''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, when promulgated, 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 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 designated as a surface area for an airport.

* * * * *

AAL AK E2 Cordova, AK [Revised]

Cordova, Merle K. (MUDHOLE) Smith Airport, AK
(Lat. 60°29′31″ N., long. 145°28′39″ W.)
Glacier River NDB
(Lat. 60°29′56″ N., long. 145°28′28″ W.)

Within a 4.1 mile radius of the Merle K. (Mudhole) Smith airport and within 2.1 miles each side of the 222° bearing from the Glacier River NDB extending from the 4.1 mile radius to 10 miles southwest of the airport and within 2 miles either side of the 060° bearing from the Glacier River NDB extending from the 4.1-mile radius to 6 miles northeast of the airport and within 2.2 miles each side of the 142° bearing from the NDB extending from the 4.1-mile radius to 10.4 miles southeast of the airport, excluding that airspace north of a line from lat. 60°31′00″ N, long. 145°20′00″ W; to lat. 60°31′03″ N, long. 145°20′59″ W.

* * * * *

Issued in Anchorage, AK, on July 1, 2002.

Stephen P. Creamer,

Assistant Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 02–18620 Filed 7–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AAL–2]

Revision of Class E Airspace; Cold Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action revises Class E airspace at Cold Bay, AK. Due to the development of an Area Navigation (RNAV) Global Positioning System (GPS) Runway (Rwy) 26 Instrument Approach Procedure for the Cold Bay airport, additional Class E airspace to protect Instrument Flight Rules (IFR) operations is needed. The additional Class E surface area airspace ensures that aircraft executing the RNAV (GPS) Rwy 26 standard instrument approach procedure remain within controlled airspace. This rule results in additional Class E airspace at Cold Bay, AK.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–2796; fax: (907) 271–2850; email: *Derril.CTR.Bergt@faa.gov.* Internet address: *http://www.alaska.faa.gov/at* or at address *http://162.58.28.41/at.*

SUPPLEMENTARY INFORMATION:

History

On February 6, 2002, a proposal to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to add to the Class E airspace at Cold Bay, AK, was published in the **Federal Register** (67 FR 5529). Due to the development of a standard instrument approach procedure, RNAV (GPS) Runway 26, additional Class E controlled airspace is necessary to contain IFR operations at Cold Bay, AK Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9J, *Airspace Designations and Reporting Points,* dated September 1, 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 revoked and revised subsequently in the Order.

The Rule

This revision to 14 CFR part 71 adds to the Class E airspace at Cold Bay, Alaska. Additional Class E airspace is being created to contain aircraft executing the RNAV (GPS) Runway 26 Approach and will be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Cold Bay Airport, Cold Bay, Alaska.

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 a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, 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 Federal Aviation Administration Order 7400.9J, *Airspace Designations and Reporting Points,* dated August 31, 2001, and effective September 16, 2001, is to be amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Cold Bay, AK [New]

Cold Bay Airport, AK
(Lat. 55°12′20″ N., long. 162°43′27″ W.)
Cold Bay VORTAC
(Lat. 55°16′03″ N., long. 162°46′27″ W.)
Elfee NDB
(Lat. 55°17′46″ N., long. 162°47′21″ W.)
Cold Bay Localizer
(Lat. 55°11′41″ N., long. 162°43′07″ W.)

That airspace extending upward from 700 feet above the surface within a 14-mile radius of Cold Bay VORTAC extending clockwise from the 253° radial to the 041° radial of the VORTAC and within 4 miles south of the 253° radial Cold Bay VORTAC extending from the VORTAC to 7.2 miles west of the Cold Bay Airport and within 4 miles south of the 041° radial extending from the VORTAC to 7.2 miles east of the airport and within 4.5 miles west and 8 miles east of the Elfee NDB 318° bearing extending from the NDB to 21.7 northwest of the airport and that airspace within 3 miles each side of the Cold Bay VORTAC 150° radial extending from the VORTAC to 18.2 miles south of the airport and within 2.8 miles west of the Cold Bay Localizer back course extending from the airport to 15.7 miles south of the airport; excluding that airspace more than 12 miles from the shoreline; and that airspace extending from 1,200 feet above the surface within 18.3 miles from the Cold Bay VORTAC extending clockwise from the Cold Bay VORTAC 085° radial to the Cold Bay VORTAC 142° radial.

* * * * *

Issued in Anchorage, AK, on July 1, 2002.

Stephen P. Creamer,

Assistant Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 02–18621 Filed 7–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 191

[T.D. 02—39]

RIN 1515–AC67

Merhcandise Processing Fee Eligible To Be Claimed as Unused Merchandise Drawback

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, the interim rule amending the Customs Regulations that was published in the **Federal Register** on February 9, 2001, as T.D. 01–18. The interim rule amended the regulations to indicate that merchandise processing fees are eligible to be claimed as unused merchandise drawback. The change was made to reflect a recent court decision in which merchandise processing fees were found to be assessed under Federal law and imposed by reason of importation and therefore eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j). The amendment requires a drawback claimant to apportion the merchandise processing fee to that merchandise that provides the basis for drawback.

EFFECTIVE DATE: July 25, 2002.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Chief, Duty and Refund Determinations Branch, Office of Regulations and Rulings, U.S. Customs Service, Tel. (202) 572–8807.

SUPPLEMENTARY INFORMATION:

Background

Merchandise Processing Fees—19 U.S.C. 58c(a)(9)(A)

Merchandise processing fees are fees the Secretary of the Treasury charges and collects for the processing of merchandise that is formally entered or released into the United States. *See* 19 U.S.C. 58c(a)(9)(A). A merchandise processing fee is assessed as a percentage of the value of the imported merchandise, as determined under 19 U.S.C. 1401a. The *ad valorem* rate is currently 0.21 percent. (*See* 19 CFR 24.23). Section 58c(b)(8)(A)(i) provides that the fee charged under subsection (a)(9) may not be less than $25, unless adjusted pursuant to subsection (a)(9)(B) of this section.

Merchandise processing fees are subject to two monetary limits:

(1) A cap of $485 is imposed by 19 U.S.C. 58c(a)(9)(B)(i) for any release or entry, including weekly Free Trade Zone entries (*see* section 410 of the Trade and Development Act of 2000, Pub. L. 106–200, 114 Stat. 251, enacted on May 18, 2000), for which the value of merchandise subject to the fee exceeds $230,952.38 ($485 ÷ .0021 = $230,952.38), and;

(2) For certain monthly entries, as prescribed by Pub. L. 101–382, section 111(f), as amended, and implemented by § 24.23(d) of the Customs Regulations (19 CFR 24.23(d)), the merchandise processing fee is limited to the lesser of the following:

(i) A cap of $400 where the value of the merchandise subject to the fee exceeds $190,476.19 ($400 ÷ .0021 = $190,476.19); or

(ii) The amount determined by applying the *ad valorem* rate under paragraph (b)(1)(i)(A) of § 24.23 to the total value of such daily importations.

Drawback—19 U.S.C. 1313

Section 313 of the Tariff Act of 1930, as amended, (19 U.S.C. 1313), concerns drawback and refunds. Drawback is a refund of certain duties, taxes and fees paid by the importer of record and granted to a drawback claimant under specific conditions. There are several types of drawback. Section 1313(j) concerns drawback for ''unused merchandise,'' and provides, pursuant to specific conditions set forth therein, that a refund of 99 percent of each duty, tax, or fee ''imposed under Federal law because of [an article's] importation'' will be refunded as drawback.

Merchandise Processing Fees Eligible To Be Claimed as Unused Merchandise Drawback

The issue of whether a merchandise processing fee is ''imposed under Federal law because of [an article's] importation,'' and therefore eligible to be claimed as unused merchandise drawback pursuant to the terms of section 1313(j), was recently examined by the Court of Appeals for the Federal Circuit (CAFC) in *Texport Oil* v. *United States,* 185 F.3d 1291 (Fed. Cir. 1999). In that case, the court held that as merchandise processing fees are ''assessed under Federal law'' (pursuant to 19 U.S.C. 58c(a)(9)) and ''explicitly linked to import activities,'' they are imposed by reason of importation and therefore subject to unused merchandise drawback by application of the statute.

On February 9, 2001, Customs published in the **Federal Register** (66 FR 9647), as T.D. 01–18, an interim rule amending §§ 191.2, 191.3 and 191.51 to reflect the CAFC's decision in *Texport Oil.* In that document, the Customs Regulations were amended to allow