

## II. Discussion and Findings

After careful review of the proposal, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.<sup>10</sup> The Commission believes that the proposed rule change will continue to provide FINRA with an important tool in regulating members' sales of mutual fund shares, consistent with the goals of protecting investors and the public interest.

## III. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-FINRA-2009-018) be, and hereby is, approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-12443 Filed 5-28-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59908; File No. SR-BX-2009-021]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change to Amend the Restated Certificate of Incorporation and By-Laws of NASDAQ OMX BX, Inc.

#### *Correction*

In notice document E9-11609, beginning on page 23459 in the issue of Tuesday, May 19, 2009, make the following correction:

On page 23462, in the second column, in the second line, "June 8, 2009" should read "June 9, 2009".

[FR Doc. Z9-11609 Filed 5-28-09; 8:45 am]

BILLING CODE 1505-01-D

<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

<sup>10</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending May 16, 2009

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT-OST-2009-0110.

*Date Filed:* May 11, 2009.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* June 1, 2009.

*Description:* Application of Federal State Unitary Air Enterprise of Ministry For Emergency Situations of Russia requesting a foreign air carrier permit enabling it to engage in charter foreign air transportation of property and mail between a point or points in the Russian Federation and a point or points in the United States and in other charter trips in foreign air transportation, including between any point or points in the United States and any point or points in a third country or countries, subject to pertinent national, bilateral and international rules and regulations.

*Docket Number:* DOT-OST-2009-0116.

*Date Filed:* May 12, 2009.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* June 2, 2009.

*Description:* Application of Key Lime Air Corp. requesting commuter air carrier authorization so that it may provide scheduled passenger service between Denver's Rocky Mountain Metropolitan Airport (BJC) and Grand Junction, Colorado (GJT).

*Docket Number:* DOT-OST-2009-0120.

*Date Filed:* May 14, 2009.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* June 4, 2009.

*Description:* Application of Vision Airlines, Inc. ("Vision") requesting an

amendment to its certificate of public convenience and necessity which would authorize Vision to engage in scheduled interstate air transportation of persons, property and mail with large aircraft.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E9-12570 Filed 5-28-09; 8:45 am]

BILLING CODE 4910-9X-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending May 16, 2009

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1383 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* DOT-OST-2009-0113.

*Date Filed:* May 11, 2009.

*Parties:* Members of the International Air Transport Association.

*Subject:* CSC/31/Meet/005/09 dated April 8, 2009. Finally Adopted Resolutions: Resolution 623 and Recommended Practice 1630. Intended effective date: 1 October 2009.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E9-12576 Filed 5-28-09; 8:45 am]

BILLING CODE 4910-9X-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

*Docket Number:* FRA-2009-0037.

*Applicant:* Norfolk Southern Corporation, Mr. B. L. Sykes, Chief Engineer C&S Engineering, Communications & Signal Department,

1200 Peachtree Street, N.E.—Box 123, Atlanta, Georgia 30309.

The Norfolk Southern Corporation (NS) request a waiver pertaining to the use of a device for automated execution of certain FRA required tests made at interlockings and control points on the NS system.

The reasons given for the proposed waiver is to permit NS to use the automated test system, known as the InterTest® system, for subject testing in lieu of tests being performed manually, as well as to permit use of electronic signature for documentation and storage of results of tests performed during two year and in service testing.

The InterTest® system is a processor-based system that performs testing by electronically exercising the inputs to the interlocking and control point locking circuitry in a manner which replicates that done by humans during a manual test. The interlocking tester consists of three subsystems that are tied together by a central control computer.

NS proposes to use the automated tester to make the following FRA required 2-year tests: 49 CFR 236.378—Time Locking; 49 CFR 236.379—Route Locking; 49 CFR 236.380—Indication Locking;

NS proposes to use the automated tester to make the following in service tests: 49 CFR 236.201—Track circuit control of signals; 49 CFR 236.202—Signal governing movements over hand-operated switch; 49 CFR 236.204—Track signaled for movements in both directions, requirements; 49 CFR 236.402—Signals controlled by track circuits and control operator; 49 CFR 236.403—Signals at control point; 49 CFR 236.404—Signal at adjacent control points; 49 CFR 236.405—Track signaled for movements in both directions, change of direction of traffic; 49 CFR 236.107—Ground Tests; and to create and maintain records of tests according to 49 CFR 236.110—Results of tests.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2009–0037) and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC; on May 22, 2009.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E9–12423 Filed 5–28–09; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statements: National Summary of Rescinded Notices of Intent

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

**ACTION:** Notice.

**SUMMARY:** The FHWA is issuing this notice to advise the public that 12 States have rescinded Notices of Intent (NOI) to prepare 17 Environmental Impact Statements (EISs) for proposed highway projects. FHWA Division Offices, in consultation with the State Departments of Transportation (State DOT), determined that eight projects were no longer viable and have formally cancelled the projects. No resources will be expended on these projects; the environmental review process has been terminated. Seven projects are being reevaluated and, or have been reduced in scope and now meet the criteria for an Environmental Assessment (EA) or a Categorical Exclusion (CE). Two projects rescinded NOIs and will issue new NOIs as the project limits and impacts have changed.

**FOR FURTHER INFORMATION CONTACT:** Bethaney Bacher-Gresock, Office of Project Development and Environmental Review, (202) 366–4196; Janet Myers, Office of the Chief Counsel, (202) 366–2019; Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

An electronic copy of this document may be downloaded by accessing the **Federal Register's** home page at: <http://www.archives.gov> and the Government Printing Office's Web page at <http://www.gpoaccess.gov/nara>.

##### Background

The FHWA, as lead Federal agency under the National Environmental Policy Act and in furtherance of its oversight and stewardship responsibilities under the Federal-aid Highway Program, has requested that its Division Offices review, with the State DOTs, the status of all EISs and place those projects that are not actively progressing in a timely manner in an inactive project status. The FHWA maintains lists of active and inactive projects on its Web site at <http://www.environment.fhwa.dot.gov/>. The FHWA has determined that inactive projects that are no longer a priority or that lack resources should be rescinded