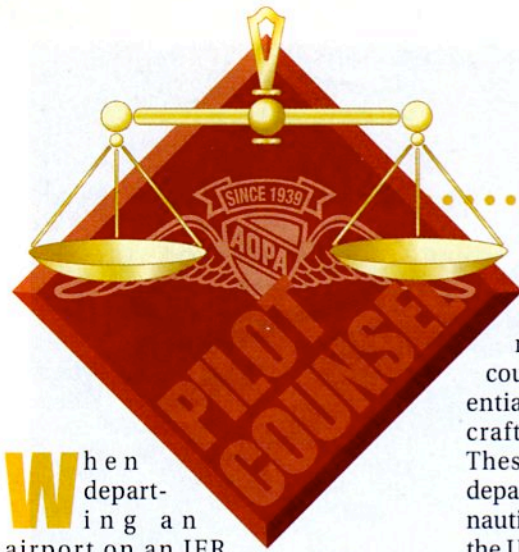


IFR departures

BY JOHN S. YODICE



When departing an airport on an IFR

clearance, must a pilot comply with an IFR departure procedure established for that airport?

Most of you will recognize that I wouldn't be asking such a question if the answer is as obvious as the question implies. There is some debate about it. The question was put to me. I researched it and found two FAA legal opinions that answer it.

The question was raised because in reading the wording of Federal Aviation Regulation 91.129 (also made applicable by FAR 91.130 and FAR 91.131), the answer seems to be "yes." Subsection (g) of FAR 91.129, which specifically deals with "departures," says: "No person may operate an aircraft departing from an airport except in compliance with the following: ...Each pilot must comply with any departure procedures established for that airport by the FAA."

The language seems pretty clear and unequivocal. But, hold on....

The real answer is "no." At least not unless a departure procedure is specifically included in the clearance, as for example, a SID (standard instrument departure procedure) for the airport.

How come? The two FAA legal opinions trace the regulatory history of FAR 91.129(g) and tell us that the language "departure procedures established for that airport by the FAA" should not be read too literally. It is clear from going back into the regulatory history of this provision that what the FAA meant, and still means, is that it applies only to local traffic pattern departure procedures.

The FAA has established local traffic patterns at many airports. These are the familiar traffic pattern depictions that are usually displayed for pilots on airport bulletin boards. They display entry and departure paths, direction of turns, and altitude requirements for use in

landing and departing particular runways, both IFR and VFR. These could also include a system of preferential runways to be used by large aircraft for both takeoffs and landings. These traffic patterns are *not* the IFR departure procedures specified on aeronautical charts provided by Jeppesen or the U.S. government.

These *FAA-established* traffic patterns should also be distinguished from locally established traffic patterns, which look very similar but don't carry the FAA authority. And, they should be distinguished from the *FAA recommended* traffic pattern—which applies generally, not to a specific airport, and is contained in FAA Advisory Circular No. 90-66A. It's also in the AOPA Air Safety Foundation's *Operations at Non-towered Airports Safety Advisor*.

So, the FAA legal opinions make it clear that the FAA does not mean to include IFR departure procedures in FAR 91.129(g), even though these procedures are literally "procedures established for that airport by the FAA."

For commercial operators, the exclusion of IFR departure procedures from the requirement in 91.129(g) may be only academic. A requirement to comply with IFR departure procedures will often be found in the airlines' "operations specifications" or some other pertinent regulation. In other words, commercial operators are generally required to comply with IFR departure procedures.

This interpretation of FAR 91.129(g) has important implications for pilots. It invites the question: If a pilot is not required to adhere to a published IFR departure procedure, what is there to assure the pilot of terrain and obstruction separation? In answering this question, it is of critical importance for a pilot to understand that terrain and obstruction clearance during an IFR departure is the responsibility of the pilot. The air traffic control system is not providing terrain and obstruction clearance until the flight is on a published route or procedure with a specified minimum instrument altitude, or is being radar vectored by ATC. It is the pilot's responsibility to get from the runway to a location where ground

clearance is being assured by the ATC system.

According to the *Aeronautical Information Manual*, controllers will immediately issue an alert to the pilot of an aircraft under their control when they recognize that the aircraft is at an altitude which, in their judgment, may be in unsafe proximity to terrain or obstructions. ATC relies primarily on Mode C automatic altitude reporting for detecting unsafe proximity. Once the alert is issued, it is solely the pilot's prerogative to determine what course of action, if any, to take.

In many operations, the weather is good enough that a pilot is able to maintain comfortable ground clearance until the flight gets on a published route at or above the minimum altitude, or gets established in radar contact.

When a pilot is operating in weather conditions where it could be problematic to maintain this clearance visually, the FAA encourages pilots operating under Part 91 to comply with IFR departure procedures even though not required by regulation. These procedures, which are specified in terminal procedures charts, have been established under criteria designed to ensure terrain and obstacle clearance from the airport to a published route with a minimum en route altitude, or until established in radar contact.

It is also important for a pilot to know that IFR departure procedures have been established for only a minority of airports. At other airports, if the weather is not good enough for a pilot to visually assure terrain and obstacle clearance on an IFR departure, the pilot must pre-plan a departure route within the aircraft's capabilities to assure clearance. A pilot should not rely on ATC for terrain and obstruction clearance until the aircraft has been radar identified *and* the controller begins to provide navigational guidance, i.e., radar vectors.

These FAA interpretations (FAA Chief Counsel Interpretations 1993-30 and 1996-7) are interesting. The more important value of them, I think, is to help remind pilots of their responsibilities for ground clearance on IFR departures. □