The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Leadville, CO, by providing the additional airspace at Lake County Airport. This modification of airspace enlarges the 700-foot Class E area to meet current criteria standards to accommodate the landing and the holding procedures for the SIAP. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Lake County Airport and between the terminal and en route transition stages.

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. 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 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, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, 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 Leadville, CO [Revised]

Lake County Airport, CO
(Lat. 39°13′13″N., long. 106°18′58″W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at 39°33′00″N., long. 106°30′00″W.; to lat. 39°33′00″N., long. 106°00′00″W.; to lat. 38°51′00″N., long. 106°00′00″W.; to lat. 38°51′00″N., long. 106°15′00″W.; to lat. 39°09′00″N., long. 106°30′00″W.; to point of beginning.

* * * * *

Issued in Seattle, Washington, on February 1, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–4021 Filed 2–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANE–95]

Amendment to Class E Airspace; Rockland, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises the Class E airspace area at Rockland, ME, due to the relocation of the Sprucehead Non-Directional Beacon (NDB) and to provide adequate controlled airspace for two new standard instrument approaches to the Rockland, Knox County Regional Airport (KRKD).

EFFECTIVE DATE: The direct final rule published at 63 FR 71218 and corrected to read as published at 64 FR 3835, is effective 0901 UTC, January 28, 1999.

FOR FURTHER INFORMATION CONTACT: David T. Bayley, Air Traffic Division, Airspace Branch, ANE–520.3, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7523; fax (781) 238–7596.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on December 24, 1998 (63 FR 71218), and published a correction on January 26, 1999 (64 FR 3835). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 28, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule became effective on that date.

Issued in Burlington, MA, on February 2, 1999.

Bill Peacock,

Manager, Air Traffic Division, New England Region.

[FR Doc. 99–4019 Filed 2–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM95–9–006]

Open Access Same-Time Information System and Standards of Conduct

Issued February 10, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (the Commission) denies two requests for rehearing of an order issued on June 19, 1998 (*Open Access Same-Time Information and Standards of Conduct*) that, among other things, requires the unmasking of source and sink information and establishes an interim on-line discount policy.

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

FOR FURTHER INFORMATION CONTACT:
Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1283
Paul Robb (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 219–2702
Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888

First Street, NE., Washington, DC 20426, (202) 208–0321

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to cipsmaster@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system 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. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home Page using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Order Denying Rehearing

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

In this order, we deny two requests for rehearing of an order that, among other things, requires the unmasking of source and sink information and establishes an interim on-line discount policy. *Open Access Same-Time Information and Standards of Conduct,* 83 FERC ¶ 61,360 (1998) (June 18 Order) [63 FR 38884, July 20, 1998].

Background

In the June 18 Order, the Commission: (1) required transmission providers to unmask the source and sink information reported on OASIS transmission service request templates at the time that the transmission provider updates the transmission reservation posting to show the customer's confirmation that it wishes to finalize the transaction; (2) established interim procedures for the on-line negotiation of transmission service price discounts; and (3) updated the OASIS Standards and Communications Protocols Document.[1]

Timely requests for rehearing were filed by Electric Power Supply Association (EPSA) and by Enron Power Marketing, Inc. (EPMI). Collectively, the rehearing requests raise four issues, which we will address separately below.

Discussion

1. Information To Be Unmasked

On rehearing, EPSA seeks clarification of whether the June 18 Order required disclosure of the identity of pertinent control areas only or of the respective bus bars of generators and loads. EPSA seeks rehearing of the June 18 Order to the extent that it compels the disclosure of specific information about generator or load bus bars, rather than simply the disclosure of information on control areas. EPSA also argues that the information to be disclosed on source and sink should be uniform and not vary from transmission provider to transmission provider.

In the June 18 Order, we stated that, [s]ource and sink information for point-to-point transmission service describes the location of the generators and the ultimate load in an electric system sense, and does not necessarily identify sellers and buyers by name. In accordance with the convention of the transmission provider under its individual Open Access Tariff (the Pro Forma Tariff allowed each transmission provider to determine this for itself in its Open Access Tariff filing) this source and sink information may routinely include only the identities of the respective control areas (*e.g.*, in the case of point-to-point transmission across a transmission provider's system, the point of receipt is identified as a control area and the point of delivery is similarly identified), or it may include the identities of the respective bus bars of the particular generators and loads (*e.g.*, in the case of transmission within, out of or into a transmission provider's transmission system).[2]

The June 18 Order made clear that a transmission provider's individual Open Access Tariff determines what source and sink information is to be disclosed by a customer as part of a completed request for transmission service. Depending on the terms of a transmission provider's individual Open Access Tariff, all of the transmission provider's customers may uniformly be required to provide source and sink information that includes the identities of the respective control areas only (*e.g.*, in the case of point-to-point transmission across a transmission provider's system, both the point of delivery and point of receipt are identified as control areas). Another transmission provider's Open Access Tariff may uniformly require the customers to reveal the identities of the respective bus bars of the particular generators and loads. However, in either case, all of the transmission provider's customers are treated in a comparable manner. We expect that the tariff information requirements developed by the transmission provider are adequate to evaluate transmission service requests and facilitate service. A transmission provider may not require more detailed information from some customers, while requiring less specific information from other customers (including requests from its own wholesale merchant function or affiliates). Nothing EPSA has raised on rehearing has persuaded us to eliminate the discretion that transmission providers are afforded on this matter.

Moreover, EPSA has not offered a compelling argument as to why a transmission provider should not be allowed to require the disclosure of specific bus bar information. The June 18 Order did not offer a definition of source and sink information applicable to all circumstances. This omission was not an oversight. In the Commission's view, it would be premature for the Commission to dictate such a definition at the present time for several reasons. First, this is still an evolving area and it would be premature to draft a definition that would restrict further developments in the industry. By having the Commission define ''source'' and ''sink,'' these developments may be impeded. Second, in any event, before drafting such a definition, we would invite input from all interested persons and this has not yet occurred. Third, while conceivably we could attempt to draft a definition of source and sink for purposes of OASIS unmasking, while

[1] 83 FERC at 62,453.

[2] *Id.* at 62,453, n.14.

leaving the matter undefined for other purposes, this would be both cumbersome and confusing.

2. Impact of Unmasking on the Short-Term Market

On rehearing, EPMI argues that the Commission failed to consider the harmful impact unmasking would have on the short-term market. Specifically, EPMI argues that the Commission failed to consider that power marketers would lose the benefits of follow-on short-term transactions and that this would drive them out of this market. EPMI also argues that the benefits of disclosure are minimal. Together, EPMI argues, these factors should lead the Commission to reverse the findings on unmasking of the June 18 Order.

We disagree. As we noted in the June 18 Order,[3] our decision to require that certain arguably sensitive business information be disclosed is consistent with judicial directives to focus on the needs of the overall market, rather than focusing on protecting the interests of individual competitors within the market.

The June 18 Order contained an extensive discussion of *Alabama Power Company* v. *Federal Power Commission*, 511 F.2d 383, 390–91, D.C. Cir. (1974), a case where the court of appeals affirmed our refusal to amend a rule that required affected utilities to publicly disclose their monthly Form No. 423 reports of fuel purchases. The court in *Alabama Power* considered various arguments that, on the one hand, ''disclosure of information would lead to bargaining disadvantages in future fuel contract negotiations,'' [4] and that, on the other hand, any bargaining disadvantage as a result of disclosure would merely reflect the removal of information imperfections in an otherwise competitive market thereby facilitating efficient allocation of resources.[5]

The court concluded that the dissemination of information in a competitive market tends to ''facilitate prompt adjustment to the market clearing price by all parties to transactions.'' [6]

Moreover, the court found that,

> a sudden improvement in the availability of information may deprive a buyer of an advantage he enjoyed when, under more imperfect dissemination, he exploited a seller's ignorance of the market price. * * * Generally, however, laws and practices to safeguard competition assume that its prime benefits do not depend on secrecy of agreements reached in the market.[7]

EPMI would have the Commission protect a market niche that some market participants may have enjoyed by virtue of possessing market-related information that has not been available to others. As in *Alabama Power*, by requiring disclosure, the Commission is merely removing information imperfections in an otherwise competitive market,[8] thereby facilitating the efficient allocation of resources.[9]

While not specifically mentioning the *Alabama Power* case in its rehearing request, EPMI seeks to sidestep *Alabama Power*'s precedent by characterizing the potential harm to itself and other power marketers (that it argues might result from unmasking source and sink information) as harmful to the short-term market as a whole. This characterization ignores that power marketers are only one category of participant in the short-term market, and that their interests may not be entirely consonant with those of the short-term market as a whole.

The June 18 Order gave full consideration to the possible harmful competitive impact of unmasking on power marketers. These factors were carefully weighed against the expected benefits of unmasking to the market as a whole. These benefits included: (1) promoting competition in the overall market; (2) fostering greater public confidence in the integrity of OASIS postings; (3) improving the open access use of transmission systems comparable to that enjoyed by transmission providers; and (4) allowing better monitoring of discriminatory practices.[10] In our view, EPMI underestimates the benefits of unmasking and overestimates the possible harmful impact of unmasking. Understandably, EPMI is concerned with protecting its own market position. However, by necessity, the Commission's responsibilities demand a broader perspective. We find that the overall benefits of unmasking outweigh the potential harm to power marketers. Accordingly, we will deny EPMI's rehearing request on this issue. However, EPMI or others may request that we revisit this issue in the future.

3. Time of Disclosure

EPSA seeks rehearing of the June 18 Order's decision to require disclosure of source and sink information at the time that the transmission provider updates the transmission reservation posting to show confirmation of the transmission provider's acceptance of the transmission customer's request. EPSA argues that this would be premature and that disclosure should not be made until the underlying transmission and power sale components of the transaction are completed.

While EPSA's proposal would not have a large impact on short-term transactions, under EPSA's proposed timetable, in the case of a longer-term transaction, *e.g.*, a request for monthly service, information about the transaction would not be disclosed until more than a month after the OASIS negotiations had been completed. Likewise, under EPSA's proposed timetable, requests for yearly service would not be unmasked until more than a year after they are negotiated. We find these results undesirable and contrary to our goal of promoting competition through the timely disclosure of market information. Our action would allow the Commission and customers to detect discriminatory practices in a more timely manner. Accordingly, we will deny EPSA's request for rehearing on this issue.

4. Feasibility of On-Line Negotiation of Discounts

On rehearing, EPMI also argues that requiring the on-line negotiation of discounts is not feasible, and will result in discounts no longer being offered. At this time, we will not modify our requirement that discounts be negotiated on the OASIS by an unproven prediction that this might diminish the availability of negotiated discounts. At this stage in the process, there is no evidence available (nor could there be) that would either validate or contradict EPMI's assertion. No such evidence would be available until the requirement for on-line discounting is implemented and we are able to assess whether discounts continue to be negotiated or not. However, EPMI or others may request that we revisit this issue in the future.

The Commission orders:

The requests for rehearing of EPSA and EPMI are hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Bailey dissented with a separate statement attached.

Linwood A. Watson, Jr.,

Acting Secretary.

BAILEY, Commissioner, *dissenting*

I continue to dissent from the majority's decision to require public disclosure of source and sink information on the OASIS at

[3] 83 FERC at 62,456, n.48.

[4] 511 F.2d at 390.

[5] *Id.*

[6] *Id.* at 391, n.13.

[7] *Id.*

[8] EPMI has not alleged on rehearing that the market for the sale of wholesale electric power is not a competitive market.

[9] 511 F.2d at 391, n.13.

[10] 83 FERC at 62,456 & n. 48.

the time of customer confirmation of service. I continue to adhere to my rationale for dissenting as articulated in the June 18, 1998 order in this proceeding. *See Open Access Same-Time Information System and Standards of Conduct*, 83 FERC ¶ 61,360 at 62,467–69 (1998) (Bailey, Commn'r, dissenting in part). I continue to believe that the public's and the Commission's need for source and sink information, at the time of customer confirmation, for the purpose of detecting possible undue discrimination or preference in the provision of transmission service does not outweigh the Commission's interest in promoting competitive markets by protecting against the disclosure of commercially sensitive information.

I add only two points to my earlier dissent on the subject. First, I fail to see any reason why another balance cannot be struck that provides information necessary for market monitoring and enforcement while maintaining respect for (what we are informed is) commercially sensitive information. Specifically, I do not understand how the Commission's very legitimate interest in monitoring markets and protecting against the abuse of monopoly power by transmission providers would be jeopardized by further delaying the public disclosure of source and sink information for 30 additional days after finalization of the transaction and the transmission provider's update of its transmission reservation posting. (I agree with the majority that EPSA's request to delay disclosure until after completion of the power sale and accompanying transmission service might not allow for timely disclosure of information concerning longer-term transactions; I would shorten the requested delay to 30 days to avoid this problem.) Nor do I understand why the Commission should not require transmission providers uniformly to provide source and sink information on a control area basis, as requested on rehearing by EPSA. Such a requirement would have the dual benefit of better protecting commercially sensitive information while promoting uniformity among OASIS sites, to the benefit of all transmission customers.

Second, I view the majority's disposition as overly dismissive of the role of power marketers and intermediaries in competitive markets. I am not prepared to decide, as does the majority (slip op. at 3–5), that the competitive interest of marketers is or may be inconsistent with the competitive interest of the power market as a whole. I am not willing to dismiss cavalierly the objections of Enron and EPSA that marketers may be driven out of short-term markets if forced to disclose immediately the details of the transactions they arrange. Neither I nor any of my colleagues can be entirely sure whether immediate disclosure of this type of sensitive information will drive market participants out of certain markets, or whether the ''overall market'' is improved or degraded with the combination of more market information and fewer market participants.

In these circumstances, I would strike another balance between information disclosure and concern for the commercial sensitivity that is more respectful of the important arguments presented on rehearing. As I recently explained in a slightly different context:

The Commission must have considerable information from the companies it regulates to continue to ensure that they operate in a manner consistent with their statutory responsibilities; however, it remains crucial for the Commission to consider at what point the usefulness of information becomes outweighed by the competitive implications of disclosure.

American Electric Power Company and Central and South West Corporation, Docket Nos. EC98–40–000, *et al.*, slip op. at 3–4 (Bailey, Commn'r, dissenting in part). I believe that point has been crossed in the present circumstances.

Vicky A. Bailey,

Commissioner.

[FR Doc. 99–3952 Filed 2–17–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 2926]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Waiver by Secretary of State and Attorney General of Passport and/or Visa Requirements for Certain Categories of Nonimmigrants

AGENCY: Department of State.

ACTION: Interim rule.

SUMMARY: Current regulations contain a joint Secretary of State/Attorney General (Secretary/AG) list of waivers of visas and/or passports for certain nonimmigrants including a provision for nationals of the British Virgin Islands (BVI) entering the United States (U.S.) Virgin Islands. This rule extends that provision to include nationals of the BVI who seek to enter the U.S. mainland temporarily for business or pleasure through the port-of-entry at St. Thomas, U.S. Virgin Islands.

DATES: This rule is effective February 18, 1999.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20520–0106, (202) 663–1204.

SUPPLEMENTARY INFORMATION:

Why Is This Being Done?

The U.S. consulate at St. Johns, Antigua, is one of a number of small posts the State Department has closed in recent years for budgetary reasons. This has created a serious inconvenience for nationals of the BVI who, if they wished to visit the United States, have had to apply for a nonimmigrant visa by either going to Barbados, the nearest consular office, or applying by mail which is time-consuming. The BVI government asked that some ameliorating action be taken if possible. The Department and the Immigration and Naturalization Service (INS), after a joint study, decided that waiving the nonimmigrant visa for visitors for business and pleasure was the most appropriate way to ease the situation and still maintain the safeguards of the Immigration and Nationality Act (INA).

What Is the Legal Basis for This Action?

Section 212(d)(4) of the INA provides that the Secretary and AG may jointly waive visa and/or passport requirements on the basis of reciprocity for nationals of foreign contiguous territories or adjacent islands and residents thereof who have a common nationality with such nationals. That is the basis for the current regulations at 22 CFR 41.2 and for their expansion with this rule.

What Is the Difference Between This and What Is Now in the Regulations?

The current regulation only permits the entry of BVI nationals not in possession of a valid visitor's visa into the U.S. Virgin Islands. If they wish to enter any other part of the United States, they must not only have a passport, but also a visa. This amendment will permit visitors for business or pleasure, that is, persons described in INA 101(a)(15)(B), to enter without a visa if they meet certain other requirements. They must have a Certificate of Good Character issued by the Royal Virgin Islands Police Department, must leave through the port of St. Thomas by air directly for the United States, and must satisfy the immigration officer at that pre-inspection station that they are admissible in all respects. A BVI national wishing to enter the United States for any other purpose as a nonimmigrant must have a nonimmigrant visa. See the Immigration and Naturalization Service rule published elsewhere in this issue of the **Federal Register**.

Regulatory Analysis and Notices

Interim Rule

The implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based on the ''good cause'' exceptions set forth at 5. U.S.C. 553(b)(3)(B) and 553(d)(3). It provides a benefit to the persons affected and thus to U.S. businesses patronized by them. It also provides a significant workload reduction for the Department. Delay of