

suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001-SW-69-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**2002-11-01 Eurocopter Deutschland:**  
Amendment 39-12762. Docket No. 2001-SW-69-AD.

**Applicability:** Model EC135 helicopters with Turbomeca Arrius 2B1 engines installed, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required within 50 hours time-in-service, unless accomplished previously.

To prevent deactivation of the engine main fuel-metering valve, an engine electrical control unit (FADEC) fail caution indication display to the pilot, loss of automatic control of the affected engine, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify the FADEC software in accordance with the Operating Instructions, paragraph 2.B., of Turbomeca Service Bulletin No. 319 73 2019, dated March 26, 2001.

(b) Modify the collective linear transducers (LVDTs) in accordance with the Accomplishment Instructions, paragraph 3.C., of Eurocopter Alert Service Bulletin EC135-71A-019, dated August 30, 2001.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) The modifications shall be done in accordance with Eurocopter Alert Service

Bulletin No. EC135-71A-019, dated August 30, 2001, and Turbomeca Service Bulletin No. 319 73 2019, dated March 26, 2001. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527; and Turbomeca, DSO/T/NORIA Arrius 2 B1 TU 19C, 64 511 Bordes Cedex, France. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 14, 2002.

**Note 3:** The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 2001-304/2, dated October 19, 2001.

Issued in Fort Worth, Texas, on May 20, 2002.

**David A. Downey,**  
Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02-13290 Filed 5-29-02; 8:45 am]

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### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 02-ACE-5]

#### Amendment to Class E Airspace; Fremont, NE

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Fremont, NE in order to provide a safer Instrument Flight Rules (IFR) environment at Fremont Municipal Airport, Fremont NE. The FAA has developed Nondirectional Radio Beacon (NDB) Runway (RWY) 13, Amendment 3 Standard Instrument Approach Procedure (SIAP) and VHF Omnidirectional Range (VOR) RWY 13, Amendment 1 SIAP to serve Fremont Municipal Airport, Fremont NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to segregate aircraft using instrument approach procedures in instrument

conditions from aircraft operating in visual conditions.

**DATES:** This direct final rule is effective on 0901 UTC, October 3, 2002.

Comments for inclusion in the Rules Docket must be received on or before July 31, 2002.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE-520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 02-ACE-5, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**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) 329-2524.

**SUPPLEMENTARY INFORMATION:** The FAA has developed NDB RWY 13, Amendment 3 and VOR RWY 13, Amendment 1 SIAPs to serve Fremont Municipal Airport, Fremont NE. The modification of Class E airspace at Fremont NE will provide additional controlled airspace at and above 700 feet AGL in order to contain the amended SIAPs within controlled airspace, and thereby enhance safety and efficiency of IFR flight operations in the Fremont NE terminal area. The modified Class E airspace 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 7400.9J, 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 will be published subsequently in the Order.

#### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where Visual Flight Rules (VFR) pilots

may anticipate the presence of IFR aircraft at lower altitudes, specially during inclement weather conditions. A greater degree of safety is achieved by depicting the area of aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register** and a notice of proposed rulemaking may be published with a new comment period.

#### Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 02-ACE-5." The postcard

will be date stamped and returned to the commenter.

#### Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, 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

Accordingly, 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 7400.9J Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

\* \* \* \* \*

#### **ACE NE E55 Fremont, NE [Revised]**

Fremont Municipal Airport, NE  
(lat. 41° 26' 57" N., long. 96° 31' 13" W.)

Fremont NDB (lat. 41° 27' 02" N., long. 96° 31' 13" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Fremont Municipal Airport, excluding that airspace within the Scribner, NE, Class E and the Wahoo, NE, Class E airspace areas.

\* \* \* \* \*

Issued in Kansas City, MO, on May 20, 2002.

**Herman J. Lyons, Jr.,**

*Manager, Air Traffic Division, Central Region.*

[FR Doc. 02-13549 Filed 5-29-02; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 284

[Docket No. RM98-10-010]

#### Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

Issued May 16, 2002.

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

**ACTION:** Interim policy on certain remanded issues.

**SUMMARY:** On April 5, 2002, the United States Court of Appeals for the District of Columbia Circuit issued an opinion, generally affirming Order No. 637 concerning short-term and interstate natural gas transportation service. However, among other things, the Court vacated and remanded the policy that existing customers need only match a contract term of up to five years when exercising their right of first refusal. To prevent confusion in contracting and disruption to the market during the brief, but unavoidable, interim before the Commission can fully address the issues raised in the Court's remand, the Commission is issuing this Interim Policy, providing for the term cap currently in the pipelines' tariffs to govern the right of first refusal during the interim period.

The Court also remanded the policy adopted in Order No. 637 that pipelines must permit segmented forwardhaul and backhaul transactions to the same delivery point, each of which may use mainline capacity up to the contract demand of the underlying contract. The Commission will not address that issue in the individual pipeline proceedings to comply with Order No. 637 until after the issuance of the order on remand.

**EFFECTIVE DATE:** The interim policy is effective May 16, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Richard Howe, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208-1274.

#### SUPPLEMENTARY INFORMATION:

#### Federal Energy Regulatory Commission

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell; Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

[Docket No. RM98-10-010]

#### Interim Policy on Certain Remanded Issues

Issued May 16, 2002.

On April 5, 2002, the United States Court of Appeals for the District of Columbia Circuit issued an opinion,<sup>1</sup> generally affirming Order No. 637.<sup>2</sup> However, among other things, the Court vacated and remanded the policy adopted in Order Nos. 636 and 637 that existing customers need only match a contract term of up to five years when exercising their right of first refusal. To prevent confusion in contracting and disruption to the market during the brief, but unavoidable, interim before the Commission can fully address the issues raised in the Court's remand, the Commission is issuing this Interim Policy, providing for the term cap currently in the pipelines' tariffs to govern the right of first refusal during the interim period.

The Court also remanded the policy adopted in Order No. 637 that pipelines must permit segmented forwardhaul and backhaul transactions to the same delivery point, each of which may use mainline capacity up to the contract demand of the underlying contract. The Commission will not address that issue in the individual pipeline proceedings to comply with Order No. 637 until after the issuance of the order on remand.

This order is in the public interest because it clarifies for pipelines and their customers the policies to be in effect while the Commission considers the Court's remand.

<sup>1</sup> Interstate Natural Gas Association of America v. FERC, 2000 U.S. App. LEXIS 6219 at \*70-\*78 (No. 98-1333) (D.C. Cir. April 5, 2002) (INGAA).

<sup>2</sup> Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs. Regulations Preambles (July 1996-December 2000) ¶ 31,091 (February 9, 2000); *order on rehearing*, Order No. 637-A, FERC Stats. & Regs. Regulations Preambles (July 1996-December 2000) ¶ 31,099 (May 19, 2000); *order denying reh'g*, Order No. 637-B, 92 FERC ¶ 61,062 (2000).

#### Background

In Order No. 436, the Commission adopted a regulation giving pipelines pre-granted abandonment authority under Section 7(b) of the NGA, 15 U.S.C. 717f(b), to terminate open access transportation service to a shipper once its contract had expired and it had no contractual right of renewal.<sup>3</sup> In Order Nos. 500-H and 500-I, the Commission interpreted that regulation as applying to all open access transportation services, including transportation service provided to the pipelines' historic sales customers who converted their sales service to transportation service. On review of Order Nos. 500-H and 500-I, the court remanded the issue of pre-granted abandonment authority to the Commission, finding that the Commission had not "adequately explained how pregranted abandonment trumps another basic precept of natural gas regulation—protection of gas customers from pipeline exercise of monopoly power through refusal of service at the end of a contract period."<sup>4</sup>

In the subsequent Order No. 636 proceeding, the Commission determined that pre-granted abandonment authority would be tempered with a right of first refusal for firm customers with a contract longer than one year.<sup>5</sup> Accordingly, Order No. 636 adopted a regulation providing that such a shipper could retain its service under a new contract by matching the term and the rate (up to the maximum rate) offered by the highest competing bidder.<sup>6</sup> In Order No. 636, the Commission contemplated that the bids the existing shipper must match could be for any contract length. However, on rehearing, in Order No. 636-A, the Commission capped the contract length the existing shipper must match at 20 years. The Commission did not, however, amend

<sup>3</sup> 18 CFR 284.221(d) (2001).

<sup>4</sup> American Gas Association v. FERC, 912 F.2d 1496, 1518 (D.C. Cir. 1990). (AGA).

<sup>5</sup> Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992), FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996 ¶ 30,939 at 30,446-48 (April 8, 1992); *order on reh'g*, Order No. 636-A, 57 FR 36,128 (August 12, 1992), FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996 ¶ 30,950 (August 3, 1992); *order on reh'g*, Order No. 636-B, 57 Fed. Reg. 57,911 (December 8, 1992), 61 FERC ¶ 61,272 (1992); *reh'g denied*, 62 FERC ¶ 61,007 (1993); *aff'd in part and remanded in part*, United Distribution Companies v. FERC, 88 F.3d 1105 (D.C. Cir. 1996); *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

<sup>6</sup> 18 CFR 284.221(d)(2)(ii) (2001).