

EAA MILE HIGH CHAPTER



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NEWSLETTER
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VOLUME 13, ISSUE 11, NOVEMBER, 1990

THIS MONTH'S MEETING: This month's meeting will be held on Saturday, November 10, 1990 at 7:30 P.M. in the Club Room of the Denver Air Center, which is at the junction of the two main roads leading into Jefferson County Airport. The program will be a videotape of a Chapter 43 member who has a very nice surprise to share with all of us. This is a tape that everyone will want to see.

THIS MONTH'S FLY-OUT: For a complete explanation of what this new Chapter 43 feature is, please see the New Business section of Last Month's meeting minutes in this Newsletter. This month's Fly-out will be to Downtown Fort Collins Airport for lunch on Saturday, November 17, 1990. This is the Saturday after our normal second Saturday meeting. We will meet at Downtown Fort Collins at 11:00 A.M. and either walk or ride (depending on personal preference and the weather) to The Charco Broiler Restaurant, which is supposed to be quite good. Ken Lysek is coordinating the monthly Fly-outs, so contact him at 457-9769 if you have any questions or have an extra seat to offer or are in need of a ride. For those of you who are ground pounders at this point in time, drive up and join in on the fun. The drive really isn't that bad. The Charco Broiler is at 1716 E. Mulberry and their phone number is 482-1472. Hope to see everyone there!

LAST MONTH: With 55 members and guests in attendance, the meeting of October 13, 1990 was called to order at 7:50 P.M. by President Kirby White in the Club Room of the Denver Air Center. The minutes of the September meeting were approved as published in the Newsletter.

Guests: Denise and Roy Maneely brought in their new baby girl, Katelyn Danielle, to show off to everyone at the meeting. She was born on August 29, 1990. Everybody gave them a nice round of applause to congratulate them for their new addition. Garrett Briggs of Denver was the other guest present. He is an artist who does excellent pencil sketches of aircraft and other transportation-type machines. He brought in ten or twelve examples of his work for everyone to look at. He does commission work, and generally charges between \$50 and \$85, depending on the size of the sketch. For those of you who saw his work and would like to contact him, he can be reached at 922-8673. Perhaps he will be at the November meeting and bring his work to display again.

Old Business: The volunteer patches from the 1990 Rocky Mountain Regional Fly-In finally arrived, and Kirby invited everyone who volunteered their time at the Fly-In to pick one up during the break. The subject of the Copperstate Fly-In that was held in Prescott, Arizona on October 5-7, 1990 was brought up. There was

Old Business cont: a really good turnout of airplanes and people there. Quite a few Chapter 43 members attended. This was a change in location from previous years when it was held in Casa Grande, Arizona. Prescott has a problem because it is tower controlled and there were a number of students in the pattern most of the time. This made making fly-bys an exercise in futility. Hopefully they will get the problems worked out for next year. It was an enjoyable Fly-In, though.

New Business: The main part of the business meeting was the annual election of officers and volunteers. The following 1990 Chapter 43 officers and volunteers were re-elected to another term in 1991: President -- Kirby White, Secretary -- Kirby White, Treasurer -- Roy Maneely, Newsletter Editor -- Kirby White, Chapter Designee -- Brad Davenport, Librarian -- Roy Maneely, Historian -- Merrill Davenport, Board of Directors -- Brad Davenport and Cathy Sheeon and Roy Maneely, and possibly the most important position of all: Grand Keepers of the Coffee Pot -- Chuck Ogden and Aaron Schomberg. The following positions needed to be filled and there was a volunteer for each one: Vice President -- Ken Lysek, and Fly-In Committee Representatives -- Bill & Mary Mitchell and Kathy McTurran. All four of these volunteers were elected to serve a term in the coming year. Kirby brought up the proposal that Chapter 43 have a Fly-out to someplace different every month. He said he wanted to see more activity from the members as a group, and he felt this would be a good place to start. The meeting point would be a distant airport that has a restaurant either on the field or nearby so we can all gather for lunch and to perhaps swap some airplane rides. He thought that a specific day every month would be nice so that everyone could make plans well in advance. Kirby asked for comments on the subject. Everyone seemed to be all for it, and after discussing the pros and cons of particular days, it was voted to hold the monthly Fly-out on the Saturday after our normal Chapter 43 meeting, which would make it the third Saturday of the month. This way, the Fly-Out location could be announced in the Newsletter and any further information (such as rides available and rides needed) could be discussed at the meeting. In addition, the following month's Fly-Out destination would be decided at the meeting so that it could be announced in the next Newsletter and any necessary plans could be made in plenty of time. It was also discussed whether it would be best to meet at a local airport and all launch from there or set a time to meet at the distant airport. It was decided to meet at the distant airport because of the differences in cruising speeds of various airplanes. Those who cruise at similar speeds might plan to fly together. A couple of benefits from everyone being used to doing things as a group will be that we can plan to attend Fly-Ins in fairly large numbers. When people have a specific purpose and place to fly, they are apt to fly more which increases safety because they are more current in their airplane. The suggestion was made that on the days of the monthly Fly-out that the weather won't permit us to fly, we all meet at a specific local restaurant at a set time to eat. That sounded good to everyone, but we still need to decide on the restaurant and time. Airroy said that a Fly-out Chairman would be needed to coordinate everything and asked for a volunteer. Ken Lysek raised his hand, and was elected to this position.

New Business cont: Jim Thompson announced that EAA Chapter 301 was planning to hold its annual Fly-Your-Buddy-Day at Aurora Airpark on Saturday, October 20, 1990. He said that in case the weather was bad it would be held in conjunction with Aurora Airpark's Fall Fly-In on Saturday, October 27, 1990. He invited everyone to come out and have a good time.

Gene's Corner: Gene Horsman read an article from The Aviation Consumer about the Wheeler Express, which is an eye-catching kitbuilt airplane that faces an uncertain future. After Wheeler Technologies' prototype crashed enroute to the EAA Oshkosh airshow, the financially strapped company "temporarily suspended" its operations under a cloud of controversy. Some three-hundred angry and confused kitbuilders are wondering if they will ever receive the kits they purchased for their four-seat "dream airplane." Unfortunately, the article was not very complimentary toward Wheeler Technologies. Gene said the situation reminded him very much of Jim Bede and the way he marketed the BD-5.

Progress Reports: John Evens reported that he was getting very close to flying his Thorp T-18 for the first time. He said he was looking for a set of scales to weigh the airplane. Bill Mitchell let everyone know that he had recently bought a 1947 Luscombe 8-F and that his 1946 Champ was for sale.

A&P: The business portion of the meeting adjourned for coffee at 8:30 P.M. After the break, Jim Thompson showed slides of the Blakesburg, Iowa Antique Aircraft Association Fly-In (which were brought by Gene Horsman), the Oshkosh and Copperstate Fly-Ins, a flying trip to California to see some of his aviation friends and their airplanes, and shots of his newly-purchased Cessna 180 (one of which was with his recently-sold Cessna 170). Everyone thanked Jim for showing them to us.

WANTED: Complete oxy-acetylene welding outfit. James Fitzgerald 973-5986

For Sale: Tailwind rib jig board and ribs -- cheap. Chuck Graf 232-C176

For Sale: 1946 Aeronca Champ, 75 HP, Red & white, Airtex interior, Intercom, Handheld radio antenna, Wheel pants, \$10,500. Bill Mitchell 427-4025

CHRISTMAS BANQUET: Please make plans to attend Chapter 43's Annual Christmas Banquet on our normal second Saturday meeting night in December. This will be December 8, 1990. All of the necessary information about the Banquet will be published in the December Newsletter. Hope to see everyone there!



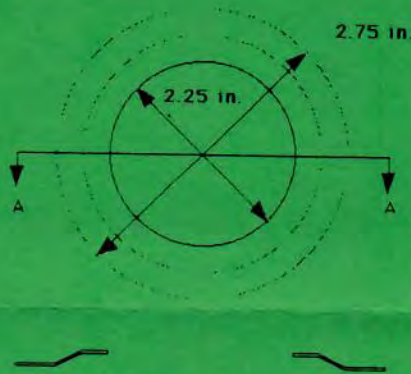
HINTS FOR HOMEBUILDERS

Snap-on®

FLANGES AND LIGHTENING HOLES

by Ken Brown, EAA 277210
8957 Corte Quezada
Spring Valley, CA 92077-6433

The problem . . . how do you make flanges around lightening holes in aluminum parts that look like they do in your drawings? (See Figure 1) I have long been aware that airplane parts that are well made just "plane" look good. Consequently, I set out to come up with a procedure to make good looking lightening hole flanges. I was not happy with the technique of taking a hammer and beating the edge of a lightening hole into a beveled hole in a form block. Nor did I have access to a machinist's lathe with which I could turn out form blocks for every size lightening hole in my airplane.



Section A-A
FIGURE 1

My solution is to make a tool to press the flange into the aluminum part without using a lathe. Here's how I do it.

First, take a piece of scrap aluminum plate thicker than the flange depth (0.125" thick plate is used to make flanges approximately 0.100" thick), and using a fly cutter in your drill press, cut out a disk the same diameter as the outer diameter of the flange (2.75" in this example).

WARNING - make sure that you have clamped the part you are cutting to the table of the drill press. The fly cutter has a tendency to "dig in" to the part if you

try to rush it, and if the part is not clamped down, it may cause damage to your most valuable airplane making tools - your hands.

Save both the disk and the ring as they make up a matched set (Figure 2). The fly cutter will automatically bevel the edge of the disk at about a 45 degree angle. Use a file to smooth out the sharp edges on the disk and the ring.

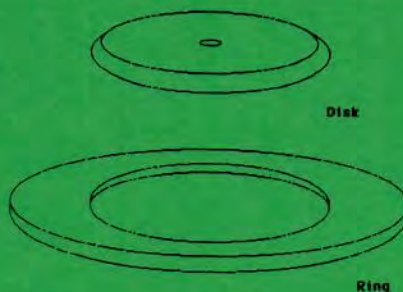


FIGURE 2

Next, using either your fly cutter or a hole saw, cut the lightening hole out of the part you are working on. I have found that if you do this before pressing the flange into the part, there is less distortion to the rest of the part than if you cut the hole after pressing the flange. Turn the disk over so that the smaller diameter side (the inside edge of the bevel) is against the part, and

tape it in place so that the hole is centered over the disk. (Drawing a circle on the disk the same diameter as the lightening hole helps you center the hole over the disk.) Then place the ring against the other side of the part and tape it in place. (Drawing a circle on the part the same diameter as the outer edge of the flange helps center the ring over the hole.) You should now have an aluminum "sandwich" as shown in Figure 3.

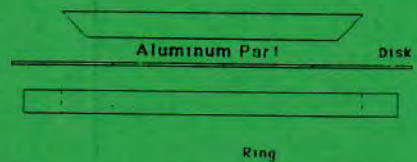


FIGURE 3

Now comes the fun part! Place the assembly in your bench vise and tighten it down. Depending on the size of the lightening hole, you might have to squeeze the part in two or maybe even three different places to press the flange evenly into the part. And *voila*, a perfectly formed flange for your lightening hole. Even though nobody will see the flanges after you close up the structure, it feels good knowing that they were done right, and they just plane look great!

Readers are invited to submit entries to EAA, Hints For Homebuilders, Att: Golda Cox, EAA Aviation Center, P.O. Box 3086, Oshkosh, WI 54903-3086. Entries will be reviewed by a panel of EAA judges. Readers whose hints are published in any EAA magazine will be awarded one of three monthly prizes - a 3/8" Drive Socket Wrench Set, a 1/4" Drive Socket Wrench Set or a Nine-piece

Long-Handle Combination Wrench Set. The contest will run from August through July of each year with a Grand Prize of a Snap-on Tools KR657 Roll Cab and KR637 Top Chest being awarded the best entry for the year. This award will be presented during the EAA Convention. Our thanks go to Snap-on Tools for providing the awards.

Heartbreak and Hope

How to keep your medical certificate and avoid jail.

By J. Scott Hamilton

THE CLASSIFIED AD listing the airplane for sale told a tale of tragedy of Shakespearian sadness encapsulated in the succinct phrase: "Must sell, lost medical." It's not often I'm moved almost to tears by the classifieds, but that one gets me every time. I always want to call up and say: "Wait! Before you sell your airplane, are you sure you've done everything possible to get your medical certificate back?" You see, you don't always have to take no for a final answer.

Sometimes, the Federal Aviation Administration can be persuaded to change its mind and reinstate your medical, and sometimes the National Transportation Safety Board (NTSB) can intervene and make the FAA give you back your medical even if it doesn't want to.

The only sight sadder than seeing someone lose his medical certificate for a physical problem is seeing someone just give up flying when he didn't really have to, because he didn't understand his rights. The FAA isn't going to go out of its way to tell you, and someone sure needs to, so here it comes.

Doctors and lawyers tend to communicate with their colleagues in their own languages, which are largely indecipherable to outsiders. Federal Aviation Regulation Part 67, which describes the medical standards and certification procedures for pilots, was written by doctors and lawyers.

It helps if you understand that these standards were designed to enable the FAA to answer the following basic questions about you before letting you fly:

- Can you see and hear well enough to control the aircraft, see and avoid other aircraft, and follow the directions of air traffic controllers?

- Are you likely to experience unpredictably a suddenly incapacitating medical condition in flight?

- Are you likely to operate an aircraft irresponsibly, so as to endanger other people?

The medical standards in FAR Part 67 are designed so that if you have any medical condition that results in an unfavorable answer to any of these basic questions, you can't have a medical certificate. Thus, your aviation medical examiner (AME) is not supposed to issue

a medical certificate if you don't meet the hearing and vision requirements of FAR Part 67 or if you have a history or a diagnosis of any of the following nine conditions:

- Diabetes requiring insulin for control. (If your diabetes can be controlled by careful attention to diet, you are not disqualified.)

- A heart attack.

- Angina pectoris (the crushing chest pain that is your clue that you are having a heart attack), or other evidence of coronary artery disease.

- A psychosis.

- A character or behavioral disorder that repeatedly has been manifested by overt acts.

- Epilepsy.

- A disturbance of consciousness without a satisfactory medical explanation.

- Drug addiction.

- Alcoholism.

Compare these with the three basic questions the FAA is trying to answer about you, and we see that the vision and hearing standards are designed to be sure that you can see and hear well enough to control the aircraft, see and avoid other aircraft and follow the directions of air traffic controllers.

It is the concern over unpredictable

The FAA can be persuaded to change its mind and reinstate your medical, and sometimes the NTSB can make it.

sudden inflight incapacitation that causes the FAA to disqualify you if you are a diabetic requiring insulin (who may go into insulin shock), have had a heart attack or have coronary artery disease that can lead to a heart attack, if you are epileptic or have experienced a loss of consciousness without a satisfactory medical explanation (so who could say it won't happen again, this time while you're flying).

The FAA's concern that you may

operate an aircraft irresponsibly so as to endanger other people disqualifies you if you are psychotic or have other psychiatric problems that have lead to other irrational behavior or if you are an alcoholic or drug addict.

There's also a catch-all paragraph (f)(2) that lets the FAA disqualify you for any other condition that could endanger your performance as a pilot. That's FAR 67.17 (f)(2) for third-class medical, 67.15 (f)(2) for a second class or 67.13 (f)(2) for a first class.

I don't think that anyone would argue that people who can't see well enough to control the aircraft and see and avoid other aircraft or hear well enough to follow the directions of air traffic controllers, people who may be suddenly and predictably incapacitated at the controls and people who are likely to fly dangerously, drunk or drugged should not be running loose in the airspace with the rest of us.

The problem is that a person may have a "history or diagnosis" of one of those listed conditions and now present no special risk. You got glasses or contact lenses and can now see just fine with them. You underwent heart surgery, quit smoking, went on a low-cholesterol diet and a good exercise regimen, and now you're no more likely to have another heart attack than anyone else your age. You kicked the habit. Shouldn't you be able to fly?

Yes, and if you can convince the FAA that despite your medical history you are now fit to fly, you can.

What if that history or diagnosis is erroneous? Or what if the FAA has disqualified you under the general disqualifying conditions of (f)(2) for something that your doctors say should not be a problem to your flying? Do you still have to take the FAA's no as the final word? No, you don't.

Let's start with the easiest ones: vision and hearing problems. If your vision doesn't meet FAA standards without glasses or contact lenses, but does with these lenses, then all that may be required is for your AME to add the limitation to your medical certificate: "Holder shall wear correcting lenses while exercising the privileges of his airman certificate." If you flunked the color

vision test, you still may be able to get certified by arranging a special flight test with your local FAA district office.

The test usually will require you to demonstrate the ability to distinguish between the red, green and white of the tower's light gun, which would give you directions in the event of a radio failure. If you can, you'll get your medical even if your color vision is imperfect.

If your hearing is below standards from working in the foundry or from too many years on the flight deck of Convair 580s, but you can demonstrate that you still can hear and understand ATC instructions, again probably by a special flight test, you should be able to get your medical, although it may have a limitation on it requiring you to use a headset while flying.

If your problem is one of the nine specific disqualifying conditions listed above, but you can prove that, in spite of that history, your condition is now such that you are not particularly likely to experience a sudden incapacitating event while flying or to fly irresponsibly, you may be able to get your medical certificate. The burden will be on you and your doctors to convince the federal air surgeon that you are now an acceptable risk, but if you can, the federal air surgeon has the authority to issue you a medical certificate by a special issuance even though you don't meet the letter of the law.

The one exception to this is the diabetic who requires insulin. It has always been the FAA's position that diabetics who require insulin injections pose too great a risk of sudden incapacitation. (Oral hypoglycemic medication is now acceptable.)

If the reason the FAA won't give you a medical certificate is because it believes that you have a history or diagnosis of one of the nine specific disqualifying conditions, but it is mistaken (for example, if it thinks you had a heart attack, but what you really had was heartburn), then you can appeal the FAA's decision to the NTSB and get a trial-type hearing. If you can prove that the diagnosis was in error (through the testimony of qualified physicians), the NTSB can order the FAA to issue you a medical.

If the FAA used the general disqualifying conditions of paragraph (f)(2) as a

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
MEDICAL CERTIFICATE THIRD CLASS

THIS CERTIFIES THAT (Full name and address)

ARNOLD SMITH
1420 E. Agate
Marble, Ohio 80746

DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES	SEX
11/2/39	5'9"	190		brn	brn M

has met the medical standards prescribed in Part 67 Federal Aviation Regulations for this class of Medical Certificate

Holder shall wear correcting lenses while exercising the privileges of her airman certificate.

DATE OF EXAMINATION: June

SERIAL NO: 1

EXAMINER'S SIGNATURE: [Signature]

TYPED NAME: [Name]

AIRMAN'S SIGNATURE: [Signature]

FAA: [Signature]

The burden is on you and your doctors to convince the federal air surgeon that you are now an acceptable risk.

basis for denying your medical certificate and if your doctors testify convincingly enough that your physical condition does not make you an especially risky pilot, the NTSB will overrule the FAA and order it to issue you a medical certificate.

If you love flying, your periodic aviation medical examination always is a time for concern. After all, without a medical certificate, you can't fly powered aircraft as pilot in command. So when you sit down in your AME's office to fill out the

application form to obtain or renew your aviation medical certificate, you may be tempted to omit some details of your medical history or otherwise fail to tell the whole truth on that form.

While this temptation is understandable, it is a temptation you must resist. This is in large measure an honor system, with the integrity of the entire aviation medical qualification evaluation process depending on your truthfulness. If you succumb to temptation and obtain an aviation medical certificate under false pretenses, when the FAA finds out about it, it will go berserk on you. It will revoke not only your medical, but all pilot certificates and ratings that you hold, probably on an emergency basis, effective immediately, and also will request that the U.S. attorney file criminal charges for felony falsification against you. That particular felony carries a possible penalty of five years in prison and/or a \$10,000 fine. Nothing infuriates the FAA more than being lied to, and it is prosecuting these cases with a vengeance.

This extends not only to medical information called for by the application form, but to all questions on the form. Remember those questions on the form about whether you have a record of traffic convictions or a record of other convictions? Well, the FAA is now comparing the answers given on medical certificate applications with other information stored in other government computers through the MATCH program.

The National Highway Traffic Safety Administration's (NHTSA) computer stores reports of traffic violations from all 50 states. The National Crime Information Center (NCIC) computer stores records of other convictions. If you do have a record of a traffic or other conviction, but deny this on your medical application, the computer will catch you and the FAA will prosecute you. Answer truthfully.

Having a record of traffic or other convictions doesn't necessarily disqualify you from getting a medical certificate. The reason those questions are on there is because the FAA is looking for clues that you may have a alcohol or drug problem (such as may be suggested by a DUI conviction) or that you have a psychiatric disorder, which might cause you

MEDICAL

continued

to fly irresponsibly (such as might be suggested by an extremely bad driving record or a criminal record). If you truthfully reveal an occasional minor traffic offense not involving alcohol or drugs, it probably won't even slow down the issuance of your medical.

What if your health changes for the worse while you have an unexpired medical certificate in your pocket? Are you required to report the change to the FAA? No. Are you required to stop flying? It

Before you sell your airplane, are you sure you've done everything possible to get your medical certificate back?

depends. If what has happened to you since your medical was issued is one of the nine specific disqualifying conditions listed above or a deterioration in your vision or hearing that puts you below FAA certification standards, FAR 61.53 mandates that you refrain from exercising pilot privileges. You don't have to tell anybody, and you don't have to surrender your medical certificate, but you do have to stop flying.

If, on the other hand, the medical event does not fit within one of those categories, you have to use your own judgment. If it is something that can lead to an unpredictable and suddenly incapacitating event in flight, impairs your judgment or your ability to precisely control the aircraft, see and avoid other aircraft or follow the directions of air traffic controllers, you should stop flying.

One of the responsibilities we have as pilots is to use good judgment and not fly when we don't feel like it. Even if you're legal, it just isn't smart.

Another consideration in this area is medication. If you are taking medication (whether by prescription or over-the-counter), ask yourself: "Can this drug affect my vision, alertness or sense of balance?" If it's a prescription medicine, ask your doctor that question; if it's an off-the-shelf medicine such as a cold remedy, consult the label or package insert. If the answer is yes, FAR 91.17 requires that you refrain from exercising the privileges of a pilot or other required flight crew (such as flight engineer on some airliners) while you are taking the medication and until it is completely out

of your system.

Additionally, whenever the FAA has some reasonable basis to suspect that you may not be qualified to hold a medical certificate, it can request that you furnish additional medical information or submit to further medical testing. If it does, you must comply promptly at your own expense. Failure to furnish additional medical information on request is grounds for the FAA to suspend or revoke your medical certificate.

The FAA's medical bureaucracy can be extremely frustrating to deal with, and

it's easy to get lost in the bureaucratic maze and wait years for a decision. An attorney who is knowledgeable in FAA certification procedures can be a tremendous help in evaluating your situation, choosing the best approach to the problem, and organizing and presenting the medical information to the FAA or NTSB in the most persuasive form.

J. Scott Hamilton, an experienced pilot and aircraft owner, is an attorney specializing in aviation law in Broomfield, Colorado.

Procedure in Aviation Medical Cases

Event	Reason	Response
1. FAA denies application for medical certificate or issues order suspending or revoking medical certificate.	One of the nine specific disqualifying conditions or alleged falsification of application.	If true, petition Federal Air Surgeon for a Special Issuance. If false, appeal to NTSB.
	(f)(2)-("other"). Vision or hearing.	Appeal to NTSB and/or petition Federal Air Surgeon for Special Issuance. Request Special Medical (Flight) test from FSDO.
2. Your medical condition changes for the worse, while you hold a current medical certificate.	If one of the nine specific disqualifying conditions or vision or hearing defect.	You must refrain from exercising pilot or other required flight crew privileges (FAR 61.53). Consider voluntary surrender, petition for Special Issuance. Resist temptation to falsify next medical application (FAR violation and felony).
	If not,	You are legal to fly (but exercise good judgment and don't fly if you don't feel up to it).
3. FAA requests you submit additional medical information or testing.	You are taking medication (by prescription or over the counter). Ask: a. Can this medication affect my vision, alertness, sense of balance?	If so, you must refrain from exercising pilot or other required flight crew privileges while using the medication (FAR 91.11).
	b. Does the need for this medication reflect an underlying disqualifying condition? (If so, see No. 2 above.)	If not, you are legal to fly (but exercise good judgment and don't fly if you don't feel up to it).
		If yes, you must comply promptly at your own expense. Failure to do so is grounds for FAA to suspend or revoke (FAR 67.31). If not, you are not required to comply.






Aurora Airpark

2nd Anniversary Party

Saturday, November 17

6:30 p.m. in the Main Hangar

-  Dancing
-  Beer and Wine
-  Please Bring Hors D'oeuvres



See You There!

The FAA: America's New Gestapo?

by Bud Aumann

Does the title sound too harsh? This writer believes a gestapo philosophy and practice exists and is promulgated by the FAA in Washington.

Webster defines a gestapo as "a secret-police organization operating especially against persons *suspected* of treason or sedition and often employing *underhanded* and terrorist methods." Emphasis my own. The Gestapo of the 30s and 40s in Nazi Germany went far beyond the dictionary definition, oftentimes against its own citizens.

Not too long ago, the FAA released as Docket No. 25690, the Final Rule and Notice of Proposed Rules Implementing the FAA's Civil Penalty Assessment Demonstration Program (CPDP). This program eliminates pilots' rights to contest civil penalties (monetary fines) in Federal Court where the amount sought by the FAA for an *alleged* violation of the Federal Aviation Regulations (FARs) is \$50,000 or less.

The FAA violated the Administrative Procedure Act (APA) by publishing a Final Rule prior to public comment! It acted despite a Congressional mandate calling for compliance with the APA. This program met with vigorous opposition from every segment of the aviation community.

On April 13, 1990, the US Court of Appeals for the District of Columbia ruled that the FAA had illegally implemented its Demonstration Program by publishing a Final Rule without affording pilots an opportunity for prior public comment. The FAA published a "modified" Rule *one week* after the Court's ruling attempting to get the CPDP back on track. Not only does the FAA violate Congressional mandates, it also violates a citizen's right of due process.

The CPDP allows that the Agency has the authority to be the three facets of government: the legislative, executive and judiciary.

There are eight issues to be contested in the CPDP. Others include the

fact that the FAA can enter "hearsay" as evidence, which is generally not admissible in court. The "someone" who made a statement is not available to be cross-examined or confronted by a pilot or his lawyer. The CPDP also allows the FAA's employees to testify as an expert or opinion witness. But a pilot may not use this witness. Pilots do not have the right to submit a trial brief in accordance with the Act's provisions. An FAA lawyer acting as the "Final Decision Maker" is allowed to raise new issues on appeal. Pilots do not have a reciprocal right.

Another provision of the CPDP is that it allows Agency attorneys with "verification authority" to sign pleadings without taking an oath while pilots (who must sign their own pleadings) must do so under oath. The CPDP's Final Rule has no prohibitions against double jeopardy.

And, finally, the Modified Rule unfairly and improperly restricts recovery of litigation expenses under the Equal Access to Justice Act. "Fees may be awarded only for work performed *after* the issuance of a complaint."

The CPDP was written by FAA lawyers for and to their advantage.

Case in point: In 1986, an airline elected to videotape an FAA safety inspection. The inspectors objected to the taping, terminated the inspection and had a letter hand-delivered to the airline requesting that there be no taping. The airline responded by writing it would not impede the FAA inspection but simply wished to protect itself by audio and video taping the inspection. The Agency issued an Emergency Order revoking its air carrier certificate! The EO suspension, in effect, grounded the airline for 60 days while it undertook an appeal to the NTSB, which concluded that the airline had committed no violation of the FARs.

The FAA's "gestapo" tactics do not end with these brief facts.

New rule

On November 29, 1990, another new rule will take effect involving the use of automobile alcohol/drug-related motor vehicle offenses. A new medical certificate after that time will include requirements that a pilot list not only alcohol or drug-related convictions or state motor vehicle administrative actions within a three-year period, it also amends the FAA's medical certification rules to include an "express consent" provision that authorizes the FAA to obtain information from the National Driver Register.

Previously, information on the medical form was sent to the Flight Surgeon in Oklahoma City. But watch this one! Reports will be sent to Mr. Robert Covell, Investigations and Security Division (ACS-310) Office of Civil Aviation Security in Washington. For those of you who witnessed or were a part of WWII, does the term "Secret Police" relate?

The above is related to Docket No. 25905. Throughout the 10-page rationalization for this action, the FAA repeatedly admits there is no foundation for the rule, just a series of "what-ifs." Statements made in response to arguments that there is no correlation between motor vehicle and aircraft-alcohol or drug-related incidents received a comment from the FAA that "The FAA made no attempt to obscure the lack of evidence correlating alcohol or drug-related motor vehicle actions with substance abuse related accidents or incidents while operating an aircraft."

Due to the implied consent provision to check into past driving history with the NDR the FAA stated, "The FAA acknowledges that there *may be an impact on the privacy of individuals* by virtue of obtaining the information in the NDR." The FAA also overstepped its bounds by entering the word "shall" authorize obtaining records from "may" obtain, thereby changing the wording of the Airway Expansion Act of 1987.

No less than 32 times did the Agency rationalize its decision to implement the rule by stating "aviation safety" or the word "safe" in the ten pages. This is its way of justifying to Congress that it is doing its job of keeping the skies safe for all Americans.

Privacy invasion

Another blatant intervention into the privacy of citizens' lives is the requirement on the revised medical certificate to list any medical visits in the past three years. The applicant will be asked to list visits to any "health professionals giving the date, name, address, type of health professional and reason for each visit. Is that not an intrusion on the right to privacy? What's a health professional? Your doctor, faith healer, dentist, minister? Is it the FAA's business to know whether or not you've had a vasectomy, abortion, hemorrhoids, personal family problems? The FAA has forced medical practitioners to violate the Hippocratic Oath of patient confidentiality with these rules and snitch laws.

And who prepares these regulations? No, not Administrator Busey directly, though he must condone these actions by the fact that they are implemented. When responding to a Notice of Proposed Rule Making, comments go to the Office of Chief counsel, currently Gregory S. Walden, an FAA lawyer. He is not a pilot.

Is the FAA using terrorist or underhanded tactics? Who of you can say that you do not have some fear of the Agency?

Two FAAs

This writer believes there are two FAAs. There are those dedicated individuals and departments in the field who provide excellent and courteous service and cooperate with pilots on a daily basis. Then, there are the Washington bureaucrats seemingly attempting to undermine the cooperative spirit shared by those involved in the daily operation of the system.

To prevent further deterioration of the system, it is imperative to contact your representatives either at their local office or in Washington and demand that these unfair practices and regs by FAA Washington be terminated now.

Many representatives don't take action since they don't receive much mail or phone calls on the issues. If your reps aren't readily available, their aides often are instrumental in advising your congressmen or senators on a specific issue.

In the 1950s there was a junior Senator from Wisconsin named Joseph McCarthy who turned the trust of Americans into total chaos by charging that many Americans could be guilty of Communism by association. McCarthy drew the irate criticism of Edward R. Murrow who said, "The line between investigation and persecuting is a very fine one, and the junior Senator from Wisconsin has stepped over it repeatedly."

What more can be said about the FAA's actions?

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