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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30809; Amdt. No. 3449]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 25, 2011. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 25, 2011.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/>

*federal register/
code of federal regulations/
ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Richard A. Dunham III, Flight Procedure Standards Branch (AFS-420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes

contained for each SIAP as modified by FDC/P-NOTAMs.

The SIAPs, as modified by FDC P-NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on October 14, 2011.

Ray Towles,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV;

§ 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

* * *Effective Upon Publication

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
17–Nov–11 ...	AZ	Phoenix	Phoenix Sky Harbor Intl	1/0068	9/23/11	This NOTAM, published in TL 11–23, is hereby rescinded in its entirety.
17–Nov–11 ...	GQ	Agana	Guam Intl	1/0544	9/29/11	This NOTAM, published in TL 11–23, is hereby rescinded in its entirety.
17–Nov–11 ...	GQ	Agana	Guam Intl	1/0545	9/29/11	This NOTAM, published in TL 11–23, is hereby rescinded in its entirety.
17–Nov–11 ...	GQ	Agana	Guam Intl	1/0546	9/29/11	This NOTAM, published in TL 11–23, is hereby rescinded in its entirety.
17–Nov–11 ...	GQ	Agana	Guam Intl	1/0547	9/29/11	This NOTAM, published in TL 11–23, is hereby rescinded in its entirety.
17–Nov–11 ...	CA	Los Angeles ..	Los Angeles Intl	1/0228	10/4/11	RNAV (RNP) Z RWY 6R, Orig.
17–Nov–11 ...	CA	Los Angeles ..	Los Angeles Intl	1/0229	10/4/11	RNAV (RNP) Z RWY 7L, Orig.
17–Nov–11 ...	CA	Los Angeles ..	Los Angeles Intl	1/0231	10/4/11	RNAV (RNP) Z RWY 24R, Orig.
17–Nov–11 ...	CA	Los Angeles ..	Los Angeles Intl	1/0233	10/4/11	RNAV (RNP) Z RWY 7R, Orig.
17–Nov–11 ...	CA	Los Angeles ..	Los Angeles Intl	1/0234	10/4/11	RNAV (RNP) Z RWY 6L, Orig.
17–Nov–11 ...	ID	Boise	Boise Air Terminal/Gowen Fld.	1/0239	8/9/11	RNAV (RNP) Z RWY 28R, Orig-A.
17–Nov–11 ...	ID	Boise	Boise Air Terminal/Gowen Fld.	1/0240	8/9/11	RNAV (RNP) Z RWY 10L, Orig-A.
17–Nov–11 ...	ID	Boise	Boise Air Terminal/Gowen Fld.	1/0242	8/9/11	RNAV (RNP) Z RWY 10R, Orig-A.
17–Nov–11 ...	ID	Boise	Boise Air Terminal/Gowen Fld.	1/0243	8/9/11	RNAV (RNP) Z RWY 28L, Orig-A.
17–Nov–11 ...	ID	Hailey	Friedman Memorial	1/0586	9/23/11	RNAV (RNP) Y RWY 31, Amdt 1A.
17–Nov–11 ...	AZ	Tucson	Tucson Intl	1/0831	10/4/11	RNAV (RNP) Y RWY 29R, Orig.
17–Nov–11 ...	AZ	Tucson	Tucson Intl	1/0832	10/4/11	RNAV (RNP) Y RWY 11L, Orig.
17–Nov–11 ...	PA	Zellienople	Zellienople Muni	1/2717	10/6/11	RNAV (GPS) RWY 35, Orig-C.
17–Nov–11 ...	MT	Butte	Bert Mooney	1/3061	9/26/11	ILS Y RWY 15, Amdt 7.
17–Nov–11 ...	OH	Chillicothe	Ross County	1/3080	10/6/11	Takeoff Minimums and Obstacle DP, Amdt 3.
17–Nov–11 ...	OH	Chillicothe	Ross County	1/3081	10/6/11	RNAV (GPS) RWY 23, Orig-A.
17–Nov–11 ...	FL	Ocala	Ocala Intl-Jim Taylor Field	1/3325	10/6/11	RNAV (GPS) RWY 18, Amdt 2.
17–Nov–11 ...	VA	Norfolk	Norfolk Intl	1/3530	10/6/11	ILS OR LOC RWY 5, Amdt 25.
17–Nov–11 ...	OR	Eugene	Mahlon Sweet Field	1/3644	9/28/11	RNAV (RNP) Z RWY 16L, Orig.
17–Nov–11 ...	IL	Effingham	Effingham County Memorial	1/4102	10/4/11	VOR RWY 1, Amdt 10.
17–Nov–11 ...	IL	Effingham	Effingham County Memorial	1/4103	10/4/11	RNAV (GPS) RWY 1, Orig.
17–Nov–11 ...	IL	Effingham	Effingham County Memorial	1/4104	10/4/11	Takeoff Minimums and Obstacle DP, Amdt 5.
17–Nov–11 ...	IL	Effingham	Effingham County Memorial	1/4107	10/4/11	LOC RWY 29, Amdt 1C.
17–Nov–11 ...	MI	Lansing	Capital Region Intl	1/4472	10/6/11	ILS OR LOC RWY 28L, Amdt 26A.
17–Nov–11 ...	TX	Uvalde	Garner Field	1/4475	10/6/11	RNAV (GPS) RWY 33, Orig.
17–Nov–11 ...	GA	Atlanta	Hartsfield-Jackson Atlanta Intl.	1/4513	10/6/11	ILS OR LOC RWY 27L, Amdt 16A; ILS RWY 27L (CAT II), Amdt 16A.
17–Nov–11 ...	NC	Goldsboro	Goldsboro-Wayne Muni	1/4568	10/4/11	Takeoff Minimums and Obstacle DP, Amdt 1.
17–Nov–11 ...	ME	Presque Isle ..	Northern Maine Rgnl Arpt At Presque Isle.	1/4664	10/4/11	Takeoff Minimums and Obstacle DP, Amdt 4.
17–Nov–11 ...	NE	Columbus	Columbus Muni	1/7813	9/19/11	VOR RWY 14, Amdt B.
17–Nov–11 ...	NE	Columbus	Columbus Muni	1/7814	9/19/11	VOR RWY 32, Amdt 14A.
17–Nov–11 ...	NE	Columbus	Columbus Muni	1/7815	9/19/11	VOR/DME RWY 32, Amdt 3.
17–Nov–11 ...	NE	Columbus	Columbus Muni	1/7816	9/19/11	LOC/DME RWY 14, Amdt 8A.
17–Nov–11 ...	NE	Columbus	Columbus Muni	1/7817	9/19/11	RNAV (GPS) RWY 14, Orig-A.
17–Nov–11 ...	MO	Kansas City ...	Charles B. Wheeler Down-town.	1/8566	9/19/11	ILS OR LOC RWY 19, Amdt 22.
17–Nov–11 ...	IA	Dubuque	Dubuque Rgnl	1/9888	9/23/11	VOR RWY 36, Amdt 6A.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 162 and 163

[CBP Dec. 11-20; USCBP-2009-0029]

RIN 1515-AD65 (Formerly RIN 1505-AC00)

CBP Audit Procedures; Use of Sampling Methods and Offsetting of Overpayments and Over-Declarations

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations by adding provisions for the use of sampling methods in CBP audits and prior disclosure cases and for the offsetting of overpayments and over-declarations when an audit involves a calculation of lost duties, taxes, or fees or monetary penalties under 19 U.S.C. 1592. The sampling provision may be used by both CBP and private parties in certain circumstances. The offsetting provision is in accordance with CBP's authority under 19 U.S.C. 1509(b)(6).

DATES: This rule is effective December 27, 2011.

FOR FURTHER INFORMATION CONTACT: For Legal Aspects: Alan C. Cohen, Penalties Branch, Regulations and Rulings, Office of International Trade (202) 325-0062; For Audit and Operational Aspects: Keith Richard, Regulatory Audit, Office of International Trade, (704) 401-4701.

SUPPLEMENTARY INFORMATION:

I. Background

CBP is authorized to conduct audits under 19 U.S.C. 1509 (section 1509) (sometimes referred to in this document as CBP audits or section 1509 audits). The statute authorizes CBP to examine the records of, including conducting an audit of, parties subject to the agency's authority for the following purposes: ascertaining the correctness of any entry; determining the liability of any person for duty, fees, and taxes due, or which may be due, the United States; determining liability for fines and penalties; or insuring compliance with the laws of the United States administered by CBP. Under section 1509(b), specific procedures are set forth

for conducting a formal audit authorized under the statute.

On October 21, 2009, CBP published in the **Federal Register** (74 FR 53964) a proposed rule to amend title 19 of the Code of Federal Regulations (19 CFR) pertaining to prior disclosure procedures and audit procedures by amending §§ 162.74, 163.1, and 163.11 (19 CFR 162.74, 163.1 and 163.11). The proposed amendments concerned the use of statistical sampling methods by CBP and private parties and the offsetting of overpayments of duties and fees or over-declarations of quantities or values on finally liquidated entries¹ against underpayments or under-declarations on finally liquidated entries under certain prescribed circumstances. The proposed changes regarding sampling methods were designed to reflect in the regulations (19 CFR 163.11) a practice recognized in both government and industry as the most practical and expeditious way to reliably assess voluminous numbers of transactions, such as are often encountered per audit in the modern commercial importation environment. A corresponding change was proposed to the CBP prior disclosure regulations (19 CFR 162.74) to reflect that sampling may be used by private parties submitting prior disclosures. The proposed changes regarding offsetting reflected the amendment made by the Trade Act of 2002 ("Trade Act") (Pub. L. 107-210, 116 Stat. 933 (2002)) to section 1509 pertaining to CBP audit procedures (19 CFR 163.11).

Section 382 of the Trade Act amended section 1509(b) by adding the following paragraph (6):

(6)(A) If, during the course of any audit conducted under this subsection, the Customs Service [now CBP] identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service [CBP] has defined, then in calculating the loss of revenue or monetary penalties under section 592 [of the Tariff Act of 1930, as amended; 19 U.S.C. 1592], the Customs Service [CBP] shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or under-declarations also identified on finally liquidated entries, if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

¹ The term "liquidation" refers to the formal fixing of the terms of the entry by CBP. In liquidation, CBP fixes the appraisement, classification, and duties, taxes, and fees owed on imported merchandise (19 U.S.C. 1500). An entry is said to be "finally liquidated" when the period for filing a protest under 19 U.S.C. 1514 has expired. To protest the liquidation of an entry, the protest must be filed within 180 days of the date of liquidation (19 U.S.C. 1514(c)(3)(A)).

(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520 [of the Tariff Act of 1930, as amended, 19 U.S.C. 1520].

The proposed amendments also included removal of the term "compliance assessments" from 19 CFR Part 163 as the term has become superfluous as a result of CBP policy changes with respect to audits.

II. Discussion of Comments

Comments were solicited on the proposed rule, and nine commenters responded. Collectively, the commenters raised numerous issues that CBP sets forth and responds to below.

A. Proposed Amendments Regarding Statistical Sampling

Comment: One commenter asserted that there is no authority in the customs laws for CBP to employ statistical sampling in an audit and that customs laws and regulations require an entry-by-entry review.

CBP response: CBP disagrees. Under section 1509, CBP is authorized to conduct audits of importers (and others subject to the customs laws and other laws enforced by CBP) to ensure compliance with the customs laws of the United States and other laws enforced by CBP. Section 1509 does not specify or limit the methods CBP may use in conducting an audit, thereby leaving these decisions to CBP discretion. Statistical sampling is a legitimate and widely accepted method of examining vast amounts of data to produce reliable results. As pointed out in the proposed rule regarding the proposed offsetting amendments, Congress acknowledged that CBP has and retains the authority to define an audit's time period, scope, and methodology.²

Comment: Several commenters requested that CBP provide audit guidelines and/or an informed compliance publication on statistical sampling that includes information on statistical sampling factors and parameters used by CBP in audits. These aids would help importers understand statistical sampling and effectively apply sampling in internal audits and prior disclosures.

² In House Report 107-320 pertaining to the offsetting law, Congress provided that "[a] government audit should be an even-handed and neutral evaluation of a person's compliance with the law."

* * * The Committee redrafted this provision on the basis of concerns from Customs [now CBP]. It is the Committee's intention that this provision shall not affect in any way Customs' [CBP's] current authority to define an audit's scope, time period, and methodology." While this report applies to the offsetting law, this statement of Congressional intent is relevant to CBP's audit authority.