

Proposed Rules

Federal Register

Vol. 64, No. 208

Thursday, October 28, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASO-20]

Proposed Amendment to Class D Airspace; Jacksonville NAS Cecil Field, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the name of the Jacksonville NAS Cecil Field, FL Airport to Cecil Field Airport and amend Class D airspace and hours of operation. The U.S. Navy has discontinued operations at NAS Cecil Field, including decommissioning the Cecil Nondirectional Radio Beacon (NDB) and the Cecil Tactical Air Navigation (TACAN) navigation aids; thereby, eliminating airspace extensions. The Jacksonville, FL, Port Authority has opened a contract airport traffic control tower at the airport. The control tower at Cecil Field is scheduled to be open 0800-1800, daily, Monday through Friday. Therefore, the Class D airspace hours of operation would be amended from continuous to part time.

DATES: Comments must be received on or before November 29, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99-ASO-20, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-ASO-20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO-520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal

Aviation Regulations (14 CFR part 71) by changing the name of Jacksonville NAS Cecil Field, FL to Cecil Field and amending the Class D airspace and hours of operation for the airport traffic control tower. The U.S. Navy is discontinuing operations at NAS Cecil Field, including decommissioning the Cecil Nondirectional Radio Beacon (NDB) and the Cecil Tactical Air Navigation (TACAN) navigation aids; thereby, eliminating airspace extensions. The Jacksonville, FL, Port Authority is opening a contract airport traffic control tower at the NAS Cecil Field airport. The control tower at Cecil Field is scheduled to be open 0800-1800 daily. Therefore, the Class D airspace would be amended from continuous to part time. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR 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 Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace
* * * * *

ASO FL D Jacksonville Cecil Field, FL [Revised]

Cecil Field, FL
(Lat. 30°12'59"N, long. 81°52'29"W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.5-mile radius of Cecil Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

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Issued in College Park, Georgia, on October 18, 1999.

Nancy B. Shelton,

*Acting Manager, Air Traffic Division,
Southern Region.*

[FR Doc. 99–28236 Filed 10–27–99; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–42037; File No. S7–24–99]

RIN 3235–AH84

Short Sales

AGENCY: Securities and Exchange Commission.

ACTION: Concept release; Request for comments.

SUMMARY: The Securities and Exchange Commission is seeking public comment on the regulation of short sales of securities. In this release, we seek comment on, among other things: lifting the limits on short sales of exchange listed securities under advancing market conditions; providing an exception for actively traded securities; focusing short sale restrictions on certain market

events and trading strategies; removing short sale restrictions on hedging transactions; revising short sale regulation in response to certain market developments; revising the definition of “short sale”; extending short sale regulation to non-exchange listed securities; and eliminating short sale regulation altogether.

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–24–99. Comments submitted by E-mail should include this file number in the subject line. Comment letters received will be available for public inspection and copying in the Commission’s Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission’s Internet web site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, at (202) 942–0772: James Brigagliano, Alan Reed, or Michael Trocchio.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Securities and Exchange Commission (Commission) adopted Rule 10a–1¹ (short sale rule or Rule) under the Securities Exchange Act of 1934 (Exchange Act)² at a time when the securities markets had less trading volume and simpler trading strategies than current markets. Since the adoption of the short sale rule, securities trading has increased drastically in volume, velocity, and complexity. There have also been substantial improvements in market transparency and surveillance mechanisms. Short sale regulation, however, has remained fundamentally unchanged. This separation between Rule 10a–1 and the markets has resulted in frequent requests for relief from the short sale rule and suggestions for modification of it. Our goal is to examine ways to modernize our

approach to provide the most appropriate regulatory structure for short sales.

Among other things, we propose to assess whether the restrictions of Rule 10a–1 produce benefits to the markets that are proportionate to the costs associated with those restrictions. We believe that a comprehensive assessment of Rule 10a–1 is necessary to achieve this goal. Therefore, we are seeking public comment on the regulation of short selling. In particular, we solicit comment on eight concepts related to the regulation of short sales of securities:

- Suspending the short sale rule when the security or market is above a threshold price;
- Providing an exception for actively traded securities;
- Focusing short sale restrictions on certain market events and trading strategies;
- Excepting hedging transactions from short sale regulation;
- Revising short sale regulation in response to certain market developments;
- Revising the definition of “short sale”;
- Extending the short sale rule to non-exchange listed securities; and
- Eliminating Rule 10a–1.

The comments we receive will assist us in determining whether to propose changes to the short sale rule and in tailoring the scope of any such changes.

A. Background

A short sale³ is the sale of a security that the seller does not own or that the seller owns but does not deliver. In order to deliver the security to the purchaser, the short seller will borrow the security, typically from a broker-dealer or an institutional investor. The short seller later closes out the position by returning the security to the lender, typically by purchasing equivalent securities on the open market. In general, short selling is utilized to profit from an expected downward price movement, or to hedge the risk of a long

³ Rule 3b–3 under the Exchange Act, 17 CFR 240.3b–3, defines a short sale as “any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.” Pursuant to Rule 3b–3, a seller of an equity security subject to Rule 10a–1 must aggregate all positions in that security in order to determine whether the seller has a “net long position.” Securities Exchange Act Release No. 20230 (September 27, 1983), 48 FR 45119. See also *Letter regarding Rule 10a–1—Aggregation Units* (November 23, 1998) (permitting broker-dealers to net positions for “aggregation units” (rather than firm-wide) for the purpose of complying with Rule 10a–1).

¹ 17 CFR 240.10a–1.

² 15 U.S.C. 78a et seq.