

Dated: November 19, 2019.

**Joseph M. Otting,**

*Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System, November 19, 2019.

**Ann E. Misback,**

*Secretary of the Board.*

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on November 19, 2019.

**Annmarie H. Boyd,**

*Assistant Executive Secretary.*

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Chapter X

#### Policy Statement on Compliance Aids

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Policy statement.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is publishing this policy statement in order to announce a new designation for certain Bureau guidance, known as “Compliance Aids,” and to explain the legal status and role of guidance with that designation.

**DATES:** This policy statement becomes applicable on February 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher Shelton, Counsel, or Lea Mosena, Senior Counsel, Legal Division, 202-435-7700. Regulatory inquiries can be submitted at <https://reginquiries.consumerfinance.gov/>. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Bureau’s “primary functions” under the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>1</sup> include issuing guidance implementing Federal consumer financial law.<sup>2</sup> The Bureau believes that providing clear and

useful guidance to regulated entities is an important aspect of facilitating markets that serve consumers.

Since its inception, the Bureau has provided guidance through a variety of means, and its guidance functions have evolved and are continuing to evolve in response to feedback from industry and other stakeholders. Some examples of compliance resources that the Bureau has released include small entity compliance guides, instructional guides for disclosure forms, executive summaries, summaries of regulation changes, factsheets, flow charts, compliance checklists, frequently asked questions, and summary tables.

##### II. Policy Statement on Compliance Aids

Going forward, the Bureau intends to establish a new category of materials that are similar to previous compliance resources but will now be designated as “Compliance Aids.” This designation will provide the public with greater clarity regarding the legal status and role of these materials, as discussed below.<sup>3</sup>

The Bureau does not intend to use Compliance Aids to make decisions that bind regulated entities. Unlike the Bureau’s regulations and official interpretations, Compliance Aids are not “rules” under the Administrative Procedure Act.<sup>4</sup> Rather, Compliance Aids present the requirements of existing rules and statutes in a manner that is useful for compliance professionals, other industry stakeholders, and the public.<sup>5</sup> Compliance Aids may also include practical suggestions for how entities might choose to go about complying

<sup>3</sup> This policy statement does not apply to materials that do not bear the label “Compliance Aid,” or to the use of outdated materials that have been withdrawn or superseded. It also does not alter the status of materials that were issued before this policy statement, although the Bureau may re-issue certain existing materials as Compliance Aids if it is in the public interest and as Bureau resources permit. Moreover, this policy statement does not determine the policies of regulators other than the Bureau.

<sup>4</sup> Under the Administrative Procedure Act, generally a “rule” is an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. 5 U.S.C. 551(4). The three main categories of rules are substantive rules, interpretive rules, and general statements of policy. Some examples of rules are regulations like Regulation Z, 12 CFR part 1026, and official interpretations like the Official Interpretations to Regulation Z, 12 CFR part 1026, supp. I.

<sup>5</sup> See, e.g., *Golden & Zimmerman, LLC v. Domenech*, 599 F.3d 426, 432 (4th Cir. 2010) (agency documents like FAQs that “restate or report what already exists in the relevant body of statutes, regulations, and rulings” are not themselves rules under the Administrative Procedure Act).

with those rules and statutes.<sup>6</sup> But they may not address all situations. Where there are multiple methods of compliance that are permitted by the applicable rules and statutes, an entity can make its own business decision regarding which method to use, and this may include a method that is not specifically addressed in a Compliance Aid. In sum, regulated entities are not required to comply with the Compliance Aids themselves. Regulated entities are only required to comply with the underlying rules and statutes.

Compliance Aids are designed to accurately summarize and illustrate the underlying rules and statutes. Accordingly, when exercising its enforcement and supervisory discretion, the Bureau does not intend to sanction, or ask a court to sanction, entities that reasonably rely on Compliance Aids.

##### II. Regulatory Requirements

This policy statement constitutes a general statement of policy that is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act.<sup>7</sup> It is intended to provide information regarding the Bureau’s general plans to exercise its discretion and does not confer any rights. Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.<sup>8</sup> The Bureau has also determined that this policy statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.<sup>9</sup>

Pursuant to the Congressional Review Act,<sup>10</sup> the Bureau will submit a report containing this policy statement and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to its applicability date. The Office of Information and Regulatory Affairs has designated this policy statement as not a “major rule” as defined by 5 U.S.C. 804(2).

<sup>6</sup> See, e.g., *Indus. Safety Equip. Ass’n, Inc. v. EPA*, 837 F.2d 1115, 1120–21 (D.C. Cir. 1988) (an agency’s “hortatory advice” regarding potential methods for complying with a rule is not itself a rule under the Administrative Procedure Act).

<sup>7</sup> 5 U.S.C. 553(b). However, this is not a “statement of policy” as that term is specifically used in Regulation X, 12 CFR 1024.4(a)(1)(ii).

<sup>8</sup> 5 U.S.C. 603(a), 604(a).

<sup>9</sup> 44 U.S.C. 3501–3521.

<sup>10</sup> 5 U.S.C. 801–808.

<sup>1</sup> Public Law 111–203, 124 Stat. 2081 (2010).

<sup>2</sup> 12 U.S.C. 5511(c)(5). Moreover, the Dodd-Frank Act authorizes the Director of the Bureau to issue guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws and to prevent evasions thereof. 12 U.S.C. 5512(b)(1). Additionally, the Bureau is authorized to establish general policies, including with respect to implementing the Federal consumer financial laws through guidance. 12 U.S.C. 5492(a)(10).

Dated: January 10, 2020.

**Kathleen L. Kraninger,**

*Director, Bureau of Consumer Financial Protection.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 97

[Docket No. 31292; Amdt. No. 3887]

#### 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 removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) 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 January 27, 2020. 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 January 27, 2020.

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

#### For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 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, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at [nfdc.faa.gov](http://nfdc.faa.gov) to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29 Room 104, Oklahoma City, OK 73169. Telephone: (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead 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, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the

airport and its location, the procedure, and the amendment number.

#### Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

#### The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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