

Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### ACE KS E5 Abilene, KS

Abilene Municipal Airport, KS.

(Lat. 38°54'15" N., long 97°14'09" W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Abilene Municipal Airport.

\* \* \* \* \*

Issued in Kansas City, MO, on July 18, 2005.

Elizabeth S. Wallis,

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 05-14979 Filed 7-28-05; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2005-21907; Airspace Docket No. 05-ANM-11]

RIN 2120-AA66

#### Revocation of Compulsory Reporting Point; MT

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

**ACTION:** Final rule.

**SUMMARY:** This action revokes the GARRI Intersection as a compulsory reporting point. GARRI Intersection is located between the de-commissioned Drummond, MT Very High Frequency Omni-directional Range/Tactical Air Navigation (VORTAC) and Butte, MT. The FAA has determined that this intersection is no longer needed in the National Airspace System (NAS).

**EFFECTIVE DATE:** 0901 UTC, September 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Drummond Very High Frequency Omni-directional Range (VOR) has been out of service since April 2003, for the reasons discussed below, and the site on which the VOR was located was leased

land. In 2002, the FAA learned that the landowner had constructed a house within 1,000 feet of the VOR without providing proper notice to the FAA. The VOR was temporarily taken out of service until the impacts of the house could be identified. A subsequent flight check of the VOR indicated that the house did not cause a problem; however, large vehicles parked near the VOR facility were interfering with the integrity of the signal. As such, the GARRI Intersection as a compulsory has been NOTAMed out of service. Additionally, subsequent to this NOTAM action the Drummond VOR was decommissioned on January 13, 2004.

#### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revoking GARRI Intersection as a compulsory reporting point. GARRI Intersection is located between the de-commissioned Drummond, MT VORTAC and Butte, MT. The FAA has determined this intersection is no longer needed to support the NAS. This action improves air safety and aids air traffic management.

Domestic Low Altitude Reporting Points are published in paragraph 7001 of FAA Order 7400.9M dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Low Altitude Reporting Points listed in this document will be removed subsequently in the order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

*Paragraph 7001 Domestic Low Altitude Reporting Points.*

\* \* \* \* \*

7001 [Revoked]

GARRI:

**INT Drummond, MT, 092° Butte, MT, 002° radials**

\* \* \* \* \*

Issued in Washington, DC, July 22, 2005.

Edith V. Parish,

*Acting Manager, Airspace and Rules.*

[FR Doc. 05-14973 Filed 7-28-05; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 41

#### SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

[Release No. 34-52115; File No. S7-11-01]

#### Technical Amendments to Rules Setting Forth the Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index

**AGENCIES:** Commodity Futures Trading Commission and Securities and Exchange Commission.

**ACTION:** Joint technical amendment.

**SUMMARY:** The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (collectively "Commissions") are adopting technical amendments to certain references in rules under the

Commodity Exchange Act (“CEA”) and the Securities Exchange Act of 1934 (“Exchange Act”) that set forth the method for determining market capitalization and dollar value of average daily trading volume, to reflect new terminology and rule designations that will become effective as a result of the adoption by the SEC of Regulation NMS. Specifically, the phrase “reported securities as defined in § 240.11Ac1-1” will be replaced with the phrase “NMS securities as defined in § 242.600.”

**EFFECTIVE DATE:** August 29, 2005.

**FOR FURTHER INFORMATION CONTACT:**

CFTC—Elizabeth Ritter, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5052.  
SEC—Ira Brandriss, Special Counsel, at (202) 551-5651; or Tim Fox, Attorney, at (202) 551-5643, Office of Market Supervision, Division of Market Regulation, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The CFTC is amending Rule 41.11 under the CEA, 17 CFR 41.11. The SEC is amending Rule 3a55-1 under the Exchange Act, 17 CFR 240.3a55-1.<sup>1</sup>

### I. Discussion

The Commodity Futures Modernization Act (“CFMA”),<sup>2</sup> which became law on December 21, 2000, established a framework for the joint regulation of the trading of futures contracts on single securities and narrow-based security indexes (collectively, “security futures products”) by the CFTC and the SEC. Under the CFMA, designated contract markets and registered derivatives transaction execution facilities may trade security futures products if they register with the SEC and comply with certain other requirements of the Exchange Act.<sup>3</sup> Likewise, national securities exchanges and national securities associations may trade security futures products if they register with the CFTC and comply with certain other requirements of the CEA.<sup>4</sup>

To distinguish between security futures on narrow-based security indexes, which are jointly regulated by the Commissions, and futures contracts on broad-based security indexes, which

are under the exclusive jurisdiction of the CFTC, the CFMA also amended the CEA and the Exchange Act by setting forth an objective definition of “narrow-based security index,” and certain exclusions from this definition.<sup>5</sup>

One of the criteria that can affect the determination of whether an index is a narrow-based security index under the statutory definition relates to the dollar value of the average daily trading volume (“ADTV”) of component securities of the index.<sup>6</sup> One of the exclusions from the definition depends, in part, on whether each component security of the index is one of the 750 securities with the largest market capitalization and is one of 675 securities with the largest dollar value of ADTV.<sup>7</sup> The statutes require the Commissions, by rule or regulation, to jointly specify the method to be used to determine market capitalization and dollar value of ADTV for purposes of these provisions.<sup>8</sup>

In fulfillment of this mandate, on August 20, 2001, the Commissions jointly adopted Rule 41.11<sup>9</sup> under the CEA and Rule 3a55-1<sup>10</sup> under the Exchange Act.<sup>11</sup> These rules include references to “reported securities as defined in § 240.11Ac1-1.”<sup>12</sup> A new regulation adopted by the SEC<sup>13</sup> changes the term “reported security” to the term “NMS security,” which is defined in new § 242.600. The definition of “NMS security” under new § 242.600 is identical to the definition of “reported security” under previous § 240.11Ac1-1.

To reflect the change, the Commissions are adopting conforming changes to Rule 41.11 under the CEA and Rule 3a55-1 under the Exchange Act.<sup>14</sup> Specifically, the phrase “reported

securities as defined in § 240.11Ac1-1” that appears in Rules 41.11(a)(2)(ii) and (b)(2)(ii)(B) under the CEA will be replaced with the phrase “NMS securities, as defined in § 242.600.” The phrase “reported securities as defined in § 240.11Ac1-1” that appears in Rules 3a55-1(a)(2)(ii) and (b)(2)(ii)(B) under the Exchange Act will be replaced with the phrase “NMS securities as defined in § 242.600 of this chapter.” The amendments will take effect on August 29, 2005, the same day upon which Regulation NMS becomes effective.

### II. Certain Findings

Under the Administrative Procedure Act (“APA”), notice of proposed rulemaking is not required when an agency, for good cause, finds “that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”<sup>15</sup> The amendments described herein are non-substantive, technical changes that are required to update existing terminology and references in the relevant rules to conform to the new terminology and rule designations adopted by the SEC. For these reasons, the Commissions find that it is unnecessary to publish notice of these amendments.<sup>16</sup>

### III. Statutory Authority

Pursuant to the CEA and the Exchange Act and, particularly, Section 1a(25)(E)(ii) of the CEA<sup>17</sup> and Sections 3(a)(55)(F)(ii) of the Exchange Act,<sup>18</sup> the Commissions are adopting technical amendments to Rule 41.11(a)(2)(ii) and (b)(2)(ii)(B) under the CEA<sup>19</sup> and Rule 3a55-1(a)(2)(ii) and (b)(2)(ii)(B) under the Exchange Act.<sup>20</sup>

### Text of Rules

#### List of Subjects

##### 17 CFR Part 41

Security futures products.

with Section 1a(25)(E)(ii) of the CEA and Section 3(a)(55)(F)(ii) of the Exchange Act, the Commissions are adopting, herewith the conforming changes jointly.

<sup>15</sup> 5 U.S.C. 553(b)(3)(B).

<sup>16</sup> For similar reasons, the amendments do not require analysis under the Regulatory Flexibility Act or analysis of major status under the Small Business Regulatory Enforcement Fairness Act. See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Act analyses, the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking); 5 U.S.C. 804(3)(C) (for purposes of congressional review of agency rulemaking, the term “rule” does not include any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties).

<sup>17</sup> 7 U.S.C. 1a(25)(E)(ii).

<sup>18</sup> 15 U.S.C. 78c(a)(55)(F)(ii).

<sup>19</sup> 17 CFR 41.11(a)(2)(ii) and (b)(2)(ii)(B).

<sup>20</sup> 17 CFR 240.3a55-1(a)(2)(ii) and (b)(2)(ii)(B).

<sup>5</sup> Section 1a(25) of the CEA, 7 U.S.C. 1a(25), and Section 3(a)(55) of the Exchange Act, 15 U.S.C. 78c(a)(55).

<sup>6</sup> See Section 1a(25)(A) of the CEA, 7 U.S.C. 1a(25)(A), and Section 3a(55)(B) of the Exchange Act, 15 U.S.C. 78c(a)(55)(B).

<sup>7</sup> See Section 1a(25)(B) of the CEA, 7 U.S.C. 1a(25)(B), and Section 3a(55)(C) of the Exchange Act, 15 U.S.C. 78c(a)(55)(C).

<sup>8</sup> See Section 1a(25)(E) of the CEA, 7 U.S.C. 1a(25)(E), and Section 3a(55)(F) of the Exchange Act, 15 U.S.C. 78c(a)(55)(F).

<sup>9</sup> See 17 CFR 41.11.

<sup>10</sup> See 17 CFR 240.3a55-1.

<sup>11</sup> See Securities Exchange Act Release No. 44724 (August 20, 2001), 66 FR 44490 (August 23, 2001).

<sup>12</sup> See 17 CFR 41.11(a)(2)(ii) and (b)(2)(ii)(B) and 17 CFR 240.3a55-1(a)(2)(ii) and (b)(2)(ii)(B).

<sup>13</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (adopting Regulation NMS).

<sup>14</sup> The SEC proposed to make the conforming changes to Rule 3a55-1 under the Exchange Act in the release re-proposing Regulations NMS. See Securities Exchange Act Release No. 50870 (December 16, 2004), 69 FR 77424 (December 27, 2004) (File No. S7-10-04), at note 402. To comply

<sup>1</sup> Rule 41.11 of Subpart B of Rule 41 (“Narrow-Based Security Indexes”) under the CEA corresponds to Rule 3a55-1 under the Exchange Act.

<sup>2</sup> Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>3</sup> 15 U.S.C. 78a *et seq.*

<sup>4</sup> 7 U.S.C. 1 *et seq.*

17 CFR Part 240

Securities.

Commodity Futures Trading Commission

In accordance with the foregoing, Title 17, Chapter I, of the Code of Federal Regulations is amended as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for part 41 continues to read as follows:

Authority: Sections 206, 251, 252, Pub. L. 106-554, 114 Stat. 2763; 7 U.S.C. 1a, 2, 6f, 6j, 7a-2, 12a; 15 U.S.C. 78g(c)(2).

2. Section 41.11 is amended by revising paragraphs (a)(2)(ii) and (b)(2)(ii)(B) to read as follows:

§ 41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

- (a) \* \* \*
(2) \* \* \*

(ii) The 750 securities with the largest market capitalization shall be identified from the universe of all NMS securities as defined in § 242.600 that are common stock or depository shares.

- (b) \* \* \*
(2) \* \* \*
(ii) \* \* \*

(B) The 675 securities with the largest dollar value of ADTV shall be identified from the universe of all NMS securities as defined in § 242.600 that are common stock or depository shares.

\* \* \* \* \*

Dated: July 25, 2005.

By the Commodity Futures Trading Commission.

Jean A. Webb, Secretary.

Securities and Exchange Commission

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 et seq.; and 18 U.S.C. 1350, unless otherwise noted.

\* \* \* \* \*

2. Section 240.3a55-1 is amended by revising paragraphs (a)(2)(ii) and (b)(2)(ii)(B) to read as follows:

§ 240.3a55-1 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

- (a) \* \* \*
(2) \* \* \*

(ii) The 750 securities with the largest market capitalization shall be identified from the universe of all NMS securities as defined in § 242.600 of this chapter that are common stock or depository shares.

- (b) \* \* \*
(2) \* \* \*
(ii) \* \* \*

(B) The 675 securities with the largest dollar value of ADTV shall be identified from the universe of all NMS securities as defined in § 242.600 of this chapter that are common stock or depository shares.

\* \* \* \* \*

Dated: July 25, 2005.

By the Securities and Exchange Commission.

Margaret H. McFarland, Deputy Secretary.

[FR Doc. 05-15000 Filed 7-28-05; 8:45 am]

BILLING CODE 8010-01-P; 6351-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1327

[Docket No. NHTSA-04-17326]

RIN 2127-AI45

Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the agency's National Driver Register (NDR) regulations to implement new reporting requirements mandated by the Motor Carrier Safety Improvement Act of 1999 (MCSIA). MCSIA amended the NDR Act to require that a State, before issuing or renewing a motor vehicle operator's license, must verify an individual's eligibility to receive a license through informational checks of both the NDR and the Commercial Driver's License Information System (CDLIS). The final

rule amends the NDR regulations to reflect this statutory change.

The final rule also provides an updated listing of the NDR reporting codes in the Appendix to reflect the codes that should be implemented by participating States by September 30, 2005. The final rule clarifies that pointer records reported to the NDR must only regard individuals who have been convicted or whose license has been denied, canceled, revoked, or suspended for one of the offenses identified in the Appendix. Finally, the final rule adds a definition for the term "employers or prospective employers of motor vehicle operators."

DATES: The final rule becomes effective on September 27, 2005.

FOR FURTHER INFORMATION CONTACT: For program issues: Mr. Sean McLaurin, Chief, National Driver Register, NPO-124, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-4800. For legal issues: Mr. Roland (R.T.) Baumann III, Attorney-Advisor, Office of the Chief Counsel, NCC-113, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-1834.

SUPPLEMENTARY INFORMATION:

I. Background

On December 9, 1999, the Motor Carrier Safety Improvement Act (MCSIA) was signed into law (Pub. L. 106-159, Section 204), creating, in part, a new requirement for States participating in the National Driver Register (NDR). The requirement directed States to request from the Secretary of Transportation information from the NDR and the Commercial Driver License Information System (CDLIS) before issuing a motor vehicle operator's license to an individual or renewing such a license (49 U.S.C. 30304(e)).

In establishing this new requirement, Congress adopted the recommendation of a 1999 study directed by the Office of Motor Carriers of the Federal Highway Administration that reviewed the effectiveness of the Commercial Driver License (CDL) program and its general benefit to highway safety. The study indicated that the CDL program had been very successful in limiting commercial motor vehicle operators to a single license. However, the study also indicated that vulnerabilities continued to exist in enforcing the single license requirement. States that did not check the CDLIS when a CDL holder applied for a non-commercial driver's license (non-CDL) allowed a CDL holder to