

Right-Of-Way Rules

■ FAR 91.67 specifies the right-of-way rules governing aircraft operation (except aircraft water operations). When was the last time you had to apply these rules? Probably not very recently. Yet you could be called upon to apply them at any time, sometimes on a split-second's notice. Because the rules are so infrequently called into play, they are easily forgotten. So let's review them.

FAR 91.67 is broken down into several subsections: (a) a general rule, (b) a rule relating to aircraft in distress, (c) one governing converging aircraft, (d) another governing aircraft approaching head-on, (e) overtaking, and (f) landing. We'll treat the rules in that order.

(a) *General.* The general rule requires that each person operating an aircraft must maintain vigilance so as to see and avoid other aircraft. Simple—but extremely important. Many pilots have the mistaken belief that the right-of-way rules are suspended when air traffic control is being exercised. This rule applies *at all times* when the weather is good enough to see and avoid other aircraft, regardless of whether the operation is IFR or VFR, and regardless of whether you are in IFR or VFR conditions. The only time it does not apply is when you are flying in clouds or with other weather restrictions to visibility that render it impossible for you to see and avoid other traffic.

The subsections that follow assign right-of-way to certain aircraft over other aircraft. Where an aircraft is given the right-of-way by these specific rules, the general rule prohibits the other aircraft from passing over, under, or ahead of the aircraft with the right-of-way, unless well clear. We'll discuss later what is "well clear."

(b) *In distress.* An aircraft in distress has the right-of-way over all other air traffic. The rule seems to apply whether you know the other aircraft is in distress or not. Prudence dictates that you give way to any aircraft obviously seeking right-of-way. If the aircraft is not really in distress, this is better resolved on the ground.

(c) *Converging.* When aircraft of the same category are converging at approximately the same altitude (except head-on, or nearly so) the aircraft to the other's right has the right-of-way. If aircraft of different categories are converging, the different categories are assigned priority on the basis of maneuverability. A balloon has the right-of-way over any other category of aircraft. A glider has the right-of-way over an airship, an airplane, or a rotorcraft. An airship has the right-of-way over an airplane or a rotorcraft. An aircraft towing or refueling other aircraft has the right-of-way over all other engine-driven aircraft.

(d) *Approaching head-on.* When aircraft of any category are approaching each other head-on, or nearly so, the pilot of each aircraft must alter his course to the right.

notes from the Washington counsel



by JOHN S. YODICE / AOPA 199738

(e) *Overtaking.* An aircraft which is being overtaken has the right-of-way over an overtaking aircraft. The overtaking aircraft must alter course to the right to pass well clear. Some years ago an enforcement case arose in which an airline Convair took off one minute behind a Beechcraft D-18 and overtook and climbed over the tail of the D-18, passing it by about 100 feet. The airline pilot was found in violation for not passing well clear and for not passing on the right.

(f) *Landing.* An aircraft which is on final approach to land, or which is landing, has the right-of-way over all other aircraft, whether they are in flight or operating on the surface. When two or more aircraft are approaching an airport for landing, the aircraft at the lower altitude has the right-of-way. But the aircraft at the lower altitude must not take advantage of this rule to cut in front of another which is on final approach to land, or to overtake that aircraft.

When one aircraft is landing and another is taking off, the landing aircraft has the right-of-way. A pilot of an aircraft waiting to take off must make certain that he does not interfere with aircraft that are landing. One private pilot lost his ticket for 60 days for taking off in front of an aircraft on final approach. Another enforcement case, a midair collision at an uncontrolled New Jersey airport, shows the problem of multiple runways. A Taylorcraft taking off from Runway 22 collided with a Cherokee flaring for landing on Runway 16. No one was hurt, but the Taylorcraft pilot lost his license for 90 days, even though he took special care to observe that the windsock favored Runway 22 and that no one was on final for Runway 22.

The right-of-way given to the landing aircraft begins the moment it starts its final approach. This raises some interesting questions of conflict between an aircraft in the pattern (not on final) and an aircraft on long final. I haven't been able to find any answers to these questions.

A good illustration that operating IFR

doesn't excuse you from the right-of-way rules is an incident that occurred a few years ago near Columbia, S.C. A Lockheed Lodestar on an IFR flight plan was making a contact approach to the Columbia airport. The weather was VFR. The Lodestar overtook and passed a Cherokee (VFR making practice ILS approach) on final approach and came within approximately 17 feet of colliding with it. The tower advised each aircraft of the other's presence, but made no effort to positively separate them. The pilot of the Lodestar was very unhappy about the near-collision and felt the tower controllers were negligent in not taking some affirmative action to maintain separation of the two aircraft. FAA disagreed and charged the Lodestar pilot with a violation.

On appeal, an NTSB examiner also disagreed with the pilot. The examiner said: "... the responsibility of air traffic control to IFR traffic, in a non-radar environment, is limited to separation from other known IFR traffic and ... the ultimate responsibility for maintaining separation between aircraft is upon the pilot of the aircraft whether on IFR or VFR flight plan." The examiner found that the Lodestar pilot violated FAR 91.67(d) in overtaking and passing the Cherokee.

What constitutes passing "well clear"? Remember, an aircraft with the right-of-way must be passed "well clear." In one enforcement case, a Camair made a left turn soon after taking off on Runway 23 and passed a Cessna 150 on crosswind leg. The Cessna, since it was on the right, had the right-of-way. The Camair was found to have passed by 50 feet. This was not "well clear," according to the NTSB.

Adequate clearance was found in the following case. Two aircraft, a PA-12 and a Cessna 150, were on downwind leg in the pattern. A Navion, flying a wider pattern, passed both by, somewhere between 500 feet and an eighth of a mile. Both the Cessna and the Navion turned on base at about the same time. When the Cessna started his turn onto final, the Navion passed in front of the Cessna some one-eighth of a mile ahead, a little beyond the direct final approach path for the runway, and dove for the runway, hoping to be able to land in front of the 150 and behind a landing PA-12. The PA-12 did not turn off the runway but did a touch-and-go, and the Navion then flew to the right of the runway at about 100 feet altitude and climbed into the pattern ahead of the PA-12. The Navion pilot was criticized for his operation but was found to have given sufficient clearance to the other aircraft so as not to have violated the right-of-way rules.

That's a quick summary of the rules. Hopefully, it has refreshed your memory, and corrected any misunderstandings.

The right-of-way rules are important to know. Each pilot operating in our airspace is entitled to rely on the fact that every other pilot knows these rules and will react in accordance with them. □