

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

*Paragraph 6002 Class E airspace areas designated as surface areas for an airport.*

\* \* \* \* \*

#### **ANM UT E2 St. George, UT [NEW]**

St. George Municipal Airport, UT  
(Lat. 37°05'26" N., long. 113°35'35" W.)

Within a 4.5-mile radius of St. George Municipal Airport. This Class E airspace is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in Seattle, Washington on April 30, 2002.

**Charles E. Davis,**

*Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.*  
[FR Doc. 02–11903 Filed 5–10–02; 8:45 am]  
**BILLING CODE 4910–13–M**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

**[Airspace Docket No. 01–ANM–18]**

#### **Modification of Class E Airspace, Hailey, ID**

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies Class E airspace at Friedman Memorial Airport, Hailey, ID. Newly developed Area Navigation (RNAV) Special Standard Instrument Approach Procedure (SIAP) at the Friedman Memorial Airport made this action necessary. Additional Class E 700-foot and 1,200-foot controlled airspace, above the surface of the earth is required to contain aircraft executing the RNAV Z RWY 31 Global Positioning System (GPS) 31R Special SIAP at Friedman Memorial Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Friedman Memorial Airport, Hailey, ID.

**EFFECTIVE DATE:** 0901 UTC, August 8, 2002.

**FOR FURTHER INFORMATION CONTACT:** Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 01–ANM–18, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

#### **SUPPLEMENTARY INFORMATION:**

##### **History**

On February 21, 2002, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Hailey, ID, in order to provide a safer IFR environment at Friedman Memorial Airport, Hailey, ID (67 FR 7981). This amendment provides additional Class E2 Surface Area controlled airspace at Hailey, ID to contain aircraft conducting instrument flight operations at Friedman Memorial Airport. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

##### **The Rule**

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) modifies Class E airspace at Hailey, ID, in order to provide adequate controlled airspace for IFR operations at Friedman Memorial Airport, Hailey, ID. This amendment modifies Class E 700

and 1,200 foot airspace at Hailey, ID, to enhance safety and efficiency of IFR flight operations in the Hailey, ID, terminal area. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at the Friedman Memorial Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. 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 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 ON 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 7400.9J, 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.*

\* \* \* \* \*

**ANM ID E5 Hailey, ID [REVISED]**

Friedman Memorial Airport, ID

(Lat. 43°30'14" N., long. 114°17'45" W.)

That airspace extending upward from 700-feet above the surface within a 5.5 mile radius of Friedman Memorial Airport, and within 2 miles each side of the 328° bearing from the airport extending from the 5.5 mile radius to 7.4 miles northwest of the airport, and within 2 miles each side of the 159° bearing from the airport extending from the 5.5 mile radius to 7.6 miles southeast of the airport; and that airspace extending upward from 1,200-feet above the surface, bounded by a line beginning at lat. 43°50'00" N., long. 114°38'27" W.; 43°50'00" N., long. 114°00'00" W.; to lat. 43°12'55" N., long. 114°00'00" W.; to lat. 43°12'55" N., 114°38'27" W.; thence to point of origin; excluding that airspace within Federal Airways and the Burley, ID, Class E airspace area.

\* \* \* \* \*

Issued in Seattle, Washington on April 30, 2002.

**Charles E. Davis,**

*Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.*

[FR Doc. 02-11906 Filed 5-10-02; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF THE TREASURY****Customs Service****19 CFR Part 24**

[T.D. 02-24]

**RIN 1515-AC82**

**Amended Procedure for Refunds of Harbor Maintenance Fees Paid on Exports of Merchandise**

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with certain modifications, the content of interim amendments to the Customs Regulations which provide a new procedure for requesting refunds of export harbor maintenance fees. The new procedure simplifies the refund process by relieving exporters from documentary requirements in most

cases and providing a 120-day period to allow exporters to seek additional refunds.

**EFFECTIVE DATE:** May 13, 2002.

**FOR FURTHER INFORMATION CONTACT:** Deborah Thompson, Revenue Branch, National Finance Center, (317) 298-1200 (ext. 4003).

**SUPPLEMENTARY INFORMATION:****Background**

The harbor maintenance fee was created by the Water Resources Development Act of 1986 (Pub. L. 99-622; codified at 26 U.S.C. 4461 *et seq.*) (the Act) and is implemented by § 24.24 of the Customs Regulations (19 CFR 24.24). Imposition of the fee is intended to require those who benefit from the maintenance of U.S. ports and harbors to share in the cost of that maintenance. Pursuant to the Act and as implemented by the regulations, the harbor maintenance fee became effective on April 1, 1987, and is assessed based on 0.125 percent of the value of commercial cargo loaded or unloaded at certain identified ports or, in the case of passengers, on the value of the actual charge paid for the transportation. In 1998, the U.S. Supreme Court held the fee unconstitutional as applied to exports (*United States Shoe Corporation v. United States*, 118 S. Ct. 1290, No. 97-372 (March 31, 1998)). Until then, the fee had been assessed on port use associated with imports, exports, foreign trade zone admissions, passengers, and movements of cargo between domestic ports.

After the Supreme Court decision, by a notice published in the **Federal Register** (63 FR 24209) on May 1, 1998, Customs announced that, as of April 25, 1998, the harbor maintenance fee for cargo loaded on board a vessel for export would no longer be collected. On July 31, 1998, Customs published in the **Federal Register** (63 FR 40822) an amendment to § 24.24 of the Customs Regulations, removing the requirement that exporters loading cargo at ports subject to the harbor maintenance fee pay the fee. Thus, currently, application of the fee continues, as noted above, but only for imports, domestic shipments, foreign trade zone admissions, and passengers.

On August 28, 1998, the U.S. Court of International Trade (CIT) ordered an immediate refund of undisputed export fee payments to exporters who had filed complaints with the court (*United States Shoe Corporation v. United States*, No. 94-11-00668, slip op. 98-126 (C.I.T. Aug. 28, 1998)). The court's refund procedure applied to export fee payments received by Customs within

two years of the date of the exporter's complaint, and refunds under this procedure were duly paid by Customs. On February 28, 2000, the U.S. Court of Appeals for the Federal Circuit (CAFC) acknowledged that the Customs Regulations did not then impose a limitation on the period within which a refund request may be filed (*Swisher International, Inc. v. U.S.*, 205 F. 3d 1358 (No. 99-1277 C.A.F.C. February 28, 2000) (cert. denied).) With this decision, all parties who had paid export fees became eligible to file a refund request for those fees regardless of when the fees were paid. This opened the entire period the export fee was in effect (April 1, 1987—April 25, 1998) to recovery of refunds under the administrative procedure set forth in the regulations.

*Recent Regulatory Activity Affecting Export Harbor Maintenance Fee Payments*

After publishing a notice of proposed rulemaking and considering the comments received, Customs, on July 2, 2001, published a final rule in the **Federal Register** (66 FR 34813) establishing a one year from time of payment time limit within which a refund request must be filed for overpayments of harbor maintenance fees that were paid on a quarterly basis. As Customs has not collected the fee on exports since April 25, 1998, this time limitation, when in effect, would have eliminated the opportunity for exporters to file any additional harbor maintenance fee refund requests. Thus, to ensure that all exporters had sufficient time and notice to file refund requests, the July 2, 2001, final rule provided that those who made quarterly payments on exports more than one year ago (in effect, all payers of these export fees) would have until December 31, 2001, to file refund requests. Customs notes that the December 31, 2001, filing deadline for refunds applied also to any other harbor maintenance fees paid on a quarterly basis that are more than a year old as of that date.

Before publication of the July 2, 2001, final rule, Customs published an interim regulation providing a simplified procedure for requesting refunds of export harbor maintenance fees. The interim regulation was published in the **Federal Register** (66 FR 16854) on March 28, 2001, and became effective on that date. A correction document to the interim regulation was published in the **Federal Register** (66 FR 21806) on April 27, 2001.

It is noted that the July 2, 2001, final rule setting the one year time limitation