

§ 431.123 [Amended]

2. In section 431.123, paragraph (a) is amended in the first sentence by removing the phrase "Beginning 24 months after November 4, 1999" and adding in its place the phrase "Beginning June 7, 2002."

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 01-ANM-14]

Revision of Class E Airspace, Logan, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Logan, UT. A newly developed Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) and Departure Procedure (DP) to the Logan-Cache 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 conducting IFR operations at Logan-Cache Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Logan-Cache Airport, Logan, UT.

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM-520.7, Federal Aviation Administration, Docket No. 00-ANM-14, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone number: (425) 227-2527.

SUPPLEMENTARY INFORMATION:**History**

On August 14, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Logan, UT, in order to provide a safer IFR environment at Logan-Cache Airport, Logan, UT (66 FR 42619). This amendment provides additional Class E5 700-foot and 1,200-foot controlled airspace at Logan, UT, to contain aircraft executing the RNAV (Global Positioning System (GPS) RWY 35 and FELDI RNAV DP at Logan-Cache 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) revises Class E airspace at Logan, UT, in order to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Logan-Cache Airport, Logan, UT. This amendment revises Class E5 airspace at Logan, UT, to enhance safety and efficiency of IFR flight operations in the Logan, UT, 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 Instrument Flight Rules (IFR) at the Logan-Cache 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 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 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; 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 September 1, 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 UT E5 Logan, UT [Revised]

Logan-Cache Airport, UT
(lat. 41°47'16" N., long. 111°51'10" W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 42°03'30" N., long. 112°00'00" W.; to lat. 42°02'42" N., long. 111°46'00" W.; to lat. 41°07'30" N., long. 111°46'00" W.; to lat. 41°07'30" N., long. 111°57'23" W.; to lat. 41°47'30" N., long. 112°03'00" W.; to lat. 42°01'20" N., long. 112°03'00" W.; to lat. 42°03'15" N., long. 112°00'00" W.; thence to point of origin; and that airspace extending upward from 1,200 feet above the surface bounded on the north by the south edge of V-4, on the east by long. 111°40'33" W., on the south by the north edge of V-288, on the west by the east edge of V-21; that airspace extending upward from 10,500 feet MSL bounded on the northeast by the southwest edge of V-142, on the west by long. 111°40'33" W., and on the south by the north edge of V-288, excluding that airspace within the Evanston, WY, Class E airspace area.

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Issued in Washington, DC, on November 6, 2001.

Reginald C. Matthews,
Manager, Airspace and Rules Division.

[FR Doc. 01-28248 Filed 11-8-01; 8:45 am]

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DEPARTMENT OF JUSTICE**Office of the Attorney General****21 CFR Part 1306**

[AG Order No. 2534-2001]

Dispensing of Controlled Substances To Assist Suicide

AGENCY: Department of Justice.

ACTION: Interpretive rule.

SUMMARY: For the reasons provided in the memorandum set forth below, the Attorney General has determined that assisting suicide is not a "legitimate medical purpose" within the meaning of 21 CFR 1306.04 (2001), and that prescribing, dispensing, or administering federally controlled substances to assist suicide violates the Controlled Substances Act. Such conduct by a physician registered to dispense controlled substances may "render his registration . . . inconsistent with the public interest" and therefore subject to possible suspension or revocation under 21 U.S.C. 824(a)(4). The Attorney General's conclusion applies regardless of whether state law authorizes or permits such conduct by practitioners or others and regardless of the condition of the person whose suicide is assisted. The Attorney General recognizes, however, that pain management is a legitimate medical purpose justifying a physician's dispensing of controlled substances. Finally, the Attorney General's determination makes no change in the current standards and practices of the DEA in any State other than Oregon.

EFFECTIVE DATE: November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, telephone 202-307-7297.

SUPPLEMENTARY INFORMATION: The text of the Attorney General's memorandum follows:

Memorandum for Asa Hutchinson,
Administrator, The Drug Enforcement
Administration
From: John Ashcroft, Attorney General
Subject: *Dispensing of Controlled Substances
to Assist Suicide*

As you are aware, the Supreme Court reaffirmed last term that the application of federal law regulating controlled substances is uniform throughout the United States and may not be nullified by the legislative decisions of individual States. See *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483 (2001). In light of this decision, questions have been raised about the validity of an Attorney General letter dated June 5, 1998, which overruled an earlier Drug Enforcement Administration (DEA) determination that narcotics and other dangerous drugs controlled by federal law may not be dispensed consistently with the Controlled Substances Act, 21 U.S.C. 801-971 (1994 & Supp. II 1996) (CSA), to assist suicide in the United States. Upon review of the *Oakland Cannabis* decision and other relevant authorities, I have concluded that the DEA's original reading of the CSA—that controlled substances may not be dispensed to assist suicide—was correct. I therefore

advise you that the original DEA determination is reinstated and should be implemented as set forth in greater detail below.

The attached Office of Legal Counsel opinion, entitled "*Whether Physician-Assisted Suicide Serves a 'Legitimate Medical Purpose' Under The Drug Enforcement Administration's Regulations Implementing the Controlled Substances Act*" (June 27, 2001) ("OLC Opinion") (attached) sets forth the legal basis for my decision.

1. *Determination on Use of Federally Controlled Substances to Assist Suicide.* For the reasons set forth in the OLC Opinion, I hereby determine that assisting suicide is not a "legitimate medical purpose" within the meaning of 21 CFR § 1306.04 (2001), and that prescribing, dispensing, or administering federally controlled substances to assist suicide violates the CSA. Such conduct by a physician registered to dispense controlled substances may "render his registration * * * inconsistent with the public interest" and therefore subject to possible suspension or revocation under 21 U.S.C. 824(a)(4). This conclusion applies regardless of whether state law authorizes or permits such conduct by practitioners or others and regardless of the condition of the person whose suicide is assisted.

I hereby direct the DEA, effective upon publication of this memorandum in the **Federal Register**, to enforce and apply this determination, notwithstanding anything to the contrary in the June 5, 1998, Attorney General's letter.

2. *Use of Controlled Substances to Manage Pain Promoted.* Pain management, rather than assisted suicide, has long been recognized as a legitimate medical purpose justifying physicians' dispensing of controlled substances. There are important medical, ethical, and legal distinctions between intentionally causing a patient's death and providing sufficient dosages of pain medication necessary to eliminate or alleviate pain.

3. *No Change in Current DEA Policies and Enforcement Practices Outside Oregon.* The reinstated determination makes no change in the current standards and practices of the DEA in any State other than Oregon. Former Attorney General Janet Reno's June 5, 1998, letter relating to this matter emphasized that action to revoke the DEA registration of a physician who uses federally controlled substances to assist a suicide "may well be warranted * * * where a physician assists in a suicide in a state that has not authorized the practice under any conditions." The reinstated determination does not portend any increase in investigative activity or other change from the manner in which the DEA presently enforces this policy outside of Oregon.

4. *Enforcement in Oregon.* Under 3 Oregon Revised Statutes (O.R.S.) § 127.855 (1999), an attending physician who writes a prescription for medication to end the life of a qualified patient must document the medication prescribed. Under 3 O.R.S. § 127.865(1)(b) (1999), the State of Oregon's Health Division must require any health care provider upon dispensing medication

pursuant to the Death with Dignity Act to file a copy of the dispensing record with the Division. Those records should contain the information necessary to determine whether those holding DEA registrations who assist suicides in accordance with Oregon law are prescribing federally controlled substances for that purpose in violation of the CSA as construed by this Memorandum and the attached OLC Opinion.

The Department has the authority to take appropriate measures to obtain copies of any such reports or records sent to the Oregon State Registrar. See 21 U.S.C. 876. When inspection of these documents discloses prohibited prescription of controlled substances to assist suicide following the effective date of this memorandum, then appropriate administrative action may be taken in accordance with 21 CFR §§ 1316.41 to 1316.68 (2001).

Thus, it should be possible to identify the cases in which federally controlled substances are used to assist suicide in Oregon in compliance with Oregon law by obtaining reports from the Oregon State Registrar without having to review patient medical records or otherwise investigate doctors. Accordingly, implementation of this directive in Oregon should not change the DEA's current practices with regard to enforcing the CSA so as materially to increase monitoring or investigation of physicians or other health care providers or to increase review of physicians' prescribing patterns of controlled substances used for pain relief.

5. *Distribution.* Please ensure that this Memorandum and the OLC opinion on which it is based are promptly distributed to appropriate DEA personnel, especially those with authority over the enforcement of the CSA in Oregon.

Attachment

Note: The attachment containing the Office of Legal Counsel opinion dated June 27, 2001, does not appear in the **Federal Register**. It is available from the Drug Enforcement Administration at the address listed in **FOR FURTHER INFORMATION CONTACT**.

Dated: November 6, 2001.

John Ashcroft,
Attorney General.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

Acquisition of Title to Land in Trust

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Withdrawal of final rule.

SUMMARY: This action withdraws the final rule published in the **Federal Register** on January 16, 2001, entitled "Acquisition of Title to Land in Trust."