

aggregate may not exceed the number of shares required to rebalance an index portfolio.

The Exchange believes the proposed exceptions in paragraphs (b)(5) and (b)(6) to facilitate certain customer transactions are appropriate because these types of transactions are effected to accommodate a customer. The Exchange further believes the proposed exception in paragraph (b)(7) for additions to, or increased weight in, an index is appropriate because such purchases are usually made at the close of trading to obtain the closing price of the index and therefore are indifferent to the price level so long as it represents the closing valuation.

The proposal also would expand the Rule's Supplementary Material, Section .10, "Definitions," to provide definitions for the terms "basket" and "index," which terms are used in proposed paragraphs (b)(5), (b)(6), and (b)(7). The term "basket" would be defined as a group of 15 or more stocks having a total market value of \$1 million or more. The Exchange has represented that this definition is consistent with the use of "basket" in the definition of program trading that appears in Exchange Rule 80A. The proposal would define "index" as a publicly disseminated statistical composite measure based on the price or market value of the component stocks in a group of stocks. The Exchange believes this definition would preclude the possibility of a firm creating an "index" for the purpose of circumventing the restrictions of the Rule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act³ in that it is designed to facilitate transactions in securities, and remove impediment to and perfect the mechanism of a free and open market. The Exchange believes the proposed rule change would permit trading by member organizations, when appropriate, to facilitate customer trading, and would thereby add depth, liquidity, and quality to the market for Exchange-traded securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington D.C. 20549. Copies of the submissions, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-98-11 and should be submitted by June 9, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-13182 Filed 5-18-98; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Servant Air, Inc. for New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 98-5-21) Docket OST-97-3022.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Servant Air, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail, using aircraft with no more than nine passenger seats.

DATES: Persons wishing to file objections should do so no later than June 2, 1998.

ADDRESSES: Objections and answers to objections should be filed in Docket OST-97-3022 and addressed to the Department of Transportation Dockets SVC-124.1, Room PL-401, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2337.

Dated: May 13, 1998.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98-13181 Filed 5-18-98; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program and Determination on Revised Noise Exposure Maps

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on a new noise compatibility program for Charlotte/Douglas International Airport submitted by the City of Charlotte, North Carolina, under the provisions of Title I of the Aviation Safety and Noise Abatement act of 1979

³ 15 U.S.C. 78f(b)(5).

⁴ 17 CFR 200.30-3(a)(12).

(Pub. L. 96-193) (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 September 30, 1997, the FAA determined that the noise exposure maps, submitted by the City of Charlotte under 14 CFR Part 150 were in compliance with applicable requirements. On March 30, 1998, the Administrator approved the new noise compatibility program for Charlotte/Douglas International Airport. This new study revised and updated the existing noise compatibility program that was approved by the FAA on May 18, 1990. The City of Charlotte has also requested under Part 150, Section 150.35(f), that FAA determine that revised noise exposure maps submitted with the noise compatibility program and showing noise contours as a result of the implementation of the noise compatibility program are in compliance with applicable requirements of FAR Part 150. The FAA announces its determination that the revised noise exposure maps for Charlotte/Douglas International Airport for the years submitted with the noise compatibility program are in compliance with applicable requirements of FAR Part 150 effective April 28, 1998.

EFFECTIVE DATE: The effective date of the FAA's approval of the new noise compatibility program for Charlotte/Douglas International Airport is March 30, 1998. The effective date of the FAA's determination on the revised noise exposure maps is April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas M. Roberts; Atlanta Airports District Office; Federal Aviation Administration; Campus Building; 1701 Columbia Avenue, Suite 2-260; College Park, Georgia 30337-2747, Telephone 404/305-7153. 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 a new noise compatibility program for Charlotte/Douglas International Airport, effective March 30, 1998. This new study revises and updates an existing noise compatibility program approved by the FAA on May 18, 1990. Under Section 104(a) 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 noncompatible land uses and prevention of additional

noncompatible 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, not a federal, program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of the Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

1. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150.
2. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;
3. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and
4. 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 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 the 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 environment 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 Atlanta Airports District Office in Atlanta, Georgia.

The City of Charlotte, North Carolina, submitted to the FAA on August 26, 1997, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility study. The Charlotte/Douglas International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 30, 1997. Notice of this determination was published in the **Federal Register** on October 17, 1997.

The Charlotte/Douglas International Airport study contains a proposed noise compatibility program consisting in part of measures that were implemented under the approved 1990 noise compatibility program, as amended. These measures are recommended for continuation. New measures are recommended which may be initiated before or immediately upon approval of the program by the FAA. Additional measures are recommended to further abate noise or mitigate its effect on persons and noise-sensitive land uses. These measures are divided into Phase I and Phase II implementation programs. Phase I assumes no further runway development. Phase II assumes the construction of the proposed third parallel runway and the extension of runway 18R/36L. The proposed third parallel runway and the extension to runway 18R/36L are included in the Part 150 analysis because FAA guidelines require the inclusion of all development projects anticipated to occur within the next 5 years. The noise compatibility program measures are divided into noise abatement (air traffic), land use (preventive) and noise mitigation (corrective) actions. It was 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 begin its review of the program on September 30, 1997, and was required by a provision of the Act to approve or disapprove such program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180 days shall be deemed to be an approval of such program.

Phase I of the submitted program contained seven noise abatement measures, which consist of two continuations, two deletions, and three additions to the approved 1990 noise compatibility program; nine land use measures, which consist of three

continuations, three deletions, and three additions to the approved 1990 noise compatibility program; and seven noise mitigation measures, which consist of four continuations, one completion, and two additions to the 1990 noise compatibility program. Phase II of the submitted program contained two new noise abatement measures and two new noise mitigation measures. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator, effective March 30, 1998.

Of the overall 21 specific measures requiring federal action, 19 were approved without exception. Two land use measures were partially approved subject to the recommendation related to the introduction of noncompatible residential development is not meeting Part 150 criteria. The approved measures included such items as: the continuation of periodic noise monitoring, provision for monthly reports on late night (11 p.m. to 7 a.m.) runway utilization, variance from noise compatibility program assumptions to the Tower and frequent nighttime users; designation of runways 18R and 18L as the preferred for takeoffs by turbojet and large four-engine prop aircraft between 11 p.m. and 7 a.m. when runway 23 or runway 5 cannot be used for reasons of wind, weather, operational necessity, or required runway length; designation of locations and procedures for engine runups; modification to current operating procedures for turbojet and large four-engine prop aircraft departing runways 36R and 36L to initiate turns at 2.5 and 2.6 DME north of the CLT VOR/DME respectively; continuation of the 1990 noise compatibility program land use planning which recommends amending local land use planning policies to reduce the development of noncompatible land uses within the airport environs; continuation of the 1990 noise compatibility program land use measure to rezone undeveloped property to airport compatible land use and limit the density of residential development permitted within noise contours; dedication of aviation easement as a condition of approval for the development of property located in the airport environs; pursuit of the establishment of an airport overlay district that corresponds to the airport environs; pursuit of an amendment of the state building code to authorize the City of Charlotte and Mecklenburg County to raise the minimum building standards (noise level reduction) for new residential construction in the

airport overlay district; development of the full disclosure of property location within the airport environs for potential buyers; continuation of the public information program that is a part of the approval 1990 noise compatibility program; continuation of the sound insulation program for sensitive public buildings used for instruction (schools) and assembly (churches) within the 65 DNL contour; continuation of the sound insulation program of residential property within the 65 DNL contour; within the 70-75 DNL noise contour, offers of purchase assurance, sound insulation of residences, purchase of aviation easements or acquisition of noncompatibility property; acquisition of mobile homes located within the 70 DNL noise contour; exercise of the option to purchase aviation easement, sound insulate or acquire homes within the 65 DNL noise contours where sound insulation is infeasible or not cost effective; establishment of departure turn for third parallel runway 17; establishment of departure turn for the third parallel runway 35; insulation of eligible dwellings within the 2001 noise compatibility program/noise exposure map 65 DNL noise contour, and acquisition of mobile homes within the 65 DNL noise contour of the 2001 noise compatibility program/noise exposure map. These determinations are set forth in detail in the Record of Approval endorsed by the Administrator on March 30, 1998.00000

The FAA also has completed its review of the revised noise exposure maps and related descriptions submitted by the City of Charlotte. The specific maps under consideration are dated February 27, 1998, in the submission. The FAA has determined that these maps for the Charlotte/Douglas International Airport are in compliance with applicable requirements. This determination is effective April 28, 1998. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the data, information or plans.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions

concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps, and copies of the record of approval and other evaluation materials and documents which comprised the submittal to the FAA are available for examination at the following locations:

Federal Aviation Administration,
Atlanta Airports District Office,
Campus Building, 1701 Columbia
Avenue, Suite 2-260, College Park,
Georgia 30337-2747.

Mr. T.J. Orr, Aviation Director,
Charlotte/Douglas International
Airport, Charlotte, North Carolina.

Questions on either of these FAA determinations may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Atlanta, Georgia on April 28, 1998.

Dell T. Jernigan,

*Manager, Atlanta Airports District Office,
ATL-ADO.*

[FR Doc. 98-13264 Filed 5-18-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-98-9]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application,