

Eastern Region, 1 Aviation Plaza,  
Jamaica, NY 11434-4809.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA-520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434-4809; telephone: (718) 553-4521.

**SUPPLEMENTARY INFORMATION:**

**Comments 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, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. '02-AEA-01". The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the 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 Office of the Regional Counsel, AEA-7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434-4809. Communications must identify the docket 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) to

establish Class E airspace area at Annapolis, MD. The development of a SIAP to serve flights operating into the airport under Instrument Flight Rules (IFR) make this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, 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. Therefore, this proposed regulation—(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 would only affect air traffic procedure and air navigation, it is certified that this proposed rule would not have 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—[AMENDED]**

1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 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 7400.9J, dated August 31, 2001, and effective September 16, 2001, is proposed to be amended as follows:

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

**AEA MD E5, Annapolis [NEW]**

Lee Airport  
(L. 38°56'57"N., Long. 76°34'10"W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Lee Airport, Annapolis, MD.

Issued in Jamaica, New York on April 8, 2002.

**F.D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*  
[FR Doc. 02-9405 Filed 4-17-02; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory  
Commission**

**18 CFR Part 284**

**[Docket No. RM01-6-000]**

**Assignment of Firm Capacity on  
Upstream Interstate Pipelines; Notice  
of Proposed Rulemaking**

April 10, 2002.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission is proposing to remove from its regulations the Order No. 636 requirement that pipelines assign their upstream capacity to their firm shippers. This requirement was a necessary part of the unbundling of interstate pipelines' gas sales from their gas transportation service required in Order No. 636. On December 14, 2000, the Commission announced a new policy allowing unbundled open access pipelines to acquire and hold capacity on other pipelines without prior Commission approval. Since the unbundling of interstate gas sales from transportation has largely been accomplished, and since the Commission has developed a new policy allowing pipelines to acquire capacity on other pipelines, Subpart H is no longer relevant.

**DATES:** Written comments are due on or before June 3, 2002.

**ADDRESSES:** Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:** Cecilia Desmond, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-2280.

## SUPPLEMENTARY INFORMATION:

## I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to remove from its regulations the requirement in subpart H of part 284 of the Commission's regulations (18 CFR 284.241 and 284.242) that pipelines assign their upstream capacity to their firm shippers. The Commission promulgated subpart H in Order No. 636<sup>1</sup> as a necessary part of the unbundling of interstate pipelines' gas sales from their gas transportation service required in Order No. 636. Since the unbundling of interstate gas sales from transportation has largely been accomplished, and since the Commission has developed a new policy allowing unbundled open access pipelines to acquire capacity on other pipelines, subpart H is no longer relevant. The Commission therefore proposes to remove subpart H from its regulations.

## II. Discussion

In Order No. 636, the Commission required interstate gas pipelines to unbundle the sale of gas from the sale of transportation and to assign their upstream capacity to their firm shippers.<sup>2</sup> The Commission found that pipelines' access to upstream capacity needed to provide bundled gas sales gave them an undue competitive advantage over other gas merchants since the upstream capacity gave pipelines access to more gas suppliers. The Commission also found that a pipeline's holding upstream capacity inhibited the goal of a competitive national market because the downstream gas purchasers would not be able to access the production areas and gas merchants reached by the downstream pipeline through its upstream capacity.

The Commission adhered to that policy for several years during the individual pipelines' Order No. 636 restructuring proceedings. Then, in *Texas Eastern Transmission Corporation (Texas Eastern)*, the Commission determined that Order No. 636 did not create a *per se* rule precluding restructured pipelines from entering into contracts for transportation or storage capacity on other pipelines

(offsystem capacity).<sup>3</sup> The Commission reasoned that pipelines had completed the unbundling of gas sales and transportation service required by Order No. 636 and that the market had become sufficiently competitive to allow pipelines to hold capacity on other pipelines. Therefore, the Commission said it would decide whether to allow pipelines to acquire offsystem capacity on a case-by-case basis.

Two pipelines appealed the *Texas Eastern* requirement for case-specific approval, claiming that it discriminated against pipelines because non-pipeline shippers could acquire capacity without prior approval.<sup>4</sup> They also argued that the Commission's blanket certificate and capacity release regulations, which require pipelines to make transportation services available on a nondiscriminatory basis under Commission-approved open access tariffs, were sufficient to control unduly discriminatory or anticompetitive actions that might arise when a pipeline acquires offsystem capacity. The court agreed and remanded the case.

On December 14, 2000, the Commission issued its Order on Remand in the *Texas Eastern* proceeding.<sup>5</sup> In that order, the Commission announced a new policy that unbundled open access pipelines will no longer be required to seek Commission approval before acquiring offsystem capacity, that existing safeguards provide the necessary protection against discriminatory and anticompetitive actions with respect to acquired offsystem capacity, and that pipelines will be at-risk for the costs of any such capacity. Before transporting gas for others on any acquired offsystem capacity, the Commission required a pipeline to seek a blanket waiver of the shipper-must-hold-title policy by amending its tariff to include a general statement that it will only transport for others on offsystem capacity pursuant to its existing open access tariff and rates.<sup>6</sup>

As the Commission has noted numerous times, the natural gas marketplace has fundamentally changed since the issuance of Order No. 636. In the *Texas Eastern* series of orders, the Commission developed and modified its policy with respect to pipelines' acquiring capacity on other pipelines in

light of these changes. Since the requirement to assign upstream capacity contained in § 284.242 was specific to the implementation of Order No. 636, the restructuring of the natural gas industry under Order No. 636 has been accomplished, and the Commission now allows pipelines to acquire capacity on other pipelines as can any other shipper without seeking Commission, subpart H is no longer necessary. However, we reiterate that the removal of the regulation will not modify our *Texas Eastern* policy under which the appropriateness of a pipeline's acquisitions of capacity on other pipelines is subject to review in a subsequent general section 4 rate proceeding or the Commission's requirement that the shipper must hold title to any gas being shipped through the acquired capacity.

## III. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.<sup>7</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.<sup>8</sup> No environmental consideration is necessary since the proposed action is clarifying, corrective, or procedural and affects transportation of natural gas that requires no construction of facilities.<sup>9</sup>

## IV. Regulatory Flexibility Impact Statement

The Regulatory Flexibility Act of 1980 (RFA)<sup>10</sup> generally requires a description and analysis of proposed rules that will, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission is not required to make such analysis if a rule would not have such an effect.<sup>11</sup>

The Commission does not believe that the proposed rule removal would have such an impact on small entities. The proposed removal of regulations would have an impact only on interstate pipelines, which generally do not fall within the RFA's definition of small entity.<sup>12</sup> Accordingly, pursuant to

<sup>1</sup> Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats & Regs., Regulations Preambles January 1991-June 1996 ¶ 30,939 (Apr. 8, 1992).

<sup>2</sup> The Commission allowed pipelines to retain upstream capacity for operational management and balancing purposes and no-notice transportation service.

<sup>3</sup> 74 FERC ¶ 61,074 (1996); 78 FERC ¶ 61,277 (1997); *order on remand*, 93 FERC ¶ 61,273 (2000); *reh'g denied*, 94 FERC ¶ 61,139; *reh'g denied*, 95 FERC ¶ 61,056 (2001).

<sup>4</sup> See *Colorado Interstate Gas Co. v. FERC*, 146 F.3d 889 (D.C. Cir. 1998).

<sup>5</sup> *Texas Eastern Transmission Corp.*, 93 FERC ¶ 61,273 (2000); *reh'g denied*, 94 FERC ¶ 61,139; *reh'g denied*, 95 FERC ¶ 61,056 (2001).

<sup>6</sup> See *Texas Eastern*, 95 FERC ¶ 61,056 (2001).

<sup>7</sup> Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), *codified* at 18 CFR Part 380.

<sup>8</sup> 18 CFR 380.4.

<sup>9</sup> See 18 CFR 380.4(a)(2)(ii), 380.4(a)(27).

<sup>10</sup> 5 U.S.C. 601-612.

<sup>11</sup> 5 U.S.C. 605(b).

<sup>12</sup> 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small business concern" as

section 605(b) of the RFA, the Commission proposes to certify that the removal of regulations proposed here will not have a significant economic impact on a substantial number of small entities.

#### V. Information Collection Statement

The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection requirements imposed by agency rules.<sup>13</sup> However, this proposed rule contains no information reporting requirements, and therefore is not subject to OMB approval.

#### VI. Comment Procedures

The Commission invites interested persons to submit comments, data, views and other information concerning matters set out in this notice.

To facilitate the Commission's review of the comments, commenters are requested to provide an executive summary of their position on the issues raised in the notice. Commenters are requested to identify each specific issue that their discussion addresses and to use appropriate headings. Additional issues the commenters wish to raise should be identified separately. The commenters should double space their comments.

Comments may be filed on paper or electronically via the Internet and must be received by the Commission within 45 days after publication in the **Federal Register**. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426 and should refer to Docket No. RM01-6-000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at [www.ferc.gov](http://www.ferc.gov) and click on "e-Filing," and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt of comments.

User assistance for electronic filing is available at 202-208-0258 or by E-Mail to [efiling@ferc.gov](mailto:efiling@ferc.gov). Comments should not be submitted to the E-Mail address. All comments will be placed in the

Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington D.C. 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS link.

User assistance for RIMS is available at 202-208-2222, or by E-mail to [RimsMaster@ferc.gov](mailto:RimsMaster@ferc.gov).

#### VII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208-2222 (E-Mail to [WebMaster@ferc.gov](mailto:WebMaster@ferc.gov)) or the Public Reference at (202) 208-1371 (E-Mail to [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov)).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

#### List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements, Incorporation by reference.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

In consideration of the foregoing, the Commission proposes to amend part 284, Chapter I, Title 18, Code of Federal Regulations, as follows.

#### PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

**Authority:** 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 1331-1356.

#### §§ 284.241 and 284.242 (Subpart H) [Removed and reserved]

2. In part 284, remove and reserve subpart H, consisting of §§ 284.241 and 284.242.

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#### SOCIAL SECURITY ADMINISTRATION

#### 20 CFR Part 404

[Regulation No. 4]

RIN 0960-AD67

#### Revised Medical Criteria for Evaluating Hematological Disorders and Malignant Neoplastic Diseases

**AGENCY:** Social Security Administration.

**ACTION:** Proposed rules; reopening of comment period.

**SUMMARY:** We are reopening the comment period for the notice of proposed rulemaking (NPRM) we published in the **Federal Register** (66 FR 59306) on November 27, 2001. Due to the significant issues raised by the commenters, we have decided to provide an additional 60-day public comment period.

**DATES:** The comment date of the NPRM published at 66 FR 59306 is reopened until June 17, 2002.

**ADDRESSES:** You may give us your comments by using: our Internet site facility (*i.e.*, Social Security Online) at <http://www.ssa.gov/regulations>; e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); telefax to (410) 966-2830; or by letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-

a business which is independently owned and operated and which is not dominant in its field of operations.

<sup>13</sup> 5 CFR Part 1320.