



Chapter 736 Newsletter for April 2015

FAA releases list of instrument approaches to be eliminated

The FAA has published a list of 736 redundant or underutilized VOR and NDB standard instrument approach procedures that it proposes to eliminate as the agency moves forward with implementation of the NextGen satellite-based air traffic system.

The long-awaited list, published in the Federal Register in a [notice of proposed rulemaking](#) on April 13, was based on criteria established in 2014 by the VOR Minimum Operational Network Working Group

The goal of the working group is to ensure that a scaled-back VOR system is maintained well into the future, even as the system and operators move to satellite-based navigation. Members may submit comments to the FAA on the list by May 28 as provided below.

The FAA said “complexity and cost” ruled out maintaining all existing approach infrastructure during the transition to new technology. The agency originally [set a target](#) of reducing the number of VORs from approximately 967 operating in late 2012 to 500 in service by Jan. 1, 2020, the target date for full implementation of NextGen. However, based on industry feedback and coverage requirements, the FAA has revised that target to 867 VORs in service by Jan. 1, 2020, and 667 by 2025.

As new technology facilitates the introduction of area navigation (RNAV) instrument approach procedures, the number of procedures available in the National Airspace System has nearly doubled over the past decade. The complexity and cost to the FAA of maintaining the existing ground-based navigational infrastructure while expanding the new RNAV capability is not sustainable.

You may review the list of instrument approach procedures selected for elimination in the Federal Register notice, or on [the FAA website](#).

To submit comments on the proposal by May 28, please cite docket number FAA-2015-0783. Comments may be [submitted online](#) or by mail to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

EASA Moves Forward On Certification Simplification

New draft regulations published on Wednesday by the European Aviation Safety Agency raised hopes among industry advocates that it will become easier and faster to certify new airplanes and other aviation products. "These new rules will shift the methods of design compliance from an outdated, prescriptive system into standards that are continually evolved by the world's aviation experts," said Ed Smith, GAMA senior vice president of international and environmental affairs. At Aero Friedrichshafen, GAMA's European expert, Greg Bowles, told *AVweb* the new rules will "bring in a new era of certification for light airplanes." The EASA effort is working in coordination with regulators in the U.S., Canada, China and around the world, he said.

"The goal is to have one international, harmonized set of rules," Bowles said. "Safety would be the goal." He hopes to see final rules in place and real impacts on the aviation world within the next couple of years. "We are looking at a sea change of what airplanes might look like in the future," he said. The rules will shift from a regulation that's 170 pages long to one that's 19 pages, and will work in concert with industry ASTM standards that will be able to accommodate new technology and keep pace with innovation. In a news release, GAMA senior vice president of international affairs Ed Smith also welcomed the new EASA proposal. EASA has indicated this new set of rules will be in place by mid-2016, according to GAMA. "As a result of these changes, we are on the cusp of a new era, where product development is limited only by the pace of technological innovation," said Smith.

Hand propping

There is no specific FAA regulation that applies to hand propping an airplane, either to prohibit it or to direct how it is to be done. It's an action that can be accomplished safely. For many who operate airplanes without starters, it is commonplace and, of course, necessary in order to go flying.

The FAA contends that hand propping is a two-person operation and has expressed this view in the *Airplane Flying Handbook (FAA-H-8083-3A)* under the section titled "Hand propping." Of course, this publication is not regulatory, but the NTSB was surely influenced by it in a 1983 legal decision. In that case, the FAA sought to suspend a pilot's certificate for being careless or reckless when, while attempting to start a VariEze experimental aircraft, it "got away" and ran into a parked aircraft. At the initial hearing, the NTSB administrative law judge ruled in favor of the FAA and ordered a 40-day suspension. The pilot appealed the judge's decision to the full board.

The pilot testified that he was having trouble starting the engine because it was flooded. He sought the assistance of a nonpilot companion who was instructed to reach inside the cockpit and pull the throttle back when the engine started (yes, the throttle was in the full open position). Well, the engine started, the companion failed to close the throttle and the airplane indeed "got away." The board affirmed the administrative law judge's finding that there had been a 91.10 (now 91.13) violation. The board maintained that, "The standard procedures set forth in the Federal Aviation Administration's Flight Training Handbook provide that an engine should never be hand-propped unless a qualified

individual is seated at the controls and the brake is set. In addition, the Handbook urges that chocks be placed in front of the main wheels and that if this is not possible, the airplane's tail should be securely tied down.”

There have been at least two previously issued NTSB (full board) decisions and one subsequent decision that refer to these generally accepted procedures and precautions for hand propping. The precedent has been set. So, hand proppers beware; if you fail to follow proper precautions and the airplane gets away, the FAA might pursue action against you for being careless or reckless.

Pilot's Bill of Rights 2 gains support

Support continues to grow for the Pilot's Bill of Rights 2, which would reform the third class medical process and provide a wide range of protections for pilots.

While the provisions of the Pilot's Bill of Rights 2 that deal with third class medical reform have received the most attention in the general aviation community, the legislation also includes numerous other protections for pilots, particularly those involved in FAA investigations or enforcement actions.

One portion of the legislation expands on the original Pilot's Bill of Rights that was signed into law in 2012, extending the protections contained in the original bill to all FAA certificate holders.

The new legislation also clarifies that pilots who are facing an FAA enforcement or certificate action can choose to appeal directly either to a U.S. district court or to the National Transportation Safety Board for a trial or a full hearing. While retaining the ability for the matter to be heard by NTSB administrative law judges, this gives pilots the opportunity to have their case heard, instead, in a court of law by a neutral third party and holds the FAA to a strict standard of proof.

To ensure that certificate holders are given a fair chance to respond to a notification of an FAA investigation, the Pilot's Bill of Rights 2 would require the FAA to provide a specific description of the incident being investigated, making it easier for the certificate holder to understand the nature of the issues under consideration and respond appropriately.

A certificate holder can only respond to the FAA's concerns if he or she knows what they are. Under the Pilot's Bill of Rights 2, if the FAA fails to provide timely notification that it is initiating an investigation, the agency cannot move forward with any administrative or enforcement action or retain any records related to the case.

To prevent placing undue burdens on certificate holders and to guard against an investigation from being used as a platform to freely intrude into unrelated areas, the Pilot's Bill of Rights 2 would only allow the FAA to demand documents from the certificate holder that relate to the issues identified in its notification of investigation.

The FAA also would be prohibited from publicizing any pending enforcement actions. If no enforcement action is taken, the Pilot's Bill of Rights 2 would prohibit the FAA from retaining investigative records for more than 90 days.

If the FAA does take an enforcement action or issue an emergency order, it would be required to provide the certificate holder with a copy of the releasable portion of the Enforcement Investigative Report (EIR).

To improve the efficiency of the FAA enforcement process and help assure greater fairness for pilots, the Pilot's Bill of Rights 2 also would give FAA lawyers more flexibility to resolve cases administratively through actions such as warning letters or letters of correction.

The Pilot's Bill of Rights 2 takes further steps to protect certificate holders by prohibiting the FAA from requiring pilots to submit to re-examination of their pilot certificate unless there is clear evidence of unsafe behavior on the part of the pilot or the pilot has obtained his or her certificate through fraudulent means. If the FAA does require re-examination of a pilot, the agency would be required to first give the airman a detailed explanation of the reason, and if the FAA takes action against the airman's certificate as a result of the re-examination, the airman would, in turn, have the right to appeal.

The Pilot's Bill of Rights 2 also includes provisions to expedite improvements to the notam system. Under the legislation, notams must be maintained in a public repository that is Internet accessible, machine readable, and searchable. Temporary flight restrictions (TFRs) also will have to be included in the repository. Additionally, the FAA must establish a rating system that prioritizes the notam according to timeliness and importance. If the FAA doesn't meet the legislation's timeline for making the updates or if a notam is not included in the repository, the FAA won't be allowed to take enforcement actions based on a notam violation.

To ensure that pilots have access to critical records pertaining to an investigation or enforcement action, the Pilot's Bill of Rights 2 would make the flight data records maintained by contract towers, flight service stations, and other FAA contractors subject to the Freedom of Information Act.

Next Meeting

Our next meeting will be held at Curtis Air at the Pittsfield Municipal Airport on Monday, May 18th. Start time has yet to be determined. A notice will be sent when it has been established.