

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Approval of Noise Compatibility Program; Martin County Airport/Witham Field, Stuart, 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 Martin County Board of County Commissioners under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) 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 July 30, 2003, the FAA determined that the noise exposure maps submitted by the Martin County Board of County Commissioners under Federal Aviation Regulations (FAR) part 150 were in compliance with applicable requirements. On January 26, 2004, the Administrator approved the Martin County/Witham Field noise compatibility program. Most of the recommendations of the program were approved.

**EFFECTIVE DATE:** The effective date of the FAA's approval of the Martin County Airport/Witham Field noise compatibility program is January 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Baskin, 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 Martin County Airport/Witham Field, effective January 26, 2004.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "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 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 noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;
- c. 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
- 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, § 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.

The Martin County Board of County Commissioners submitted to the FAA on May 23, 2003, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 2000, through November 2003. The Martin County Airport/Witham Field noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 30, 2003. Notice of this determination was published in the **Federal Register** on August 11, 2003.

The Martin County Airport/Witham Field study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2007. It was requested that FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on July 30, 2003, and was required by a provision of the Act to approve or disapprove the 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-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-one (21) proposed actions for noise mitigation on and 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, therefore, was approved by the Administrator effective January 26, 2004.

Out right approval was granted for seventeen (17) of the twenty-one (21) specific program elements. Three (3) elements were disapproved for the purposes of part 150, and one (1) element was partially approved. The approval action was for the following program measures:

**Operational Measures***OPS1 Preferential Runway Use*

This measure calls for the preferential use of Runway 12 during calm winds (approximately 10% of the time) to reduce the population within the highest noise impact areas. This measure increases the population within the 60–65 DNL by 90, and decreases the population within the 65–70 DNL by 48. (NCP, pages 5–7 and 5–8; Final version dated November 4,

2003, pages 5–6 and 5–7; Response to FAA Comments, page 2; Exhibit OPS1; and Table 5.1)

*FAA Action: Disapproved for purposes of FAR part 150.* This measure does not satisfy FAR part 150 approval criteria because it does not provide an overall reduction in numbers of noise-impacted population.

#### *OPS2 Ban of Stage 1 Aircraft*

This measure recommends conducting the necessary study and analysis to facilitate the future prohibition of Stage 1 aircraft from using Martin County Airport. (NCP, page 5–8; Final revision dated November 4, 2003, pages 5–7 and 5–8; Table LU.1; Response to FAA Comments, page 3; Exhibits OPS2; Table 5.1)

*FAA Action: Disapproved for purposes of FAR part 150.* The analysis contained in the NCP states that implementing a ban on Stage 1 aircraft would not impact the noise contour used for comparison in this study (2007, with and without program measures). Also, the FAA notes that Measure LU1, described below, may allow construction of new residences within the DNL contour selected by the airport sponsor as locally significant (*i.e.*, DNL 60–65 dB). Local actions to permit new incompatible construction in a DNL contour selected by the airport sponsor as locally significant would not be reasonably consistent with achieving the goal of reducing noncompatible land uses and preventing the introduction of additional noncompatible uses (49 U.S.C. 47504(b)(1)(B), and part 150 § 150.35(b)(1)). Also, to approve a measure under part 150, it must not be unjustly discriminatory (§ 150.35(b)(1)).

#### *OPS3 Voluntary Stage 2 Aircraft Night-time Curfew*

This measure is to discourage Stage 2 operations between the hours of 10 p.m. and 7 a.m. This measure would decrease the population within the 60–65 DNL by 96 people and decreases the population within the 65–70 DNL by 68. (NCP, pages 5–10; Final revision dated November 4, 2003, pages 5–10; Response to FAA Comments, page 4; Exhibit OPS3; and Table 5.1)

*FAA Action: Approved as a voluntary measure.* The NCP analysis assumes a high rate of compliance with this measure based on current compliance rates. This measure is proposed to be accomplished with continued pilot education. There will be no mandatory enforcement.

#### *OPS4 Voluntary Touch-and-Go Limits*

This measure provides a voluntary ban on Touch-and-go's at night (10 p.m. to 7 a.m.) Monday thru Saturday and all day Sunday and on major holidays. This measure discourages touch-and-go operations consistent with existing procedures, and includes 24 hours on Sundays, New Year's, Thanksgiving, and Christmas holidays. This measure decreases the population within the 65–70 DNL contour by 22, and decreases the population within the DNL 60–65 dB 31. (NCP, pages 5–10; Final revision dated November 4, 2003, page 5–10; Response to FAA Comments, page 4; Exhibit OPS4; and Table 5.1)

*FAA Action: Approved as a voluntary measure.* The NCP analysis assumes 100% compliance based on current compliance rates. This measure must be accomplished with continued pilot education and will not include mandatory enforcement.

#### *OPS5 Runway 12 Voluntary Noise Abatement Departure Flight Track*

This measure is the voluntary use of straight-out departure track for jet aircraft departing Runway 12. This measure decreases the population within the 60–65 DNL by 64, and increases the population within the 65–70 DNL by 5. (NCP, pages 5–11 thru 5–12; Final revision dated November 4, 2003, pages 5–10 and 5–11; Response to FAA Comments, pages 5–6; Exhibits OPS5; and Table 5.1)

*FAA Action: Approved as voluntary* when a pilot requests to proceed to the ocean before making a turn, when traffic, weather, and airspace safety and efficiency conditions permit ATC to approve the request. This measure assumes an average of one operation per day will utilize this voluntary measure. While this measure does increase by a small number the residents in the 65–70 DNL contour, it reduces the population included in the 60–65 DNL contour, providing a net decrease in people exposed to noise. Current airspace constraints to the north and south of Martin County significantly curtail the use of this procedure. As airspace allocations are adjusted by Air Traffic, the NCP may be updated to analyze additional compliance with this measure.

#### *OPS6 Runway 30 Voluntary Noise Abatement Departure Flight Track*

This measure includes a voluntary left turn to 285 degrees for jet aircraft departing Runway 30. This measure decreases the population within the 60–65 DNL by 48 and decreases the population within the 65–70 DNL by 76.

(NCP, pages 5–12 thru 5–13; Final revision dated November 4, 2003, pages 5–12 and 5–13; Response to FAA Comments, page 6; Exhibit OPS6; and Table 5.1)

*FAA Action: Approved as voluntary* when a pilot requests the turn, when traffic, weather, and airspace safety and efficiency conditions permit ATC to approve the request. Current airspace constraints to the north and south of Martin County significantly curtail the use of this procedure. As airspace allocations are adjusted by Air Traffic, the NCP may be updated to analyze additional compliance with this measure.

#### *OPS7 Voluntary Takeoff and Landing Procedures*

This measure recommends the use of NBAA or manufacturer noise abatement takeoff and landing procedures by jet aircraft operators. Air carrier aircraft will be asked to use AC 91–53A close-in departure procedures. (NCP, page 5–13; Final revision dated November 4, 2003, page 5–13; Response to FAA Comments, page 7; and Tables 5.1)

*FAA Action: Disapproved pending submission of additional information to make an informed analysis.* This measure relates to flight procedures under 49 U.S.C. 47504(b). Information required to complete FAA action on this measure includes calculating the estimated benefits to noise-sensitive land uses near the airport. This information can be provided using either the DNL noise contour or using supplemental metrics such as describing the benefits with versus without the measure, on a single event basis.

The effectiveness of noise abatement procedures will vary on an airport-by-airport basis. There are three basic takeoff profiles—near, distant, and standard. Given variations in aircraft performance, it is possible for one aircraft type to use one type of procedure and another aircraft to use a different procedure to achieve noise reduction over the same community. The techniques used to determine the noise benefits of changes in approach settings are still under study in the U.S.

#### *OPS8 Install Flight Tracking System*

This measure is to install equipment to record the actual flight tracks of each operation to help monitor the effectiveness of NCP measures and to assist Martin County in the determination of the future need to update the noise exposure maps. The results will be used to encourage voluntary use of the noise abatement flight tracks, and will not be used for mandatory enforcement. (NCP, pages 5–

13 and 5–14; Final revision dated November 4, 2003, page 5–13; Response to FAA Comments, pages 7 and 8; and Table 5.1)

**FAA Action: Approved.** The flight tracking system must technically be able to interface with the FAA equipment and operations, and must comply with FAA data download requirements. Eligibility for Federal funding and scope of the proposed project will be determined at the time of application. For purposes of aviation safety, this approval does not extend to the use of monitoring equipment for enforcement purposes by in-situ measurement of any pre-set noise thresholds and shall not be used for mandatory enforcement of any voluntary measure.

#### *OPS9 Pilot Information Program*

This measure is to educate, inform, and notify pilots and airport users of the measures included in the NCP with the goal of increasing user participation in the program. (NCP, page 5–14; Final revision dated November 4, 2003, page 5–14; and Table 5.1)

**FAA Action: Approved in concept.** The methods to publicize this noise compatibility program are approved. Prior to release, each publicity measure must be approved for wording and content by the appropriate FAA office, and should clearly state that the noise abatement measures are voluntary, and that pilots, while encouraged to request the noise abatement departure heading, are always required to follow the directions provided by air traffic control.

#### *OPS10 Monitor Air Traffic Control Frequencies*

This measure will record and review Air Traffic and pilot radio frequencies to monitor effectiveness of NCP measures and operations during hours when the tower is closed. (NCP, pages 5–14 and 5–15; Final revision dated November 4, 2003, page 5–14; Response to FAA Comments, page 8; and Table 5.1)

**FAA Action: Approved.** This measure would involve purchasing over-the-counter radio-receiving equipment that is generally available to the public. The stated purpose is to determine how effective the noise abatement measures are. Information will be used to educate the pilots and community about the program, and will be used to assist in addressing citizen complaints. Eligibility for Federal funding and scope of the proposed project will be determined at the time of application. For purposes of aviation safety, this approval does not extend to the use of monitoring equipment for enforcement purposes and shall not be used for

mandatory enforcement of any voluntary measure.

#### *OPS11 Engine Run-up Procedures and Facilities*

This measure is to continue the existing program limiting maintenance run-ups to the hours between 7 a.m. and 10 p.m., whenever possible, and to study potential new locations for run-up areas. This measure has the potential to reduce ground level noise prior to takeoff and landing. (NCP, pages 5–14 and 5–15; Final revision dated November 4, 2003, page 5–15; Response to FAA Comments, page 9; Table 5.1; and, Supplemental graphics Figure 5.1 “Potential Berm Sites and Operational Run-Up Locations”)

**FAA Action: Approved to continue the current procedure as a voluntary measure. Approved for further study of additional run-up locations.**

#### *OPS12 Noise Barriers*

This measure will study potential benefits of the construction of noise barriers to reduce the impact of aircraft ground noise. This measure has the potential to reduce ground level noise prior to takeoff and landing. (NCP, pages 5–15 and 5–16; Final revision dated November 4, 2003, pages 5–15; Response to FAA Comments, page 9; and Table 5.1; Supplemental graphics Figure 5.1 “Potential Berm Sites and Operational Run-Up Locations”)

**FAA Action: Approved for further study.**

### **Land Use Measures**

#### *LU1 Noise Zoning*

This measure is to establish Overlay Districts within the County and City Zoning Ordinances. Zone A will include 65 DNL and greater, and Zone B will include 60 to 65 DNL. This measure is to ensure that areas presently zoned as compatible remain, and change non-compatible to compatible. (NCP revision, pages 5–17 through 5–20, and Appendix H, pages 10–12; Response to FAA Comments, page 10; Table 5.2; and, Revised Table LU.1)

**FAA Action: Approved in part, disapproved in part.** This is a preventive land use measure and is within the authority of the local land use planning jurisdictions.

The narrative at pages 5–19 and 5–20 describe the zones as follows. Zone A would prohibit new noise sensitive development within the DNL 65 dB and greater noise contour, including residential development. Nonresidential commercial development would require sound attenuation. Zone B would prohibit schools, childcare, and similar

noise-sensitive uses. Other nonresidential commercial development would require sound attenuation. *These designations are approved.*

We note that LU7 suggests an intention to limit new land uses in Zones A and B to compatible uses; however, residences are not specifically mentioned in the description of prohibited land uses in Zone B, and are assumed to be permitted in that zone’s DNL 60–65 dB noise contour. To the extent that Zone B is intended to permit new residential land uses, *this designation is disapproved for purposes of part 150.* It would not be reasonably consistent with achieving the goal of reducing noncompatible land uses and preventing the introduction of additional noncompatible uses (40 U.S.C. 4750(b)(1)(B)) to allow new residences within the DNL 60–65 dB noise contour since the local government has adopted the DNL 60–65 dB standard as locally significant. Neither would it be consistent with the FAA’s land use mitigation policy published in 1998. Future mitigation of any noise-sensitive development that occurs after October 1, 1998, will not be eligible for part 150 approval under the FAA’s 1998 policy. Disapproval under part 150 does not prevent the local planning jurisdictions from carrying out their own land use plans to meet local needs.

#### *LU2 Real Estate Disclosure*

This measure is to disclose properties located within the 60 DNL and higher noise contours to notify purchasers of where the property is located within the NEM contours. It will also notify them of the possibilities of aircraft noise and overflights. (NCP revision, pages 5–20 and 5–21 and Appendix H, pages 12–13; Response to FAA Comments, page 10; and Table 5.2)

**FAA Action: Approved.**

#### *LU3 Site Plan Review*

Using the Intergovernmental Coordination Element of the Comprehensive Plan, this measure contemplates developing a policy to allow the airport to participate in site plan review. All proposed site plans for property within the DNL 60–65 dB noise contour for 2007 will be reviewed. An interlocal agreement may be required before this action can be implemented. This measure also is intended to ensure consistency with measure LU1. (NCP revision page 5–21, and Appendix H, page 13; Response to FAA Comments, page 10; and Table 5.2)

**FAA Action: Approved.**

*LU4 Citizens Noise Committee*

This measure is to establish a committee for the purpose of monitoring the effectiveness and implementation of the NCP measures and to conduct public education. The committee will make recommendations to the Board of County Commissioners. It will assist the airport staff with the monitoring of the NCP measures, community involvement and pilot education. (NCP revision, page 5–21, and Appendix H, page 14; and Table 5.2)

*FAA Action: Approved.*

*LU5 Florida Statute 333, Airport Zoning*

This measure will incorporate provisions consistent with Florida Statute 333, Airport Zoning Regulations to enhance land-use compatibility in the airport environs. By adopting this measure, the City and County will recognize the statute's provisions and incorporate it in whole or by reference in their comprehensive plans and land development codes. (NCP revisions, pages 5–21 and 5–22; Response to FAA Comments, page 11; and Table 5.2.)

*FAA Action: Approved.*

*LU6 Voluntary Land Acquisition*

This measure is for voluntary acquisition or sales assistance within the 60–65 DNL and 65–70 DNL noise contours. The sponsor will either purchase and relocate eligible residents in impacted areas or eligible property owners will be offered sales assistance if direct purchase and relocation is not acceptable to the owner. This program will comply with the Federal Uniform Relocation Act. (NCP revision, page 5–22, Appendix H, page 15; Response to FAA Comments, page 11; and Table 5.2)

*FAA Action: Approved.* The specific identification of structures recommended for inclusion in the program and specific definition of the scope of the program will be required prior to approval for Federal funding.

The FAA Federal guidelines state that impacts at noise levels of DNL 65 dB and greater are “significant” and lesser noise levels of DNL 55 to 64 dB are “moderately” impacted, (see compatible land use guidelines in Table 1 of FAR part 150). Properties located at levels less than the Federal “significant” criterion, such as the DNL 60 dB identified as locally significant by the airport sponsor, will receive a much lower priority for Federal financial assistance.

The airport operator has adopted a local deviation from the Federal land use compatibility guidelines published in FAR part 150, Table 1 (see revised

NCP Chapter 5, Table LU.1). The FAA notes that the adopted guidelines allow construction of non-compatible uses within those noise levels defined as “significant” by the airport operator. The FAA will not approve mitigation of noise-sensitive structures built after October 1, 1998.

*LU7 Redevelopment Program*

This measure encourages re-development of acquired or vacant property to a compatible use within the 60–65 DNL and 65–70 DNL noise contours. This includes properties acquired under LU6. If the property were resold, it would be subject to aviation easements attached to the deed to ensure long-term compatibility. The Federal Uniform Relocation Act will be satisfied for acquisitions with Federal funds. (NCP revision, page 5–22; Response to FAA Comments, page 12; and Tables 5.2)

*FAA Action: Approved to prepare a redevelopment plan for property acquired as part of this Record of Approval.*

*LU8 Voluntary Sound Insulation Program*

This measure proposes to develop a voluntary sound insulation program for existing sensitive receptors within the 60–65 DNL and 65–70 DNL noise contours. Existing structures will be renovated to include required NLR standards. A priority system will be established that includes mitigation for structures in the highest noise levels first. (NCP revision, page 5–23; Response to FAA Comments, page 12; and Tables 5.2)

*FAA Action: Approved.* The specific identification of structures recommended for inclusion in the program and specific definition of the scope of the program will be required prior to approval for Federal funding.

The FAA Federal guidelines state that impacts at noise levels of DNL 65 dB and greater are “significant” and lesser noise levels of DNL 55 to 64 dB are “moderately” impacted, (see compatible land use guidelines in Table 1 of FAR Part 150). Properties located at levels less than the Federal “significant” criterion, such as the DNL 60 dB identified as locally significant by the airport sponsor, will receive a much lower priority for Federal financial assistance.

The airport operator has adopted a local deviation from the Federal compatible land use guidelines published in FAR part 150, Table 1 (see revised NCP Chapter 5, Table LU.1). The FAA notes that the adopted guidelines allow construction of non-compatible

uses within those noise levels defined as significant by the airport operator. FAA will not approve mitigation of noise-sensitive structures built after October 1, 1998.

*LU9 Voluntary Aviation Easement Acquisition Program*

This measure allows for the purchase of easements within the 60–65 DNL and 65–70 DNL noise contours to ensure continued land use compatibility of properties where the County has taken other actions to mitigate noise within the DNL 60 dB noise contour. A property owner, in exchange for sound insulation, may grant an easement as outlined in LU8 above. Easements may also be purchased from property owners who are eligible but choose not to participate in a sound insulation program. Easements may also be placed on a property acquired under LU6 or LU7. (NCP revision, page 5–23; and Table 5.2)

*FAA Action: Approved.* The specific identification of structures recommended for inclusion in the program and specific definition of the scope of the program will be required prior to approval for Federal funding.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on January 26, 2004. 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 Martin County.

Issued in Orlando, Florida, on February 10, 2004.

**Matthew J. Thys,**

*Acting Manager, Orlando, Airports District Office.*

[FR Doc. 04–4192 Filed 2–25–04; 8:45 am]

**BILLING CODE 4910–13–M**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Noise Exposure Map Notice; Georgetown Municipal Airport, Georgetown, TX**

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

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Georgetown for the Georgetown Municipal Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation