

Convention, up to the limit of 1000 SDRs (Convention, Article 22, para. 2).<sup>3</sup> Carriers should review their filed tariffs on this matter and modify their tariffs and their baggage claim policies, if necessary, to conform to the terms of the Convention. In addition, carriers should ensure that their websites do not contain improper information regarding baggage liability exclusions applicable to international service.

A second issue of concern stems from airline tariffs related to code-share service. As a condition for approval of international code-share services, the Department has as a matter of policy required that "the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in the contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected." (Order 2008-5-19, OST-2008-0064).<sup>4</sup> Notwithstanding this clear language, several carriers have filed tariff provisions that purport to apply the terms and conditions of the operating carrier's contract of carriage generally, or in certain areas such as check-in time limits, unaccompanied minors, carriage of animals, refusal to transport, oxygen service, irregular operations, denied boarding compensation, and baggage acceptance, allowance and liability. Others state that passengers on code-share flights "may be subject" to the operating carrier's baggage charges. A number of carriers have no clear tariff rule on the subject. The intent of this DOT code-share approval provision may not be circumvented by tariff provisions attempting to allocate responsibility and contract of carriage provisions in different ways by the carriers involved, or by silence on the subject. As with the exclusionary provisions cited above, carriers should review their tariffs and practices and make revisions, if necessary, to reflect the conditions imposed in the Department's orders approving code-share service.

As a matter of policy, the Aviation Enforcement Office will consider the subject tariff provisions noted above involving exclusionary baggage provisions to be of no effect and in violation of the Convention and those

involving code share relationships to be in violation of pertinent Department approvals of those code-share services. The tariffs and their application, and similar practices, in the view of the Aviation Enforcement Office, also constitute unfair or deceptive business practices and unfair methods of competition in violation of 49 U.S.C. 41712. Carriers should, therefore, review their tariffs and practices with respect to these two areas and, if necessary, immediately modify their practices to conform to the Convention and Department code-share conditions and, within 90 days of this notice, revise their respective tariffs and modify appropriately the statements of their baggage and code-share policies on their Web sites. After that date, the Aviation Enforcement Office will pursue enforcement action in appropriate cases. This disclosure guidance, it should be noted, also extends to ticket agents. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590.

Dated: March 26, 2009.

By:

**Samuel Podberesky,**

*Assistant General Counsel for Aviation Enforcement and Proceedings.*

An electronic version of this document is available at <http://www.regulations.gov>.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Kansas City International Airport, Kansas City, MO

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

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Kansas City Aviation Department for the Kansas City International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act, herein after referred to as "the Act") and 14 Code of Federal Regulations (CFR) part 150 (hereinafter referred to as "Part 150") are in compliance with applicable requirements. The FAA also announces

that it is reviewing a proposed noise compatibility program that was submitted for the Kansas City International Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before September 16, 2009.

**DATES:** The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is March 20, 2009. The public comment period ends May 19, 2009.

**FOR FURTHER INFORMATION CONTACT:**

FAA, Todd Madison, ACE-61 1 F, 901 Locust, Room 335, Kansas City, Missouri 64106-2325, [todd.madison@faa.gov](mailto:todd.madison@faa.gov), 816-329-2640. Comments on the proposed noise compatibility program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces the FAA finds that the noise exposure maps submitted for the Kansas City International Airport are in compliance with applicable requirements of Part 150, effective March 20, 2009. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before September 16, 2009. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C., section 47503 of the Act, an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The Kansas City Aviation Department submitted to the FAA on March 6, 2009, noise exposure maps, descriptions and other documentation that were produced during the "2008 Update to 14 CFR Part 150 Noise Exposure Maps and

<sup>3</sup> Article 22, para. 2 also allows the passenger to declare excess value for baggage, subject to payment of a supplementary fee if the carrier so requires. Some tariff provisions state that the higher declared value shall not apply to a list of valuable articles including "money, jewelry, silverware, negotiable papers, securities, business documents, samples, paintings \* \* \*." Such rules are also inconsistent with the Convention.

<sup>4</sup> Similar language occurs in numerous other approvals of code-share services.

Noise Compatibility Program.” It was requested that the FAA review this material as the noise exposure maps, as described in section 47503 of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Kansas City Aviation Department. The specific documentation determined to constitute the noise exposure maps includes: Current Noise Exposure Map (2008) as shown on Exhibit NEM-1, Future Noise Exposure Map/Noise Compatibility Program Map (2013) as shown on Exhibit NEM-2, and the associated supporting report, “2008 Update to 14 CFR Part 150 Noise Exposure Maps and Noise Compatibility Program”, which contains all other narrative, graphic, or tabular representations of the data as required by section 150.101 of Part 150, and sections 47503 and 47506 of the Act. The FAA has determined that these maps for the Kansas City International Airport are in compliance with applicable requirements. This determination is effective on March 20, 2009. 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 applicant’s data, information or plans, or constitute a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 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 47506 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 that submitted those

maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for the Kansas City International Airport, also effective on March 20, 2009. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 16, 2009.

The FAA’s detailed evaluation will be conducted under the provisions of section 150.33 of Part 150. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All relevant comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA’s evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Central Region Airports Division, Room 335, 901 Locust, Kansas City, Missouri 64106–2325, from 7:30 a.m. to 4 p.m.

Lapondzia Jones, Kansas City Aviation Department, Kansas City International Airport, 601 Brasilia Avenue, Kansas City, Missouri 64153–2054, from 8 a.m. to 5 p.m.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Kansas City, Missouri, March 20, 2009.

**Jim A. Johnson,**

*Manager, Central Region Airports Division.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in California

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans and other Federal agencies that are final within the meaning of 23 U.S.C. 139(I)(1). The actions relate to a proposed highway project, State Route 76 (SR–76) from Melrose Drive in Oceanside to South Mission Avenue in Bonsall [KP 11.7/21.1 (PM 7.3/13.1)] in the county of San Diego, State of California. Those actions grant licenses, permits, and approvals for the project. **DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 28, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then the shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Susanne Glasgow, Deputy District Director, Division of Environmental Analysis, California Department of Transportation, 4050 Taylor Street, San Diego, CA 92110, Regular Office Hours 8 a.m. to 5 p.m., Telephone number 619–688–0100, e-mail [Susanne.Glasgow@dot.ca.gov](mailto:Susanne.Glasgow@dot.ca.gov).

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the FHWA assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(I)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The project is located in northern San Diego County on SR–76 from Melrose Drive in the City of Oceanside, to South Mission Road in the unincorporated community of Bonsall, covering a distance of approximately 9.4-kilometers (5.8-miles). The project would construct SR–76 as a four-lane conventional highway