airspace description must be amended to reflect this change. Since this amendment is technical in nature and does not change the dimensions of the Class E airspace area, it has no impact on users of the airspace. This rule will become effective on the date specified in the **EFFECTIVE DATE** section.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) makes a technical amendment to the Class E5 airspace description at Lexington, NC, by changing the airport name to Davidson County Airport and updating the airport coordinates.

Class E airspace areas are published in paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace area 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. 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; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

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

* * * * *

ASO NC E5 Lexington, NC [Revised]

Davidson County Airport, NC
(Lat. 35°46′52″ N., long. 89°18′14″ W.)

That airspace extending upward from 700 feet above within a 7-mile radius of Davidson County Airport; excluding that airspace within the Salisbury, NC, and Mocksville, NC, Class E airspace areas.

* * * * *

Issued in College Park, Georgia, on February 7, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–4227 Filed 2–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–03]

Removal of Class E Airspace; Oak Harbor, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This action removes the Class E surface area at Oak Harbor, WA.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 99–ANM–03, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1999, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by removing the Oak Harbor, Class E surface area (64 FR 19728). The airport is no longer eligible to retain a Class E surface area because of a lack of weather reporting. The weather reporting requirements for a surface area dictate that weather observations must be taken by a Federally Certified Weather Observer and/or a Federally Commissioned Weather Observing System during the times and dates the surface area is designated. These weather observations routinely are not being met as required at the Oak Harbor Air Park. Attempts to have interested personnel fix the reporting problem were unsuccessful. The intended effect of this rule is designed to provide efficient and safe use of the navigable airspace. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as en route domestic airspace areas are published in Paragraph 6002 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, 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 Rule

This amendment to 14 CFR part 71 removes the Class E surface area at the Oak Harbor Air Park, Oak Harbor, WA. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations at the Oak Harbor Air Park.

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 CLAS 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. 105(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 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport

* * * * *

ANM WA E2 Oak Harbor, WA [Remove]

* * * * *

Issued in Seattle, Washington, on February 10, 2000.

Daniel A. Boyle,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 00–4635 Filed 2–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–077–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects OSM's decision on an amendment submitted by the State of West Virginia as a modification to its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM published its decision on the provision in the February 9, 1999, **Federal Register** (64 FR 6201). The decision being corrected concerns subsidence regulations, and specifically concerns certain rules that pertain to an ''angle of draw'' determination for subsidence damage. This correction is intended to comply with the decision of the United States Court of Appeals for the District of Columbia in *National Mining Association* v. *Babbitt,* No. 98–5320 (D.C. Cir., April 27, 1999).

EFFECTIVE DATE: February 28, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

Background

In a letter dated May 5, 1999 (Administrative Record Number WV–1127), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to the West Virginia program. We subsequently reviewed the amendment, and approved it on October 1, 1999 (64 FR 53200). Also in the May 5, 1999, letter the WVDEP requested that we reconsider our previous disapproval of parts of the West Virginia regulations at CSR 38–2–3.12 (concerning subsidence control plan) and 38–2–16.2 (concerning surface owner protection from subsidence damage) and remove the corresponding required regulatory program amendments specified in the February 9, 1999, **Federal Register** rule. The WVDEP stated the reason for the request is the April 27, 1999, United States Court of Appeals decision in *National Mining Association* v. *Babbitt.*

Need for Correction

On April 27, 1999, the United States Court of Appeals for the District of Columbia struck down two OSM regulations on coal mine subsidence. The regulations struck down were among those issued on March 31, 1995, at 60 FR 16722–16751, pursuant to SMCRA and section 2504 of the Energy Policy Act of 1992 (the EPAct) which added a new section 720 to SMCRA. Section 720 requires underground mine operators to repair or to compensate for material damage to residential structures and noncommercial buildings, and to replace residential water supplies adversely affected by underground mining.

The Court of Appeals struck down the rebuttable presumption that, when subsidence damage occurs within the so-called ''angle of draw,'' damage has been caused by the related underground mine (30 CFR 817.121(c)(4)). The Court emphasized that, for a regulatory presumption to withstand legal challenge, the circumstances giving rise to the presumption must make it more likely than not that the presumed fact exists. Slip op. at 6. The Court noted that OSM had characterized the angle of draw only as ''one way to define the outer boundary of subsidence displacement that *may* occur at the surface.'' 60 FR at 16738 (emphasis added by the Court). The Court ruled that OSM could not ''impose a presumption of causation of damage on a party based merely on the possibility that the party caused the damage.'' Slip op. at 10. Because it could not be said that subsidence-caused damage to structures within the angle of draw is more likely than not to occur, the Court struck down the regulation. *Id.*

The Court also vacated OSM's regulation requiring coal operators to conduct presubsidence structural condition surveys (30 CFR 784.20(a)(3)), solely because that regulation was interconnected with the angle of draw regulation. The Court ruled that, after enactment of the Energy Policy Act, OSM possessed the authority to require such surveys. Slip op. at 13–14. The Court, however, found it necessary to vacate the regulation because the regulation defined the area within which the pre-subsidence survey is required by reference to the angle of draw. *Id.* at 14.

In accordance with the Court's decision, we suspended the following regulations on December 22, 1999 (64 FR 71652). We suspended 30 CFR 817.121(c)(4) (i)–(iv). These provisions set out a procedure under which damage occurring within an area defined by an angle of draw would be subject to the rebuttable presumption: that subsidence from underground mining was the cause of any surface damage to non-commercial buildings or occupied residential dwellings and related structures within the angle of draw. We also suspended that portion of 30 CFR 784.20(a)(3) which required a specific structural condition survey of all EPAct protected structures within an area defined by an angle of draw.

The Regulatory Decisions We Are Correcting

1. CSR 38–2–3.12.a.1. In our February 9, 1999, decision, we did not approve the phrase ''within an angle of draw of at least 30 degrees'' at CSR 38–2–3.12.a.1. This provision requires the identification (on a map) of the lands, structures, and water supplies that could be damaged by subsidence. We disapproved the phrase ''within an angle of draw of at least 30 degrees'' because it limited the identification of water supplies to areas within the angle of draw. This limitation renders the provision less effective than the Federal regulations at 30 CFR 784.20(a)(1) which has no ''angle of draw'' limit for the identification of water supplies that may be affected by subsidence. Our suspension of the Federal ''angle of draw'' criterion at 30 CFR 817.121(c)(4) (i)–(iv) does not affect this disapproval