

Florence Municipal Airport, Florence, OR. Controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) standard instrument approach procedures at Florence Municipal Airport, Florence, OR. This action would enhance the safety and management of aircraft operations at Florence Municipal Airport, Florence, OR.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (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 this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Florence Municipal Airport, Florence, OR.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal

Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 Part 71.1 of the Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010 is amended as follows:

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

* * * * *

ANM OR E5 Florence, OR [New]

Florence Municipal Airport, OR
(Lat. 43°58'58" N., long. 124°06'41" W.)

That airspace extending upward from 700 feet above the surface within 3-mile radius of Florence Municipal Airport.

Issued in Seattle, Washington, on April 7, 2011.

Christine Mellon,

*Acting Manager, Operations Support Group,
Western Service Center.*

[FR Doc. 2011–9233 Filed 4–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2011–0367]

Interpretation of Duty and Rest Provisions for Maintenance Personnel

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed interpretation.

SUMMARY: This draft letter of interpretation addresses a request by the Aeronautical Repair Station Association (ARSA) to rescind a letter of interpretation issued May 18, 2010 which clarified what activities may constitute duty for maintenance personnel and the application of the rest provisions under 14 CFR 121.377. The FAA requests comment on the May 18, 2010 proposed response to United Technologies Corporation.

DATES: Send your comments on or before June 14, 2011.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0367 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketsInfo.dot.gov>.

Docket: To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket or Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anne Bechdolt, Attorney, Regulations Division, Office of Chief Counsel (AGC–220), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; e-mail: Anne.Bechdolt@faa.gov; telephone 202–267–3073.

SUPPLEMENTARY INFORMATION: On December 13, 2010, ARSA requested the FAA withdraw a legal interpretation issued on May 18, 2010 to United

Technologies Corporation (May 18, 2010 interpretation). The legal interpretation addressed what types of activities may be considered part of the duty period for maintenance personnel under § 121.377. In addition, the legal interpretation provided that the FAA would not consider compliant a work schedule in which maintenance personnel were required to work several consecutive weeks without an uninterrupted, consecutive 24-hour rest period during any seven consecutive days. This interpretation clarifies the limitations of the equivalency standard in § 121.377 resulting from two conflicting legal interpretations. *Compare* Legal Interpretation 1987–15 (June 14, 1987) (noting that the flexibility in § 121.377 was intended to apply only in cases of national emergency or unusual occurrence in the air carrier industry) *with* Legal Interpretation to Ron Webb from Donald P. Byrne, Assistant Chief Counsel, Regulations (June 21, 1991) (noting that “the term “or equivalent thereof” allows for time off (in 24 consecutive hour increments) to be deferred or accumulated, making it possible to take four 24 hour periods off toward the end of a calendar month”). ARSA asserts that the May 18, 2010 interpretation changes the plain language of the regulation and requests that it be withdrawn. The FAA has decided against withdrawing the May 18, 2010 interpretation at this time. However, based on ARSA’s request, the agency has decided to seek comment on the impact of the interpretation. Based on a review of the comments, the FAA may decide to modify or rescind the May 18, 2010 interpretation.

The FAA believes that this type of schedule (*i.e.*, working 26 days followed by 4 days off) is contrary to the intent of the regulation, which was designed to mitigate the effects of fatigue for maintenance personnel. Fatigue degrades a person’s ability to work effectively. Some causes of fatigue are sleep deprivation and time spent on duty. *See* Advisory Circular AC 120–72, *Maintenance Resource Management Training*, (Sept. 28, 2000). Given that § 121.377 places no limit on the amount of time maintenance personnel may work, it may be possible for these personnel to work consecutive 8, 12, or 16-hour shifts. This type of schedule, combined with delaying rest periods until the end of the month, may result in reduced reaction time, impaired short-term memory, decreased vigilance, reduced motivation, increased irritability, and an increase in the number of errors made for maintenance personnel. In light of these factors, the

allowance for some flexibility in scheduling the 24-hour consecutive rest period required by § 121.377 is not without limitation. Thus, a schedule that delays providing the requisite rest under § 121.377 until the end of the calendar month, such that the exception in § 121.377 becomes the normal practice, would not be considered compliant with the rest requirements of 14 CFR 121.377. The text of the May 18, 2010 interpretation is as follows:

Alexandra M. McHugh,
Assistant Counsel.

United Technologies Corporation, Pratt & Whitney Legal Services, 400 Main Street, M/S 132–12, East Hartford, CT 06108

Dear Ms. McHugh: This is in response to Pratt & Whitney’s letter of May 19, 2008, concerning the application of § 121.377 to maintenance personnel at Pratt’s repair facility certified under Part 145 of the Federal Aviation Regulations. Based on the several factual scenarios contained in the letter and subsequent conversations between Pratt and my office, I have organized this response into three general issues. The first deals with whether Pratt can view as non-duty time the time an employee spends completing non-maintenance work or tasks while being compensated by Pratt, even while away from Pratt’s facility. The second explores the extent to which Pratt may view as non-duty time the time an employee spends at other employment while off duty from Pratt, even if it is aviation related work. The last issue concerns the limit of scheduling flexibility provided by the regulation. I believe you will be able to apply the answers to these three questions to all of the specific scenarios you posited in your letter.

For repair stations certificated under Part 145 that perform maintenance work for air carriers operating under Part 121, § 121.377 establishes a maximum duty period for maintenance personnel working for that repair station. That section reads:

Within the United States, each certificate holder (or person performing maintenance or preventive maintenance functions for it) shall relieve each person performing maintenance or preventive maintenance from duty for a period of at least 24 consecutive hours during any seven consecutive days, or the equivalent thereof within any one calendar month.

14 CFR § 121.377. Thus, generally, maintenance personnel must be allowed 24 consecutive hours of rest during any seven consecutive days. In the context of discussing Maintenance Resource

Management concepts, the FAA has stated in Advisory Circular (AC) 120–72 (September 28, 2000) that addressing fatigue-related errors ensures the safety of flight in passenger carrying operations. Fatigue often leads to decreased vigilance and impaired short term memory, resulting in a likely increase in human error. A common known cause of fatigue is “time on duty.” AC 120–72, para. 9(h)(2)(f). Therefore, the general rule in § 121.377 is intended to reduce the likelihood of fatigue-related maintenance errors in air carrier operations.

Section 121.377 requires that a person performing maintenance or preventative maintenance be relieved from “duty” for, generally, one day out of every seven. One question, then, is what is considered “duty.” In other contexts, the FAA has defined duty as “actual work for the [employer] or the present responsibility for such should the occasion arise.” *See* Legal Interpretation 1993–31 (Dec. 13, 1993). Prior interpretations have concluded that performing a mix of tasks, some of which do not involve work for a Part 121 air carrier or even non-aviation related tasks, but are tasks assigned to the employee by the employer, still fall within the category of “duty” for purposes of applying § 121.377. *Legal Interpretation to Ron Webb from Donald P. Byrne, Assistant Chief Counsel, Regulations (June 21, 1991); cf. Legal Interpretation to Jim Mayors from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Mar. 2, 2009) (noting that the time a pilot participated in a 2-hour company meeting that was not related to a company assignment of flight time, must still be calculated as part of his duty day because he was not free from all work obligations during that time); Legal Interpretation to Jay Wells from Rebecca MacPherson, Assistant Chief Counsel, Regulations Division (October 29, 2007); Legal Interpretation to James W. Johnson from Donald P. Byrne, Assistant Chief Counsel for Regulations (May 9, 2003).*

Therefore, for purposes of applying § 121.377, any time for which an employee “has actual work for the employer, or the present responsibility for such work, should it arise,” constitutes “duty” time. Accordingly, the time an employee is engaged in maintenance tasks, attending a bargaining unit meeting, attending a training session, doing work related to Pratt’s educational benefit, traveling from the point on Pratt’s campus where the employee “clocked in” to the employee’s work area, or working for another unit within Pratt’s corporate

umbrella, constitutes time that must be included in the calculation of duty time to determine the rest required under § 121.377, whether or not that unit itself must adhere to the requirements of § 121.377. An employee using accrued vacation or credit time is not "on duty" even though the employee may receive compensation for that time. Nevertheless, the regulation aims to require repair stations to give its maintenance personnel at least one day off every week without requiring that employee to use accrued vacation time to be free from any responsibility for work.

Once Pratt relieves the employee from duty, the regulation does not require Pratt to monitor the employee's activities. The scenario where an employee uses the time off from Pratt to work at another maintenance facility does not implicate Pratt's compliance with § 121.377. Unlike the regulations governing crewmember duty time, § 121.377 does not contain a limit on an employee's total accumulated working hours within a specified period of time. The FAA does not recommend this practice, however, for the reasons discussed in AC 120-72 related to fatigue. Thus, an employee relieved from duty by Pratt may perform other aviation related maintenance, even for other facilities which themselves are bound by § 121.377, provided the employee is provided the requisite time off by each facility for which the employee works. Pratt must use caution, however, not to create the appearance of requiring an employee to work during off hours for another facility that is just a corporate sister to the Pratt facility.

You also raise the question of whether a facility can schedule employees to work more than six consecutive days, thereby grouping required days off, and still remain in compliance with § 121.377. The regulatory standard requires 24 consecutive hours off duty during any seven consecutive days but also contains some flexibility in the phrase "or the equivalent thereof within any one calendar month." The FAA intended that the regulation allow employees to work in excess of six consecutive days in the event of a national emergency or unusual occurrence in the air carrier industry. See Legal Interpretation 1987-15 (June 14, 1987). The regulatory flexibility found in § 121.377 allows maintenance personnel to work a schedule that maintains the "equivalent" to one day off every week even though that schedule might provide for more than six consecutive days of work.

The equivalent standard, however, does have limits. The tenants of

statutory and regulatory interpretation suggest that the specific standard of one day off every week cannot be rendered completely inoperative by the more general equivalent standard. A previous interpretation allowed that a work schedule that provides for personnel to have a group of 4 days off followed by up to 24 days of work, or vice versa, would still meet the standard of being "equivalent" to one day off in every seven within a month. Legal Interpretation to Ron Webb from Donald P. Byrne, Assistant Chief Counsel, Regulations (June 21, 1991). That interpretation, however, was issued prior to the findings relating fatigue to maintenance related errors in the air carrier industry discussed in AC 120-72. Webster's dictionary defines "equivalent" as having logical equivalence, or corresponding or virtually identical in effect or function. Today, we would not view as compliant a schedule that provides over the course of eight weeks for four days off followed by 48 straight days of duty followed by four more days off. Such a work schedule that generally provides for an average of one day off over several weeks cannot be said to be "equivalent" to the more specific standard requiring one day off out of every seven days.

Lastly, you correctly note that the regulation does not address the length of the work day, only the length of the required time off work. The legal interpretation from Mr. Byrne to Mr. Webb also makes clear that the general equivalency provision in § 121.377 does not apply to the specific requirement to give 24 consecutive hours of time off. Time off may not be provided in smaller increments over several days even though the total time off over any seven day period may equal or exceed 24 hours.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Anne Bechdolt, Attorney in the Operations Law Branch of the Regulations Division of the Office of the Chief Counsel, and coordinated with the Aircraft Maintenance and Air Transportation divisions of Flight Standards Service.

Rebecca B. MacPherson,
Assistant Chief Counsel, Regulations Division
[FR Doc. 2011-9236 Filed 4-14-11; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 294

RIN 0596-AC74

Special Areas; Roadless Area Conservation; Applicability to the National Forests in Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Forest Service, U.S. Department of Agriculture (USDA), is proposing to establish a State-specific rule to provide management direction for conserving and managing inventoried roadless areas on National Forest System (NFS) lands in Colorado. A proposed rule was published in the July 25, 2008, **Federal Register**. In response to public comment on the 2008 Proposed Rule and a revised petition submitted by the State of Colorado on April 6, 2010, the Forest Service is publishing a new proposed rule.

The Agency is inviting public comment on this new proposed rule and accompanying revised draft environmental impact statement (RDEIS). The Agency is interested in public comments on the changes to exceptions and prohibitions on activities in roadless areas that have been developed in response to public comments on the 2008 Proposed Rule. The Agency is particularly interested in receiving public comments on the concept, management, and rationale for designation of specific areas within Colorado Roadless Areas identified as "upper tier." In this proposed rule, these areas are provided a higher level of protection than the 2001 Roadless Rule, **DATES:** Comments must be received in writing by July 14, 2011.

ADDRESSES: Comments may be sent via e-mail to COComments@fsroadless.org. Comments may also be submitted via the Internet at <http://www.regulations.gov>. Written comments concerning this notice should be addressed to: Colorado Roadless Rule/EIS, P.O. Box 1919, Sacramento, CA 95812.

All comments, including names and addresses, are placed in the record and are available for public inspection and copying. The public may inspect comments received at <http://roadless.fs.fed.us>.

FOR FURTHER INFORMATION CONTACT: Colorado Roadless Rule Team Leader Ken Tu at (303) 275-5156. Individuals using telecommunication devices for the deaf (TDD) may call the Federal