

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**T-204 Taylor, FL to Brunswick, GA [New]**

Taylor, FL (TAY) .....	VORTAC .....	(Lat. 30°30'17" N., long. 82°33'11" W.)
Brunswick, GA (SSI) .....	VORTAC .....	(Lat. 31°03'02" N., long. 81°26'46" W.)

\* \* \* \* \*

**T-205 Ocala, FL to Valdosta, GA [New]**

Ocala, FL (OCF) .....	VORTAC .....	(Lat. 29°10'39" N., long. 82°13'35" W.)
Valdosta, GA (OTK) .....	VOR/DME .....	(Lat. 30°46'50" N., long. 83°16'47" W.)

\* \* \* \* \*

**T-207 Ormond Beach, FL to Waycross, GA [New]**

Ormond Beach, FL (OMN) .....	VORTAC .....	(Lat. 29°18'12" N., long. 81°06'46" W.)
CARRA .....	Fix .....	(Lat. 29°43'51" N., long. 81°36'29" W.)
Cecil, FL (VQQ) .....	VOR .....	(Lat. 30°12'47" N., long. 81°53'27" W.)
MONIA, FL .....	Fix .....	(Lat. 30°28'49" N., long. 82°02'53" W.)
Waycross, GA (AYS) .....	VORTAC .....	(Lat. 31°16'10" N., long. 82°33'23" W.)

\* \* \* \* \*

**T-208 Gators, FL to Ormond Beach, FL [New]**

Gators, FL (GNV) .....	VORTAC .....	(Lat. 29°41'32" N., long. 82°16'23" W.)
CARRA .....	Fix .....	(Lat. 29°43'51" N., long. 81°36'29" W.)
Ormond Beach, FL (OMN) .....	VORTAC .....	(Lat. 29°18'12" N., long. 81°06'46" W.)

\* \* \* \* \*

**T-211 Ocala, FL to Craig, FL [New]**

Ocala, FL (OCF) .....	VORTAC .....	(Lat. 29°10'39" N., long. 82°13'35" W.)
JUTTS .....	WP .....	(Lat. 29°36'00" N., long. 82°02'00" W.)
CARRA .....	Fix .....	(Lat. 29°43'51" N., long. 81°36'29" W.)
Craig, FL (CRG) .....	VORTAC .....	(Lat. 30°20'20" N., long. 81°30'36" W.)

\* \* \* \* \*

Issued in Washington, DC on October 27, 2005.

**Edith V. Parish,**

*Manager, Airspace and Rules.*

[FR Doc. 05-21879 Filed 11-1-05; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 93**

[Docket No. FAA-2005-19411; SFAR No. 105]

**RIN 2120-A147**

**Reservation System for Unscheduled Arrivals at Chicago's O'Hare International Airport**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; extension of expiration date.

**SUMMARY:** This action extends the expiration date of Special Federal

**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 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 FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

*Paragraph 6011 Area Navigation Routes*

\* \* \* \* \*

Aviation Regulation (SFAR) No. 105 through March 31, 2006. This action is necessary to maintain the reservation system established for unscheduled arrivals at O'Hare International Airport while the FAA completes rulemaking associated with scheduled arrivals at the airport.

**DATES:** This final rule is effective on October 28, 2005, and SFAR No. 105 published at 70 FR 39610 (July 8, 2005), as amended in this rule, shall remain in effect until March 31, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Gerry Shakley, System Operations Services, Air Traffic Organization; Telephone: (202) 267-9424; E-mail: [gerry.shakley@faa.gov](mailto:gerry.shakley@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or

(3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

**Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out

more about SBREFA on the Internet at our site, [http://www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

#### Authority for This Rulemaking

The U.S. Government has exclusive sovereignty over the airspace of the United States.<sup>1</sup> Under this broad authority, Congress has delegated to the Administrator extensive and plenary authority to ensure the safety of aircraft and the efficient use of the Nation's navigable airspace. In this regard, the Administrator is required to assign by regulation or order use of the airspace to ensure its efficient use.<sup>2</sup>

The FAA's broad statutory authority to manage the efficient use of airspace encompasses management of the nationwide system of air commerce and air traffic control. To ensure the efficient use of the airspace, the FAA must take steps to prevent congestion at an airport from disrupting or adversely affecting the air traffic system for which the FAA is responsible. Inordinate delays of the sort experienced at O'Hare in late 2003 and much of 2004 can have a crippling effect on other parts of the system, causing significant losses in time and money for individuals and businesses, as well as the air carriers and other operators at O'Hare and beyond. This rule facilitates the Agency's exercise of its authority to manage the safe and efficient use of the navigable airspace.

#### Background

Since November 2003, O'Hare has suffered an inordinate and unacceptable number of delays as the result of over-scheduling at the airport, which was also having a crippling effect on the entire National Airspace System. In August 2004, the FAA intervened by ordering a limit on the number of scheduled arrivals at the airport during the peak operating hours of 7 a.m. through 8:59 p.m., Central Time, effective November 1, 2004, so that the system could return to a reasonably balanced level of operations and delay.<sup>3</sup>

On October 20, 2004, we published a notice of proposed rulemaking (NPRM) seeking public comments on a proposed reservation system for unscheduled arrivals at O'Hare (69 FR 61708). While this rulemaking was pending, we implemented a corresponding voluntary reservation program for unscheduled arrivals using the general procedures followed during Special Traffic Management Programs and the High

Density Rule, effective November 1, 2004.

On July 8, 2005, the FAA published SFAR No. 105, "Reservation System for Unscheduled Arrivals at Chicago's O'Hare International Airport" (70 FR 39610). As we stated in SFAR No. 105, the benefits achieved by the FAA's August 18 Order would dissipate if certain operations at the airport remained capped but other operations were permitted to grow. SFAR No. 105 maintained the historical level of unscheduled operations at O'Hare and supported other agency actions at O'Hare that address congestion and delay until additional capacity exists at the airport.

In SFAR No. 105, we discussed that it may be necessary to extend this rule limiting unscheduled arrivals at O'Hare to coincide with a final rule addressing scheduled arrivals, if adopted, or with an extension of the August 2004 Order. The NPRM addressing scheduled arrivals at O'Hare was published on March 25, 2005 (70 FR 15520), and the agency is currently evaluating the comments. The FAA recently extended the August 2004 Order through April 1, 2006.<sup>4</sup> We conclude that it is necessary to extend SFAR 105 through March 31, 2006,<sup>5</sup> to maintain the current operating environment at the airport.

The 5-month extension is necessary to conclude any rulemaking addressing limits on scheduled arrivals and consider the effect that rulemaking will have, if any, on SFAR No. 105. We are not seeking public comment on this 5-month extension, as the extension is but for a limited duration and provides an interim measure pending adoption of a comprehensive regulation that addresses scheduled operations at the airport. If this SFAR needs to be extended beyond the date adopted here, the Agency will proceed with notice and comment procedures.

Therefore, we find that notice and comment procedures under 5 U.S.C. section 553(b) are impracticable and contrary to the public interest. We further find that good cause exists to make this rule effective in less than 30 days.

#### International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA

determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

#### Paperwork Reduction Act

Information collection requirements associated with this final rule have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120-0694.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted a copy of the new information collection requirements(s) in this final rule to the Office of Management and Budget (OMB) for its review. OMB approved the collection of this information and assigned OMB Control Number 2120-0694.

This final rule establishes a reservation system to limit the number of unscheduled aircraft arrivals at Chicago's O'Hare International Airport (O'Hare) during the peak hours of 7 a.m. through 8:59 p.m., Central Time, Monday through Friday, and 12 p.m. through 8:59 p.m. Central Time on Sunday. We received no comments from the public that specifically discussed information collection.

An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement, unless it displays a currently valid OMB control number.

#### Executive Order 12866 and DOT Regulatory Policies and Procedures

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandate Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the

<sup>1</sup> 49 U.S.C. 40103(a).

<sup>2</sup> 49 U.S.C. 40103(b)(1).

<sup>3</sup> Operating Limitations at Chicago International Airport. Docket No. FAA-2004-16944.

<sup>4</sup> See 70 FR 59798; October 13, 2005.

<sup>5</sup> The limits on unscheduled arrivals do not apply on Saturdays.

expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation). This portion of the preamble summarizes the FAA's analysis of the economic impact of this SFAR extension.

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a rule does not warrant a full evaluation, this order permits a statement to that effect. The basis for the minimal impact must be included in the preamble, if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for that determination follows:

In the preamble of SFAR No. 105, the FAA stated that we might consider extending SFAR 105 for a time period that would coincide with a final rule limiting scheduled operations. Because the Agency has not adopted a final rule limiting scheduled operations, the FAA is extending this SFAR through March 31, 2006. In the final economic assessment of SFAR No. 105, the FAA found that the rule provided system delay benefits at a minimal cost. The FAA finds that this extension is cost beneficial and will continue to provide system delay benefits at minimal cost.

#### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies consider flexible regulatory proposals, to explain the rationale for their actions, and to solicit comments. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA

provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule extends the expiration date of SFAR No. 105, which provides for fewer airport delays at a minimum cost. Just as in the initial and final regulatory flexibility analyses, the FAA expects there will be a substantial number of small entities affected by the extension of this final SFAR, however, the economic effect will continue to be insignificant. Therefore, as the FAA Administrator, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### **Trade Impact Assessment**

The Trade Agreements Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of the extension of this final rule and determined that it will not have an effect on foreign commerce.

#### **Unfunded Mandate Reform Act**

The Unfunded Mandate Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandate Reform Act of 1995 do not apply.

#### **Executive Order 13132, Federalism**

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We

determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

#### **Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f, and involves no extraordinary circumstances.

#### **Regulations That Significantly Affect Energy Supply, Distribution, or Use**

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### **List of Subjects in 14 CFR Part 93**

Air traffic control, Airports, Alaska, Navigation (air), Reporting and recordkeeping requirements.

#### **The Amendment**

■ For the reasons set forth above, the Federal Aviation Administration is amending chapter I of title 14 Code of Federal Regulations as follows:

#### **PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC**

■ 1. The authority citation for part 93 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

■ 2. Section 9 of Special Federal Aviation Regulation (SFAR) No. 105 is revised to read as follows:

#### **Special Federal Aviation Regulation No. 105—Operating Limitations for Unscheduled Operations at Chicago's O'Hare International Airport**

\* \* \* \* \*

Section 9. *Expiration.* This Special Federal Aviation Regulation expires at 9 p.m., Central Time, on March 31, 2006, unless sooner terminated.

Issued in Washington, DC, on October 27, 2005.

**Marion C. Blakey,**

*Administrator.*

[FR Doc. 05-21786 Filed 10-27-05; 4:47 pm]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 97

[Docket No. 30463; Amdt. No. 3139]

#### Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in 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 November 2, 2005. The compliance date for each SIAP 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 November 2, 2005.

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

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave., SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

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](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

*For Purchase—*Individual SIAP 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.

*By Subscription—*Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:**

Donald P. Pate, 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 amendment to Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the the National Flight Data Center (FDC)/Permanent Notice to Airmen (P-NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

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. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification 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 chart changes to SIAPs, the TERPS criteria were applied to only these 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.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. 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).