

**AERONAUTICAL CHARTING MEETING**  
**Instrument Procedures Group**  
**Meeting 22-01 – April 25-26, 2022**

**RECOMMENDATION DOCUMENT**

**FAA Control # 22-01-366**

**Subject:** Circling NA Areas Conflict with FAA Legal Council Limitations on Class G Right Traffic

**Background/Discussion:**

By way of example, the CEW VOR-A approach has a Category D restriction “Circling NA for Cat D west of Rwy 17-35.” The airport does not publish any right-hand traffic patterns. If a Category D aircraft wants to land on runway 35, they must use right traffic; however, FAA legal interpretations confirms 14 CFR 91.126(b)(1) requires all turns to the left (Murphy (2009), Collins (2013)).

Appendix A has the procedure.

Appendix B have legal interpretations from Murphy (2009) and Collins (2013) regarding right traffic in Class G.

Although CEW VOR-A is used as an exemplar, clearly this issue can be generalized to many other airports.

**Recommendations:**

For those airports having NA circling areas, procedure design should consider left hand traffic rules of 14 CFR 91.126(b)(1).

Here are options to resolve the issue:

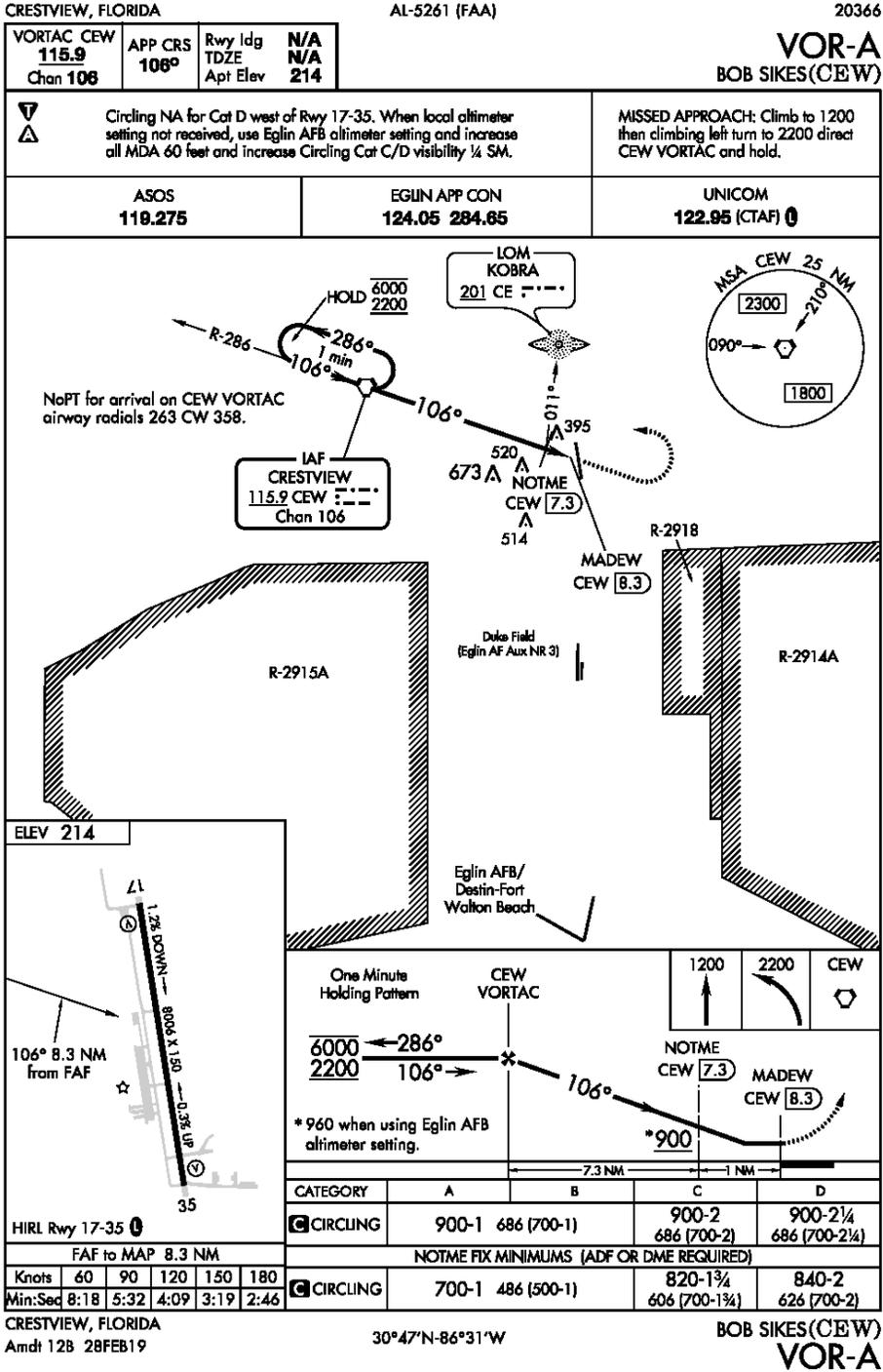
- Update 14 CFR 91.126(b)(1) to allow for IFR right-hand traffic circling;
- Update legal opinions; or
- Add information in TERPs front matter and/or AIM to guide the pilot on what is permissible.

**Comments:**

**Submitted by:** Dr. Bill Tuccio  
**Organization:** Garmin  
**Phone:** 913-440-5945  
**E-mail:** bill.tuccio@garmin.com  
**Date:** March 2, 2022

Please send completed form and any attachments to:  
[9-AMC-AVS-ACM-Info@faa.gov](mailto:9-AMC-AVS-ACM-Info@faa.gov)

# APPENDIX A



## APPENDIX B



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Office of the Chief Counsel

800 Independence Ave., S.W.  
Washington, D.C. 20591

JUN 30 2009

Daniel Murphy  
[REDACTED]

Dear Mr. Murphy:

This is in response to your requests for a legal interpretation that were postmarked on January 29, 2009, and February 4, 2009. In your letters you requested clarification regarding three issues: (1) whether 14 C.F.R. § 91.126(b)(1) allows a pilot to conduct a circling approach with turns to the right to an uncontrolled airport in instrument meteorological conditions (IMC) if the pilot determines that turns to the left are undesirable; (2) whether a pilot may log pilot-in-command (PIC) flight time under 14 C.F.R. § 61.51(e)(1) during a practical test when 14 C.F.R. § 61.47(b) requires that the pilot act as PIC; and (3) to what point must an approach continue to constitute an instrument approach under 14 C.F.R. §§ 61.65(d)(2)(iii)(B) and 61.57(c)(1)(i).<sup>1</sup>

Your letter requested clarification of the requirements in section 91.126(b)(1) using the following example. A pilot, flying an aircraft under instrument flight rules in IMC, executes a circling approach to an uncontrolled airport. The airport, by operation of section 91.126(b)(1), has established turns to the left for the approach. However, the pilot determines that turns to the left are undesirable because they are not in the interest of safety (for example, the wing of the aircraft blocks the view of the runway during turns to the left). You ask whether that pilot can make turns to the right on the approach.

Section 91.126(a) states, in relevant part, that each person operating an aircraft on or in the vicinity of an airport in Class G airspace area must comply with the requirements of section 91.126 "[u]nless otherwise authorized or required." Section 91.126(b)(1) states, in relevant part, that when approaching to land at an airport without an operating control tower in Class G airspace, "[e]ach pilot of an airplane must make all turns of that airplane to the left unless the airport displays approved light signals or visual markings indicating that turns should be made to the right, in which case the pilot must make all turns to the right."

The use of "must" in sections 91.126(b)(1) and 91.126(a) do not permit a pilot's discretion in determining in which direction to make turns when approaching the airport. Section 91.126(a) provides an exception to the requirement to make turns to the left if authorized or required by air traffic control (ATC). This exception permits a pilot to request clearance to

<sup>1</sup> Although the incoming request cited "61.67(c)(1)(i)," we believe that the Mr. Murphy intended to cite section 61.57(c)(1)(i) because that section requires six instrument approaches for the purpose of recent instrument experience.

make right hand turns under these circumstances. However, the regulation does not obligate ATC to grant such a request.

Secondly, you inquired about the interplay between section 61.47(b), which states that the examiner is not the PIC for a practical test in the absence of a prior agreement, and section 61.51(e)(1), which governs logging of PIC time. You ask first whether a private pilot certificate holder taking a practical test for an additional rating may log PIC time for the practical test. Additionally, you ask whether a student pilot taking a private pilot practical test may log PIC time for the practical test.

Section 61.47 states, in relevant part, that an examiner is not the PIC of the aircraft during a practical test unless there is a prior agreement with the applicant or a person who otherwise would act as PIC. The practical effect of this section is that the person performing the practical test acts as PIC. As previously stated by the FAA, there is a distinction between logging PIC time and acting as a PIC. See Interpretation to Jason E. Herman (May 21, 2009). 14 C.F.R. § 1.1 defines a pilot in command as the person who has "final authority and responsibility for the operation and safety of the flight." The PIC must be designated before or during the flight and hold the appropriate category, class, and type rating for the conduct of the flight. *Id.* Section 61.51(e) governs the logging of PIC time and, in relevant part, allows logging under three circumstances: (1) when a person is the "sole manipulator of the controls of an aircraft for which the pilot is rated or has privileges"; (2) when a person is the sole occupant of the aircraft; and (3) when a person is acting as PIC of an aircraft on which more than one pilot is required. Section 61.51(e)(4) allows logging of PIC time for student pilots when the student pilot is the sole occupant of the aircraft and has a current solo flight endorsement or is undergoing training and when the student pilot is undergoing training for a pilot certificate or rating.

In your example, the pilot taking a practical test does not meet any of the circumstances for logging PIC time in section 61.51(e). The pilot is neither the sole occupant of the aircraft nor acting as PIC of an aircraft on which more than one pilot is required. That pilot is the sole manipulator of the controls but is not rated and does not have privileges for the aircraft. Under the section 1.1 definition, a pilot must be rated in the aircraft to act as PIC. An exception to this rating requirement has existed since the FAA issued section 61.47 (then as 14 C.F.R. § 61.26) on July 3, 1965. 30 FR 8515. In that final rule, the FAA explained that an unrated pilot is qualified to act as PIC during a practical test because that pilot possesses the appropriate experience prior to the practical test for the particular certificate or rating. Though there have been multiple changes to Part 61 in the intervening years, this exception never has been withdrawn. No similar exception has been made with respect to logging PIC time under section 61.51(e). It is inconsistent that a pilot is permitted to act as PIC but not log PIC time when both sections 1.1 and 61.51 require that the pilot be rated for the aircraft, and the pilot must possess the appropriate experience prior to the practical test. Therefore, a pilot may log PIC time for the practical test. With respect to the student flight referenced in your letter, the student pilot may log PIC flight time for the practical test for the same reason even though the student pilot does not meet any of the section 61.51(e)(4) circumstances.

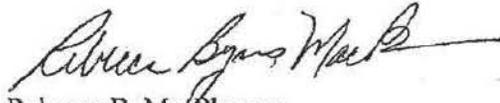
Finally, you asked to what point must an instrument approach continue, whether under actual or simulated conditions, to constitute an instrument approach under sections 61.57(c)(1)(i) and 61.65(d)(2)(iii)(B).

Section 61.57(c)(1)(i) prescribes the recency of instrument experience requirements to act as PIC under IFR or in IMC and states, in relevant part, that a pilot must perform six instrument approaches in the preceding 6 calendar months in the appropriate category of aircraft for which instrument privileges are sought. Section 61.65(d)(2)(iii)(B) establishes the requirements for an instrument rating and states, in relevant part, that an applicant for an instrument rating must complete 40 hours of actual or simulated instrument time that includes at least one cross-country flight in an airplane that is performed under IFR and consists of an instrument approach at each airport.

The FAA previously has interpreted section 61.57(c)(1)(i) to mean that a pilot must follow an instrument approach procedure to the minimum descent altitude or decision height. *See Interpretation to Timothy Slater (Jan. 28, 1992)*. The FAA has not previously interpreted to what point an instrument approach must be followed under section 61.65(d)(2)(iii)(B). However, because of the similarities between the two instrument approach requirements, an instrument approach under that section also must continue to the minimum descent altitude or decision height.

This response was prepared by Robert Hawks, an Attorney in the Regulations Division of the Office of Chief Counsel and coordinated with the Airspace and Rule Group of the Air Traffic Organization and the Certification and General Aviation Operations Branch of Flight Standards Service. We hope this response has been helpful to you. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,



Rebecca B. MacPherson  
Assistant Chief Counsel for Regulations, AGC-200



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.  
Washington, D.C. 20591

AUG -8 2013

John D. Collins  


Dear Mr. Collins:

This responds to your request for a legal interpretation emailed March 5, 2013 and amended April 7, 2013. Your letter requests reconsideration of an issue the FAA addressed in the Legal Interpretation to Daniel Murphy (June 30, 2009) as to whether a pilot circling to land at an uncontrolled airport in Class G airspace may make right turns.

In that letter, we stated that “[s]ection 91.126(a) provides an exception to the requirement to make turns to the left if authorized or required by air traffic control (ATC).” This statement was in error because ATC does not control traffic in Class G airspace. However, that letter also states that § 91.126 “do[es] not permit a pilot’s discretion in determining which direction to make turns when approaching the airport.” This statement was correct.

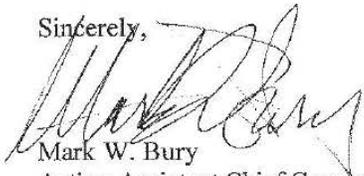
As your letter states, under 14 C.F.R. § 91.126(b)(1), a pilot approaching to land at an airport without an operating control tower in Class G airspace is required to make all turns to the left unless approved light signals or visual markings at the airport indicate that turns must be made to the right. However, as your letter also points out, 14 C.F.R. § 91.126(a) allows pilots to deviate from the requirements of § 91.126 if “otherwise authorized or required.” Therefore, a pilot approaching to land at an uncontrolled airport may make right turns if such deviation is “authorized or required.”

The FAA emphasizes, however, that the circumstances in which this deviation from § 91.126(b)(1) is “authorized or required” are very limited. The phrase “authorized or required” itself does not give pilots the discretion to deviate from § 91.126. Such deviation must be “authorized or required” by the approach guidelines of a specific airport or by another FAA regulation. For example, § 91.3(b) authorizes the pilot in command (PIC) of an aircraft to deviate from any rule of part 91 to the extent necessary to resolve “an in-flight emergency requiring immediate action.” Although the decision to deviate under these circumstances is within the PIC’s judgment, this determination must be made in good faith based on safety concerns<sup>1</sup> and not convenience; failure to do so may result in the suspension of the PIC’s certificate.<sup>2</sup>

<sup>1</sup> Revision of General Operating and Flight Rules, 54 FR 34284 (Aug. 18, 1989) (“In § 91.3(b), the word ‘in-flight’ has been inserted to clarify that the deviation authority of § 91.3 applies only to in-flight emergencies

We hope this information has been helpful. This response was prepared by Jim Burleson under the supervision of Robert Hawks, an attorney in the International Law, Legislation, and Regulations Division of the Office of the Chief Counsel, and coordinated with the General Aviation and Commercial Division of Flight Standards Service and the Airspace Policy and ATC Procedures Group of the Air Traffic Organization. If you have further questions concerning this response, please contact us at 202-267-3073.

Sincerely,



Mark W. Bury  
Acting Assistant Chief Counsel for  
International Law, Legislation and Regulations (AGC-200)

---

which affect the safe completion of the flight.”) Also, any PIC making a deviation under §91.3 can be required to “send a written report of that deviation to the Administrator” under §91.3(c).

<sup>2</sup> See *Administrator v. Van Dyke*, NTSB ORDER NO. EA-4883 (Mar. 5, 2001) (In this order, NTSB found a violation of §91.126 by a skydive plane pilot making improper turns on approach in part because it was “quite obvious that Respondent Van Dyke was in a hurry” to land and did not have any safety reason which would require him to deviate from §91.126. This decision resulted in a 45-day suspension of the pilot’s commercial certificate.).

**Initial Meeting 22-01:** Bill Tuccio, Garmin, briefed the item from the RD (slide) with one generalized example, discussing the background and displaying his example slide on the RD. The question is how a Cat D pilot flies to RWY 35, and can you fly a Cat D circling pattern with right hand turns regardless of 14 CFR § 91.126(b)(1) and previous legal opinions (attached in the RD). Jeff Rawdon, FAA Flight Procedures and Airspace Group (FPAG), advised the ACM cannot reinterpret or change a legal opinion. John Collins, Foreflight, advised there is a third legal opinion on this, and after speaking with an FAA attorney with the Office of General Counsel, he is confident there is no issue with this, adding this is what was meant by their opinion. John advised AC 90-66B Change 1 has wording to cover this situation. Bill thanked John for the information and is satisfied the issue has been addressed. Rich Boll, NBAA, suggested clarifying language be added in AIM paragraph 5-4-20 for circling/maneuvering. John added the third legal interpretation basically restates the second one. Michael Stromberg, Independent Pilots Association (IPA)/UPS, concurs with adding language in the AIM. Joel Dickinson, FAA Flight Operations Group, said their group could look at the issue, and see what changes may be warranted in the AIM and other publications.

**Actions:** This item will be reviewed by the ACM Recommendation Review Group to determine any action and that outcome will be provided at ACM 22-02.

**Status:** Item open.

---

**Meeting 22-02:** Jeff Rawdon, FAA Flight Procedures and Airspace Group (FPAG), briefed the issue (slide), advising that on review the ACM Recommendation Review Group (ARRG) did not feel this should be accepted for work. There will be no rulemaking changes stemming from this RD, and the ACM, ARRG, and associated offices cannot update a legal opinion. Bill Tuccio, Garmin, pointed out there is no way to fly the procedure, so the Office of the Chief Counsel (AGC) should be asked to change their interpretation on the unflyable procedure and suggested a letter be sent to them with some examples. Editor's note: An attendee brought up a conversation they had with a Flight Standards District Office Aviation Safety Inspector (ASI) on this subject and discussed that conversation. Since the ASI was not present at the meeting and therefore unable to speak to those conversations, and since none of the Flight Standards attendees were familiar with that position and it was unknown if that conversation would be considered a Flight Standards position, details of that discussion are not included in these minutes. John Collins, ForeFlight/Boeing, discussed he was involved with this AGC query and his letter is included in the RD. John agrees additional clarification would help. Jeff thinks the RD submitter should go directly to AGC requesting further clarification; however, Bill said he believes they would respond to a letter from Flight Standards more quickly than a letter from the public. Jeff did not think the ACM could do anything on this and that this was not the appropriate venue to resolve this issue. Bruce McGray, FPAG, thinks Flight Standards might get a response more effectively from AGC, adding AGC may not have had knowledge of IFR and VFR differences when the response was

drafted. Dan Wacker, FPAG, agrees with bringing this back to the ARRG for discussions. Jeff said the issue will remain open and the discussion about Flight Standards approaching AGC will be returned to the ARRG for consideration. Mike Stromberg, Independent Pilots Association (IPA)/UPS, asked what Flight Inspection was doing to check these procedures and said this would be a safety issue. If an aircraft turned right, then back left to join the traffic pattern (complying with both as the legal interpretation suggests) you could end up outside the area evaluated for circling. Karl von Valtier, NetJets, added his review found many discrepancies and ambiguities between the various legal interpretations, advisory circulars, and regulations on this issue. He recognizes resolving all of these is beyond the scope of the ACM, but he would like these differences examined in another forum.

**Actions:** This issue will be discussed again by the ACM Recommendation Review Group to determine if this issue should be addressed with the Office of the Chief Counsel. Results of that discussion will be briefed at ACM 23-01.

**Status:** Item open

---

**Meeting 23-01:** Jeff Rawdon, FAA Flight Procedures and Airspace Group (FPAG), briefed the summary, actions, and status from the (slide). This RD was addressed again by the ACM Recommendation Review Group (ARRG) based on feedback from ACM 22-02 and the ARRG reaffirmed this was not something the ACM would be able to address. Jeff reiterated that the ACM is not the appropriate venue to resolve legal interpretations from The Office of the Chief Counsel (AGC).

Rich Boll, NBAA, suggested that AIM language related to circling should be updated to address the points made with this RD. Joel Dickinson, FAA Flight Operations Group (FOG), voiced the opinion that there is no conflict with the current AIM guidance related to circling and that regardless of the traffic pattern direction at the location, the pilot cannot circle into an area restricted from circling for the instrument approach procedure.

Mark Mentovai, Manhattan Flight Club, said the AIM loosely covers this information in paragraph 5-4-20. Rich pointed out you cannot circle in an area where it is restricted by the approach procedure and feels the paragraph 5-4-20 guidance needs specific information added regarding areas restricted from circling. Jeff said Flight Standards is not the topic owner for that paragraph in the AIM but would consider working with the topic owner to initiate a document change proposal (DCP) to revise the paragraph with additional explanatory language.

**Actions:** FPAG will approach the AIM paragraph 5-4-20 topic owner with the possibility of initiating a DCP to provide additional explanatory language.

**Status:** Item open

---

---

**Meeting 23-02:** Jeff Rawdon, FAA Flight Procedures and Airspace Group (FPAG), briefed from the [slide](#). FPAG and Flight Operations Group (FOG) have drafted a proposed document change proposal (DCP) for AIM paragraph 5-4-20.f which Jeff [displayed](#).

*Editor's note: Attendees requested a copy of the proposed DCP to help formulate feedback. The [draft proposed DCP](#) linked within these minutes are intended to satisfy that request.*

John Collins, Foreflight/Boeing, wondered why the advisory circular language from AC 90-66C was not incorporated into the proposed DCP since he thought the intent was to avoid using different wording for the same issue. Jeff said that was done intentionally, with the proposed DCP pointing to AC 90-66C as a reference rather than duplicating the language.

Dan Wacker, FPAG, asked if this paragraph was in the IFR or VFR portion of the AIM and Jeff pointed out the parent paragraph is specific to approach and landing minimums, and therefore applicable to IFR operations.

Gary Fiske, FAA ATC Procedures (Terminal) Team (AJV-P310), pointed out that practice approaches can be flown in IMC and VMC, which means the procedure design would take priority. Gary said if a pilot flies an approach for circling to an untowered airport, ATC will not assign a turn direction and ATC practice is to not contradict turn directions implied by a procedure. Rich Boll, NBAA, requested Gary check Order 7110.65 paragraph 4-8-6 for the possibility of adding direction-of-turn note restrictions.

Rich would like additional review and discussion on the proposed DCP, particularly on paragraph 4 referencing maneuvering on the shortest path to the base or downwind leg. Joel Dickinson, FOG, discussed the intent of that paragraph was to let pilots know they should plan a path that keeps them within normal traffic patterns and that the pilot is expected to fly the published procedure with consideration of circling restrictions, even if that does not coincide with the airport VFR traffic pattern. The group discussed that this could cause opposite direction flow situations, however John pointed out this is a common occurrence under these circumstances.

Interested attendees can send Jeff and Joel feedback on this issue for further discussion, and they will determine if a working group is necessary.

Rich called attention to the section in AIM Chapter 4 regarding operations at airports without an operating control tower and suggested possible inclusion of information regarding circling approach traffic direction might be appropriate. Joel agreed and requested Rich include any suggestions for those changes in submitted feedback. Rich stressed that the VFR and IFR guidance information should be harmonized.

**Actions:**

- Attendees are invited to provide feedback on the proposed DCP directly to Jeff Rawdon or to the ACM inbox ([9-AMC-AVS-ACM-Info@faa.gov](mailto:9-AMC-AVS-ACM-Info@faa.gov))
- FPAG and FOG will review all feedback and either revise the proposed DCP or form a working group.

**Status:** Item open

---

**Meeting 24-01:** Jeff Rawdon, FAA Flight Procedures and Airspace Group (FPAG), briefed from the [slide](#). Feedback was received and incorporated for the proposed AIM language change from ACM 23-02. The AIM language revision draft was displayed ([slide](#)) with the revisions since the last meeting. The revised language received attendee support.

Darrell Pennington, ALPA, questioned if the paragraph in discussion would only apply to non-towered airports, but Jeff and Rich Boll, NBAA, said it would apply to all airports. Rich further pointed out that language applicable to normal descent rates and maneuvers to lose altitude is applicable to all airports.

Karl von Valtier, NetJets, questioned if the intent of the DCP would be to suggest flying other than the airport's published traffic pattern, and Rich and Jeff pointed out it would if that was necessary to comply with instrument procedure circling restrictions. Jeff said AC 90-66C did address this information as well.

Jeff explained that this item would be moved to action pending status since the only work remaining is the AIM/AIP DCP processing which will be scheduled for a later date. *(Editor's note: The decision was made following the meeting to proceed with initiation of the DCP for this AIM/AIP change. Due to that decision, the action to initiate the DCP has been added, and the status will remain as "item open.")*

**Actions:** Jeff Rawdon, FPAG, will initiate the Document Change Proposal (DCP) to revise the AIM/AIP with the proposed language.

**Status:** Item open

---

**Meeting 24-02:** Jeff Rawdon, FAA Flight Procedures and Airspace Group (FPAG), briefed from a [slide](#) and reported the AIM/AIP document change proposals (DCPs) with updated circling guidance with respect to circling restricted areas is in process with publication expected September 2025.

**Status:** Moved to action pending status

---

**Meeting 25-02:** Rune Duke, FAA Flight Procedures and Airspace Group (FPAG), briefed from a [slide](#) and reported the AIM/AIP document change proposals (DCPs) with updated circling guidance with respect to circling restricted areas will be published January 22, 2026. An additional dependency in the Order 7110.65 was identified and that DCP will publish the same day. Joel Dickinson, Flight Operations Group (FOG), and Steven Madigan, Garmin, confirmed no additional action remained and there was consensus for this item to be closed.

**Status:** Item closed.