and NYSE-2005-32) (relating to OpenBook); and 51438 (March 28, 2005), 70 FR 17137 (April 4, 2005) (order approving File No. SR-NYSE-2004-32) (relating to Liquidity Quote). For both the OpenBook and Liquidity Quote products, the NYSE attached to the CTA Vendor Agreement an Exhibit C containing additional terms governing the distribution of those products, which the Commission specifically approved. NYSE Arca is not including additional contract terms in its proposal.

⁶⁸ See NYSE Arca Response I, *supra* note 5.

⁶⁹ See NYSE Arca Response I, *supra* note 5.

⁷⁰ See NYSE Arca Response I, *supra* note 5.

⁷¹ See SIA Letter I, *supra* note 4.

⁷² See SIA Letters I and II, *supra* note 4.

⁷³ See NYSE Arca Response I, *supra* note 5.

that the Exchange has acknowledged the rights of a broker or dealer to distribute its market information, subject to the requirements of Exchange Act Rule 603(a).

One commenter also asserts that the Exchange has failed to consider the administrative burdens that the proposal would impose, including the need for broker-dealers to develop system controls to track ArcaBook access and usage.⁷⁴ In response, the Exchange represents that it has communicated with its customers to ensure system readiness and is using a long-standing and broadly-used administrative system to minimize the amount of development effort required to meet the administrative requirements associated with the proposal.⁷⁵ Accordingly, the Commission believes that the Exchange has considered the administrative requirements associated with the proposal.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷⁶ that the proposal (SR-NYSEArca-2006-21), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷⁷

Jill M. Peterson,

Assistant Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; Orlando Sanford International Airport, Sanford, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program modification submitted by the Sanford Airport Authority under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as “the Act”) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On June 22, 2005, the

⁷⁴ See SIA Letter I, *supra* note 4.

⁷⁵ See NYSE Arca Response I, *supra* note 5.

⁷⁶ 15 U.S.C. 78s(b)(2).

⁷⁷ 17 CFR 200.30-3(a)(12).

FAA determined that the noise exposure maps submitted by the Sanford Airport Authority under part 150 were in compliance with applicable requirements. On August 23, 2006, the FAA approved the Orlando Sanford International Airport modification to the noise compatibility program. All of the recommended modifications of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

DATES: *Effective Date:* The effective date of the FAA's approval of the Orlando Sanford International Airport modification to the noise compatibility program is August 23, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Lindy McDowell, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazelton National Dr., Suite 400, Orlando, Florida 32822, (407) 812-6331, Extension 130. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval of a modification to the noise compatibility program for Orlando Sanford International Airport, effective August 23, 2006.

Under Section 47504 of 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 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 measure 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. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

Sanford Airport Authority submitted to the FAA on January 6, 2006, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility modification study conducted from March 8, 2004, through January 6, 2006. The Orlando Sanford International Airport noise exposure maps, submitted to the FAA on June 9, 2005, were determined by FAA to be in compliance with applicable requirements on June 22, 2005. Notice of this determination was published in the **Federal Register** on June 22, 2005.

The Orlando Sanford International Airport study contains a proposed modification to the noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from 2004 to the year 2009. It was

requested that FAA evaluate and approve this material as a noise compatibility program modification as described in section 47504 of the Act. The FAA began its review of the program modification on March 3, 2006, and was required by a provisions 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 submitted program contained one (1) proposed action for noise mitigation off the airport. 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 modification, therefore, was approved by the FAA effective August 23, 2006.

Outright approval was granted for all of the specific program elements. Approved actions include a modification to Land Use Measure H in which the airport proposes additional acquisition for noise abatement purposes those areas that are identified as non-compatible land uses and located in the 65 DNL noise contour in the updated NEM (2004).

These determinations are set forth in detail in a Record of Approval signed by the FAA on August 23, 2006. 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 office of the Sanford Airport Authority. The Record of Approval also will be available online at <http://www.faa.gov/arp/environmental/14cfr150/index14.cfm>.

Issued in Orlando, Florida on September 28, 2006.

W. Dean Stringer,

Manager, Orlando Airports District Office.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; St. Lucie County International Airport, Fort Pierce, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its

findings on the noise compatibility program submitted by the St. Lucie County Board of County Commissioners under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as "the Act") and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On February 23, 2006, the FAA determined that the noise exposure maps submitted by the St. Lucie County Board of County Commissioners under part 150 were in compliance with applicable requirements. On August 21, 2006, the FAA approved the St. Lucie County International Airport noise compatibility program. Most of the recommendations of the program were approved.

DATES: *Effective Date:* The effective date of the FAA's approval of the St. Lucie County International Airport noise compatibility program is August 21, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Lindy McDowell, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazelton National Dr., Suite 400, Orlando, Florida 32822, (407) 812-6331, Extension 130. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for St. Lucie County International Airport, effective August 21, 2006.

Under Section 47504 of 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 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 measure 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