DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–22745; Airspace Docket No. 05–ACE–31]

Establishment of Class E5 Airspace; Hill City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a Class E airspace area extending upward from 700 feet above the surface at Hill City, KS.

The effect of this rule is to provide appropriate controlled Class E airspace for aircraft departing from and executing instrument approach procedures to, Hill City Municipal Airport, KS and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

EFFECTIVE DATE: 0901 UTC, April 13, 2006.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 392–2524.

SUPPLEMENTARY INFORMATION:

History

On Thursday, November 10, 2005 the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace at Hill City, KS (70 FR 68386). The proposal was to establish a Class E5 airspace area to bring Hill City, KS airspace into compliance with FAA directives. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This notice amends Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing a Class E airspace area extending upward from 700 feet above the surface at Hill City Municipal Airport, KS. The establishment of Area Navigation (RNAV) Global Positioning System (GPS) Instrument Approach Procedures (IAP) to Runways (RWY) 17 and 35 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules operations at Hill City Municipal Airport, KS. The area will be depicted on appropriate aeronautical charts.

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 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 16, 2005, which is incorporated by reference in 14 CFR 71.1. of the same Order. The Class E airspace designation listed in this document will be published 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 regulation—(1) is not a ''significant rule'' 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulation to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it contains aircraft executing instrument approach procedures to Hill City Municipal Airport.

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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; 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 Federal Aviation Administration Order 7400.9N, dated September 1, 2005, and effective September 16, 2005, 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 Hill City, KS

Hill City Municipal Airport, KS
(Lat. 39°22′44″ N., long. 99°49′53″ W.)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of Hill City Municipal Airport and within 2 miles each side of the 001° bearing from the airport extending from the 7.8-mile radius to 11.4 miles north of the airport, and within 2 miles each side of the 181° bearing from the airport extending from the 7.8-mile radius to 12.5 miles south of the airport.

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Issued in Kansas City, MO, on December 8, 2005.

Paul J. Sheridan,

Area Director, Western Flight Services Operations.

[FR Doc. 05–24505 Filed 12–27–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 2003N–0346]

Food Labeling: Ingredient Labeling of Dietary Supplements That Contain Botanicals; Withdrawal

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) published in the **Federal Register** of August 28, 2003 (68 FR 51693), a direct final rule to amend the regulation on the designation of ingredients in dietary supplements by incorporating by reference the most recent editions of the references *Herbs of Commerce* and the *International Code of Botanical Nomenclature*. The direct final rule also would have added a sentence to this regulation codifying the requirements contained in the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) that restrict

the use of the term ''ginseng'' as a common or usual name to botanicals within the genus ''Panax'' and limiting the use of the term ''ginseng'' to labeling and advertising of herbs or herbal ingredients classified within the genus ''Panax.'' FDA is withdrawing the direct final rule because the agency received significant adverse comment.

DATES: The direct final rule published at 68 FR 51693, August 28, 2003, is withdrawn as of December 28, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Office of Nutritional Products, Labeling and Dietary Supplements (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1784.

Authority: Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, the direct final rule published on August 28, 2003 (68 FR 51693), is withdrawn.

Dated: December 21, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–24511 Filed 12–27–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9238]

RIN 1545–BE94

Guidance Under Section 7874 for Determining Ownership by Former Shareholders or Partners of Domestic Entities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 7874 of the Internal Revenue Code (Code) relating to the disregard of certain affiliate-owned stock in determining whether a corporation is a surrogate foreign corporation under section 7874(a)(2)(B) of the Code. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective December 28, 2005.

Applicability Dates: For the date of applicability, see § 1.7874–1T(e).

FOR FURTHER INFORMATION CONTACT: Jefferson VanderWolk, 202–622–3800 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary amendments to 26 CFR part 1 under section 7874 of the Code relating to the determination of the percentage of stock in a foreign corporation held by former shareholders or partners of a domestic corporation or partnership (domestic entity) by reason of holding stock or a partnership interest in the domestic entity, for purposes of determining whether the foreign corporation is a surrogate foreign corporation under section 7874(a)(2)(B).

Section 7874 provides rules for expatriated entities and their surrogate foreign corporations. An expatriated entity is defined in section 7874(a)(2)(A) as a domestic corporation or partnership with respect to which a foreign corporation is a surrogate foreign corporation and any U.S. person related (within the meaning of section 267(b) or 707(b)(1)) to such domestic corporation or partnership. Generally, a foreign corporation is a surrogate foreign corporation under section 7874(a)(2)(B), if, pursuant to a plan or a series of related transactions:

(i) The foreign corporation directly or indirectly acquires substantially all the properties held directly or indirectly by a domestic corporation, or substantially all the properties constituting a trade or business of a domestic partnership;

(ii) After the acquisition at least 60 percent of the stock (by vote or value) of the foreign corporation is held by (in the case of an acquisition with respect to a domestic corporation) former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or (in the case of an acquisition with respect to a domestic partnership) by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership (ownership percentage test); and

(iii) The expanded affiliated group that includes the foreign corporation does not have business activities in the foreign country in which the foreign corporation was created or organized that are substantial when compared to the total business activities of such group.

The tax treatment of expatriated entities and surrogate foreign corporations varies depending on the level of owner continuity. If the percentage of stock (by vote or value) in the surrogate foreign corporation held by former owners of the domestic entity by reason of holding an interest in the domestic entity is 80 percent or more, the surrogate foreign corporation is treated as a domestic corporation for all purposes of the Code. If such ownership percentage is 60 percent or more (but less than 80 percent) by vote or value, the surrogate foreign corporation is treated as a foreign corporation but any applicable corporate-level income or gain required to be recognized by the expatriated entity under section 304, 311(b), 367, 1001, 1248 or any other applicable provision with respect to the transfer or license of property (other than inventory or similar property) cannot be offset by net operating losses or credits (other than credits allowed under section 901). This treatment of an expatriated entity generally applies from the first date properties are acquired pursuant to the plan through the end of the 10-year period following the completion of the acquisition.

Section 7874(c)(2) provides that stock held by members of the expanded affiliated group which includes the foreign corporation is not taken into account for purposes of the ownership percentage test (affiliate-owned stock rule). Section 7874(c)(1) defines the term *expanded affiliated group* as an affiliated group defined in section 1504(a) but without regard to the exclusion of foreign corporations in section 1504(b)(3) and with a reduction of the 80 percent ownership threshold of section 1504(a) to a more-than-50 percent threshold.

The statute provides the Secretary of the Treasury significant regulatory authority. Section 7874(c)(6) authorizes the Secretary of the Treasury to prescribe such regulations as may be appropriate to determine whether a corporation is a surrogate foreign corporation, including regulations to treat warrants, options, contracts to acquire stock, convertible debt interests, and other similar interests as stock, and to treat stock as not stock. Section 7874(g) authorizes the Secretary of the Treasury to provide such regulations as are necessary to carry out the section.

The legislative history of section 7874 indicates that it was intended to apply to so-called inversion transactions in which a U.S. parent corporation of a multinational corporate group is replaced by a foreign parent corporation without significant change in the ultimate ownership of the group. See H.R. Conf. Rep. No. 108–755, 108th Cong., 2d Sess., at 568 (Oct. 7, 2004). The statute was also intended to apply to similar transactions in which a trade or business of a domestic partnership is transferred to a foreign corporation at