

open market and a national market system, and in general, to protect investors and the public interest.<sup>24</sup>

The Exchange has proposed that members and member firm employees be permitted to use personal portable or wireless communication devices off the Exchange Trading Floor and outside of restricted access areas (*i.e.* restricted access areas are areas where there are turnstiles or card swipe pads that electronically release locked doors to permit authorized entry),<sup>25</sup> subject to compliance with all other Exchange Rules and the federal securities laws and rules thereunder. The proposal marks a departure from the Exchange's current prohibition on the use of such devices in areas that are in close proximity to the Trading Floor of the Exchange, and its stated policy that "best practice" is for "personal contacts made using portable communication devices, whether Exchange issued or not, [to] be made outside the building."<sup>26</sup>

The Commission finds, however, that the proposal strikes a reasonable balance between the Exchange's interest in providing a convenient and comfortable space for Exchange members and member firm employees to use their personal portable communications devices inside Exchange buildings and its interest in minimizing the risk of misuse of such devices, which are not subject to the same surveillance as Exchange authorized and issued devices. In particular, the Commission notes the Exchange's representation that any time or place advantage to using personal portable communication devices outside restricted points of access to the Trading Floor is "significantly reduced by the fact that a Floor Broker or DMM has no line of sight and no ability to hear trading activity on the [Trading] Floor and the speed of electronic trading would likely render stale any information a DMM had prior to leaving his or her post on the Trading Floor."<sup>27</sup> As noted above, the Commission expects that the Exchange will, in the exercise of its regulatory responsibilities, work to ensure that any line of sight to the Trading Floor that may exist does not allow access to

<sup>24</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>25</sup> As noted above, restricted access areas include the areas outside the Blue Line that include member and member organization booths and/or trading desks.

<sup>26</sup> See NYSE/NYSE Amex Information Memo 08-66 (December 22, 2008).

<sup>27</sup> See Notice, *supra* note 5.

Trading Floor information that may raise concerns.<sup>28</sup>

The Commission notes that the Exchange retains jurisdiction over its members for their conduct in the new areas where the use of personal communication devices will now be permitted because these areas are still within the broader definition of Floor under Rule 6—NYSE Amex Equities.<sup>29</sup> The Commission further notes the Exchange's representation that it will issue a Notice to Members reminding members of their obligations under Securities Exchange Act Release Nos. 33-7288 and 34-37182, concerning the "Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information."<sup>30</sup> In these releases, among other things, the Commission noted that the substantive and liability provisions of the federal securities laws, as well as the recordkeeping requirements of the Act apply equally to electronic and paper based media.<sup>31</sup>

The Commission further finds that the added reference in Rule 36.23 to NYSE Amex Options Rule 902NY is consistent with the Act because it ensures that Rule 36.23 references a rule that clarifies members' obligations. The Commission also finds the proposed technical changes to Rules 36.20 to be consistent with the Act.

Based on the foregoing, the Commission therefore finds the proposal to be consistent with the Act. The Commission believes that the proposal to permit the use of personal communication devices in certain specified areas adjacent to the Exchange's Equities Trading Floor, the NYSE Amex Options Trading Floor, and the NYSE Trading Floor, while not without any risk, is tempered by the speed of electronic trading, the existence of access barriers between such Trading Floors and the areas where use of personal communication devices will now be permitted, and the fact that the Exchange retains jurisdiction over its members while they are in these

<sup>28</sup> See *supra* note 20.

<sup>29</sup> See note 14 and accompanying text *supra*.

<sup>30</sup> See Securities Act Release No. 7288 and Securities Exchange Act Release No. 37182 (May 9, 1996), 61 FR 24643 (May 15, 1996) (S7-13-96).

<sup>31</sup> *Id.* See also FINRA Regulatory Notice 2007-59 (December 7, 2007), concerning the supervision of electronic communications, which among other things, reminds member firms of their obligation to (1) have supervisory policies and procedures to monitor all electronic communications technology used by the firm and its associated persons to conduct the firm's business; and (2) ensure that their use of electronic communications media enables them to make and keep records, as required by Commission and Exchange rules (*e.g.*, Rules 17a-3 and 17a-4 under the Act and Rule 440—NYSE Amex Equities).

areas. The Commission expects, however, that the Exchange will monitor compliance with the new rule and inform the Commission if it encounters difficulties in implementing and enforcing it or otherwise finds that that the new rule raises regulatory concerns.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>32</sup> that the proposed rule change (SR-NYSEAmex-2009-57), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-27609 Filed 11-17-09; 8:45 am]

BILLING CODE 8011-01-P

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 19th Meeting: RTCA Special Committee 206/EUROCAE WG 76 Plenary: AIS and MET Data Link Services

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 206/EUROCAE WG 76 Plenary: AIS and MET Data Link Services meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 206/EUROCAE WG 76 Plenary: AIS and MET Data Link Services.

**DATES:** The meeting will be held December 7–11, 2009 from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at Gilruth Center, Brazos Room, Space Center Blvd, Gate 5, Building 207, Houston, TX 77058, 281-483-0304; Contact Person: Tom Evans, (P) 757-864-2499, (C) 757-268-4852, (E) [e.t.evans@nasa.gov](mailto:e.t.evans@nasa.gov).

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.  
**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special

<sup>32</sup> 15 U.S.C. 78s(b)(2).

<sup>33</sup> 17 CFR 200.30-3(a)(12).

Committee 206/EUROCAE WG 76 Plenary: AIS and MET Data Link Services meeting. The agenda will include:

#### 7 December—Monday

9 a.m. Opening Plenary

- Chairman's remarks and Host's comments
- Introductions, review and approve meeting agenda and approval of previous meeting minutes
- Schedule for this week
- Action Item Review
- Schedule for next meetings

1 a.m. Presentations

- Proposal for a MASPS/MOPS for AIS/MET Data Link Services—Gary Livack & Mark Mutchler
- To be determined

1 p.m. SPR

#### 8 December—Tuesday

9 a.m. Joint AIS and MET Subgroup Meetings

#### 9 December—Wednesday

9 a.m. Joint AIS and MET Subgroup Meetings

#### 10 December—Thursday

9 a.m. Joint AIS and MET Subgroup Meetings

#### 11 December—Friday

9 a.m. Joint AIS and MET Subgroup Meetings

10:30 a.m. Plenary Session

- Other Business
- Meeting Plans and Dates

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 12, 2009.

**Francisco Estrada C.,**

*RTCA Advisory Committee.*

[FR Doc. E9-27662 Filed 11-17-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Noise Compatibility Program (NCP); 14 CFR Part 150; Notice of Record of Approval (ROA) the Louisville International Airport, Louisville, KY (SDF)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program update submitted by the Louisville Regional Airport Authority (LRAA).

On October 29, 2008, the LRAA submitted to the FAA Air Traffic Organization (ATO) a request with supporting documentation for an offset approach to Runway 17R at Louisville International Airport (SDF). This request was for a re-evaluation of noise abatement measure NA-7, and associated measures NA-2 and NA-3, submitted to the FAA for action in its 2003 NCP but were deferred.

The FAA ATO evaluated the offset approach procedure provided by LRAA. After considerable review and evaluation, the procedure was disapproved. The FAA ATO notified LRAA of its determination on April 3, 2009. Subsequent to ATO's determination, the FAA issued its Record of Approval (ROA) concerning the LRAA's NCP update on August 4, 2009, and disapproved noise abatement measures NA-2, NA-3, and NA-7.

In its evaluation, the FAA reviewed the proposal under 14 CFR part 150 and the Aviation Safety and Noise Abatement Act of 1979. Section 150.35 of Part 150 includes language stating that programs will be approved under this part if program measures relating to the use of flight procedures for noise control can be implemented within the period covered by the program and without reducing the level of aviation safety provided or adversely affecting the efficient use and management of the navigable airspace and air traffic control systems.

**DATES: Effective Date:** The effective date of the FAA's disapproval of the request for an offset approach to Runway 17R at Louisville International Airport is April 3, 2009. The effective date of FAA's ROA of LRAA's NCP update is August 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Stephen Wilson, Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2862

Business Park Drive, Building G, Memphis, TN 38118. Documents reflecting this FAA action can be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA has reviewed Noise Abatement Measures (NA-2), (NA-3) and (NA-7) in accordance with 14 CFR Part 150. The ROA contains the FAA's decisions for 3 of the 7 NCP measures that were previously deferred under LRAA's 2003 NCP. The FAA has given its disapproval to the Runway 17R offset approach request at LRAA. All other portions of the previously issued ROA remain in effect.

The following is a brief overview of the request:

On October 29, 2008, the LRAA provided the FAA Air Traffic Organization with a letter and supporting documentation requesting an offset approach to Runway 17R at Louisville International Airport (SDF). This was additional information submitted for re-evaluation of previously submitted but deferred noise abatement measures NA-2, NA-3, and NA-7 in LRAA's 2003 NCP

Issued in Memphis, TN on November 3, 2009.

**Tommy L Dupree,**

*Acting Manager, Memphis Airports District Office, Southern Region.*

[FR Doc. E9-27684 Filed 11-17-09; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35311]

#### BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

Pursuant to a written supplemental trackage rights agreement dated January 1, 2009, BNSF Railway Company (BNSF) has agreed to amend the existing overhead trackage rights previously granted to Union Pacific Railroad Company (UP) over BNSF's Bieber line at Keddie, CA.<sup>1</sup>

According to BNSF, the purpose of the proposed transaction is to amend the parties' existing agreement to accurately reflect the trackage rights received by UP under that agreement.

<sup>1</sup> This decision embraces Finance Docket No. 32760 (Sub-No. 1) in which the original trackage rights were granted to UP in connection with UP's acquisition of control of Southern Pacific Transportation Company and were exempted by the Board. *Union Pacific/Southern Pacific Merger*, 1 S.T.B. 233 (1996).