

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E 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 the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ANM CO E5 Cortez, CO [Revised]

Cortez Municipal Airport, CO
(Lat. 37°18'11"N, long. 108°37'41"W)

Cortez VOR/DME

(Lat. 37°23'23"N, long. 108°33'43"W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Cortez Municipal Airport, and within 3.1 miles each side of the Cortez VOR/DME 184° and 004° radials extending from the 7-mile radius to 10.1 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°34'50"N, long. 109°00'00"W; to lat. 36°51'00"N, long. 108°59'00"W; to lat. 37°04'00"N, long. 108°57'00"W; to lat. 37°16'00"N, long. 108°50'00"W; to lat. 37°30'00"N, long. 109°03'00"W; to lat. 37°47'00"N, long. 109°03'00"W; to lat. 37°52'00"N, long. 108°52'00"W; to lat. 38°02'00"N, long. 108°33'00"W; to lat. 38°00'00"N, long. 108°19'00"W; to lat. 37°16'00"N, long. 108°22'00"W; to lat. 37°02'00"N, long. 108°34'00"W; to lat. 36°49'00"N, long. 107°57'00"W; to lat. 36°36'00"N, long. 108°06'00"W; to lat. 36°52'00"N, long. 108°38'00"W; to lat. 36°31'00"N, long. 108°35'00"W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on March 17, 1998.

Glenn A. Adams III,

*Assistant Manager, Air Traffic Division,
Northwest Mountain Region.*

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BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Two-Part Documents for Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rule amendments.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined pursuant to Section 17(j) of the Commodity Exchange Act¹ ("Act") to review the National Futures Association's ("NFA's") Compliance Rule 2–35 ("the Rule") and its Interpretive Notice regarding commodity pool Disclosure Documents. The Rule requires the commodity pool operator ("CPO") of a commodity pool required to register its securities under the Securities Act of 1933 ("public pool") to deliver a two-part document to

prospective participants. The first part of the document must be the Disclosure Document required by Commission Rule 4.21(a),² written using plain English principles and limited to specific disclosure information. The second part is a Statement of Additional Information ("SAI"), which may include information that is not in the Disclosure Document, provided that the information is not misleading or otherwise inconsistent with applicable statutes, rules or regulations.³ The CPO of a commodity pool that is not required to register its securities under the Securities Act of 1933 ("private pool")⁴ must prepare a Disclosure Document and may prepare and distribute an SAI, but is not required to do so. Should the Rule be approved by the Commission, it will be necessary to amend Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) to permit the use of the two-part document format. Accordingly, these amendments are contingent upon Commission approval of NFA Compliance Rule 2–35. The Commission, therefore, is providing the opportunity for comment prior to accepting NFA Compliance Rule 2–35 and implementing the related proposed amendments to Commission rules.

DATES: Comments must be received by April 29, 1998.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5221, or by electronic mail to secretary@cftc.gov. Reference should be made to "Two-Part Documents for Commodity Pools."

FOR FURTHER INFORMATION CONTACT: Leanna L. Morris, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W.,

² Commission rules referred to herein can be found at 17 CFR Ch. I (1997).

³ Theoretically, the CPO of a public pool could prepare a Disclosure Document containing all of the required information and not need to prepare a separate SAI containing additional information. In that case, the CPO would not be required to deliver a two-part document, but would instead deliver only a Disclosure Document. However, most, if not all, public pools include more than the required information, such as trading comparison charts, additional text describing the market system, and the limited partnership agreement. Therefore, it is not expected that CPOs of public pools would prepare a Disclosure Document without also preparing an SAI.

⁴ Pursuant to Commission Rule 4.24(d)(3)(i), a "private pool" is one that is privately offered pursuant to section 4(2) of the Securities Act of 1933, as amended, or pursuant to Regulation D thereunder.

¹ 17 U.S.C. 21(j) (1994).

Washington, D.C. 20581. Telephone: (202) 418-5434.

SUPPLEMENTARY INFORMATION :

I. Introduction

By letters dated December 24, 1997 and January 20, 1998, NFA submitted to the Commission for its approval, pursuant to Section 17(j) of the Act, NFA Compliance Rule 2-35 and its Interpretive Notice regarding commodity pool Disclosure Documents. NFA's submission indicated that it intends to implement the Rule on or after a date at least six months following receipt of notice of Commission approval. Should the Rule be approved by the Commission, it will be necessary to amend Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) to permit the use of the two-part document format. Commission Rule 4.24(v) would be amended to require that supplemental information be disclosed only in the second part of the two-part document. Commission Rule 4.25(a)(2) would be amended to allow monthly rate of return information of the offered pool to be provided in the second part of the two-part document. Commission Rule 4.25(c)(5) would be amended to allow such required information to be provided in the second part of the two-part document.

II. Description of NFA Compliance Rule 2-35

NFA's Interpretive Notice regarding commodity pool Disclosure Documents states that "[a] Disclosure Document should provide essential information about the fundamental characteristics of a pool, and it should provide the information in a way that will assist investors in making informed decisions about whether to invest in the pool." Accordingly, the Rule adopts a two-part document format and plain English principles, described below, for a more "understandable" document.

The Rule requires that the CPO of a public pool deliver a two-part document. The first part of the document must be the Disclosure Document required by Commission Rule 4.21(a), written using plain English principles⁵ and limited to specific

disclosure information, as discussed in detail below. The second part is a Statement of Additional Information ("SAI"), which may include information that is not in the Disclosure Document, provided that the information is not misleading or otherwise inconsistent with applicable statutes, rules or regulations.

The CPO of a private pool must prepare and distribute a Disclosure Document and may prepare and distribute an SAI, but is not required to do so. If the CPO of a private pool chooses to prepare an SAI, it may be bound together with the Disclosure Document, so long as the Disclosure Document comes first. If the CPO of a private pool binds the SAI separately, the CPO is not required to provide it to a prospective participant unless requested by the prospective participant.

The Rule requires that the Disclosure Document required by Commission Rule 4.21(a) be clear and concise, written using plain English principles, and be limited to the following: information required by Commission Rules 4.24 and 4.25, with some exceptions to the required performance disclosures discussed below; any other information necessary to understand the fundamental characteristics of the pool or to keep the Disclosure Document from being misleading; and any other information required by the Securities and Exchange Commission or state securities administrators to be included in Part 1 of a two-part document.

With respect to performance disclosures, the Rule states that a CPO may provide the monthly rate of return information required under Commission Rule 4.25(a)(1)(i)(H) and the performance information required under Commission Rule 4.25(c)(5) in the SAI. Although the CPO may include the monthly rate of return information in the SAI, the Disclosure Document must still include annual rate of return information for the pool for the most recent five calendar years and year-to-date. It should be noted that, if the CPO does not prepare an SAI, the monthly rate of return information required under Commission Rule 4.25(a)(1)(i)(H) and the performance information required under Commission Rule 4.25(c)(5) must be included in the Disclosure Document.

III. Commission Policy and Rules

In the Commission's Policy Statement of January 21, 1997, the Commission confirmed its support in principle of the

Rule does not affect the prescribed statements of Commission Rules 4.24(a) and 4.24(b).

use of two-part documents. As currently written, however, Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) do not permit the use of a two-part document format due to a specified order and placement of supplemental information and performance disclosures. Accordingly, if the Commission approves NFA Compliance Rule 2-35, it is necessary to amend Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) to permit certain disclosures to be provided in the second part of a two-part document.

Commission Rule 4.24(v) provides that, if supplemental information, as defined by the regulation, is included in the Disclosure Document, the information must be disclosed in a specified order. Certain supplemental performance information must be placed after all specifically required performance information, while certain other supplemental performance information must be included in the Disclosure Document following all required and non-required disclosures. Supplemental non-performance information relating to a required disclosure may be included with the related required disclosure.

Commission Rule 4.25(a)(2) provides that, in addition to the required performance disclosures of Commission Rule 4.25(a)(1)(i)(H), the rate of return of the offered pool must be presented on a monthly basis for the period specified in Commission Rule 4.25(a)(5).

Commission Rule 4.25(c)(5) provides that, with respect to commodity trading advisors ("CTAs") and investee pools for which performance is not required to be disclosed pursuant to Commission Rules 4.25(c)(3) and 4.25(c)(4) (hereinafter "non-major CTAs and investee pools"),⁶ the CPO must provide a summary description of the performance history of each of such advisors and pools.

Should the Commission approve NFA's Compliance Rule 2-35, the Commission believes that certain amendments to Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5), as discussed below, would permit the use of two-part documents by CPOs.

⁶Commission Rule 4.10(d)(5) defines "major investee pool" as any investee pool that is allocated or intended to be allocated at least ten percent of the net asset value of the pool. Commission Rule 4.10(i) defines "major commodity trading advisor" as, with respect to a pool, any CTA that is allocated or intended to be allocated at least ten percent of the pool's funds available for commodity interest trading. Accordingly, "non-major CTAs and investee pools" do not meet the ten percent allocation requirement.

⁵NFA's Interpretive Notice to Rule 2-35 provides guidance on what is meant by the use of "plain English principles." Such principles include: using active voice; using short sentences and paragraphs; breaking up the document into short sections; using titles and sub-titles that specifically describe the contents of each section; using words that are definite, concrete, and part of everyday language; avoiding legal jargon and highly technical terms; using glossaries to define technical terms that cannot be avoided; avoiding multiple negatives; and using tables and bullet lists, where appropriate. (See NFA's Interpretive Notice to Rule 2-35). The

IV. Discussion

The Commission believes that the adoption of a two-part document format and plain English principles will assist investors in making an informed decision prior to investing in a pool by providing clear and concise information about the possible investment. Material information would be provided in the first part of a two-part document and written in a manner that is easily digested by avoiding technical or legal terminology and excessive detail. Should the CPO desire to include more information about the pool, its program, or other non-misleading disclosures, it could be provided in the second part of a two-part document. Accordingly, the two-part format will keep the emphasis on the material, required information found in the Disclosure Document.

The amendments to the Commission rules proposed herein would support the use of a two-part document by permitting that certain required disclosures be provided in the second part of a two-part document. Specifically, Commission Rule 4.24(v) would be amended to provide that all supplemental information must be contained only in the second part of a two-part document.

Commission Rule 4.25(a)(2) would be amended to provide that the monthly rate of return performance of the offered pool may be provided in the second part of a two-part document.⁷

Commission Rule 4.25(c)(5) would be amended to provide that the required summary description of the performance history of non-major CTAs and investee pools, as defined above, may be provided in the second part of a two-part document.

As noted earlier, these amendments would not take effect unless the Commission approves NFA Compliance Rule 2-35. Accordingly, the Commission seeks comments on NFA Compliance Rule 2-35 and its Interpretive Notice regarding commodity pool Disclosure Documents and the related proposed Commission rule amendments for the purpose of permitting two-part documents for CPOs.

Copies of the Rule and its Interpretive Notice will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C., 20581. Copies also may be obtained through the Office of

the Secretariat at the above address or by telephoning (202) 418-5100.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein will affect registered CPOs. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.⁸ The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.⁹ Therefore, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995¹⁰ imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act.

There is no burden associated with the proposed rule amendments to Commission Rules 4.24(v), 4.25(a)(2) or 4.25(c)(5). While these proposed rule amendments have no burden, the group of rules 3038-0005 of which these rules are a part has the following burden:

Average burden hours per response: 124.65.

Number of respondents: 4,624.

Frequency of response: On occasion.

Persons wishing to comment on the information which would be required by these proposed rules should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, D.C. 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418-5160.

List of Subjects in 17 CFR Part 4

Brokers, commodity futures, commodity pool operators and commodity trading advisors.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in

particular sections 2(a)(1), 4l, 4m, 4n, 4o, and 8a, 7 U.S.C. 2, 6l, 6m, 6n, 6o, and 12(a), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, 24.

2. Section 4.24(v) is amended by revising paragraph (v)(3) introductory text to read as follows:

§ 4.24 General disclosures required.

* * * * *

(v) * * *

(3) Must be placed as follows, unless otherwise specified by Commission rules, provided that where a two-part disclosure document is used pursuant to rules promulgated by a registered futures association pursuant to Section 17(j) of the Act, all supplemental information must be provided in the second part of the two-part document:

* * * * *

3. Section 4.25 is amended by revising paragraphs (a)(2)(i) and (c)(5) introductory text to read as follows:

§ 4.25 Performance disclosures.

(a) * * *

(2) * * * (i) The performance of the offered pool must be identified as such and separately presented first, provided that where the pool operator uses a two-part disclosure document pursuant to the rules promulgated by a registered futures association pursuant to section 17(j) of the Act, the rate of return of the offered pool on a monthly basis may be provided, in the format set forth in § 4.25(a)(2)(ii) and § 4.25(a)(2)(iii), in the second part of the two-part document;

* * * * *

(c) * * *

(5) With respect to commodity trading advisors and investee pools for which performance is not required to be disclosed pursuant to § 4.25(c)(3) and (4), the pool operator must provide a summary description of the performance history of each of such advisors and pools including the following information, provided that where the pool operator uses a two-part disclosure document pursuant to the rules promulgated by a registered futures association pursuant to section 17(j) of the Act, such summary

⁷ Pursuant to NFA Compliance Rule 2-35, the annual rate of return performance information of the offered pool must be provided in the first part of a two-part Disclosure Document.

⁸ 47 FR 18618-18621 (April 30, 1982).

⁹ 47 FR 18619-18620.

¹⁰ Pub. L. 104-13 (May 13, 1995).

description may be provided in the second part of the two-part document:

* * * * *

Dated: March 23, 1998.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98-8147 Filed 3-27-98; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07-98-008]

RIN 2115-AE46

Special Local Regulations; Around Alone Sailboat Race, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations creating a regulated area in the coastal waters off Charleston, SC, for the Around Alone single-handed sailboat race, sponsored by Great Adventures, Ltd. These regulations will prohibit entry into the regulated area by non-participating vessels during the event. These regulations are necessary to provide for the safety of life on navigable waters because of the expected presence of numerous spectator craft.

DATES: Comments must be received on or before May 29, 1998.

ADDRESSES: Comments may be mailed to Commander, U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401, or may be delivered to the Operations Office at the above address between 7:30 a.m. and 3:30 p.m. Monday through Friday, except federal holidays. The telephone number is (803) 724-7628. Comments will become part of this docket and will be available for inspection or copying at the Operations Office at the above address.

FOR FURTHER INFORMATION CONTACT: LTJG S.S. Brisco, Project Manager, Coast Guard Group Charleston at (803) 724-7628.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourage interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking

(CGD07-98-008) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons desiring acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at the address under **ADDRESSES**. The request should include why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The proposed regulations are needed to provide for the safety of life during the start of the Around Alone 1998-99 sailing race. These proposed regulations are intended to promote safe navigation offshore of Charleston harbor immediately before, during, and after the start of the race by controlling the traffic entering, exiting, and traveling within the regulated area. The anticipated concentration of commercial traffic, spectator vessels, and participating vessels associated with the race poses a safety concern which is addressed in these proposed safety regulations.

The proposed regulations will encompass a trapezoidal area south of the Charleston Harbor entrance lighted buoy 7 (LLNR 2405). Four conspicuous markers will indicate the corners of the regulated area. These proposed regulations would prohibit the movement of spectator vessels and other non-participants within the regulated area on September 26, 1998, between 10 a.m. and 2 p.m. at the discretion of the Coast Guard Patrol Commander.

Regulatory Evaluation

This proposal is not a major significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under

paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The proposed regulations will only be in effect for approximately 4 hours on September 26, 1998.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the proposed regulated area would be in effect for only 4 hours in a limited area outside Charleston harbor. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal, and has determined pursuant to section 2.B.2.a (CD #34(h)) of Commandant Instruction M16475.1C, that this proposal is categorically excluded from further environmental documentation.

Lists of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.