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THE FAR MENTALITY

Why The Rules and Regs Aren't Always the Holy Grail

When I give educational forums around the country, I can count on almost always getting a question like the one I had at Sun 'N Fun a few years ago. An obviously agitated member of the audience asked, "How come you people require me to receive 25 hours dual flight instruction before I can get insurance in a twin when all the FAA makes me do is get a multi-engine rating?" My somewhat flippant answer was, "Because the FAA isn't putting a million dollars on the line every time you go flying."

This pilot's question reveals a mindset that I observe frequently. That is the mindset that the FAR's are the "Holy Grail" of aviation safety and that they prescribe acceptable behavior for all flying situations. Here are a few more illustrations.

A few years ago a CFI friend of mine sent his flight school an e-mail regarding the attitude of one of his students. The CFI expressed "concern about his complacent attitude about flying and expressing (the CFI's) concern for (the student's) safety post check ride." None the less, this CFI endorsed this pilot for the check ride "because he met all of the standards for the practical test and he passed his Part 141 Graduation ride." Less than a month later the pilot killed himself and three passengers in a late model Cessna 182.

One final illustration: when I became involved with the FAA/Industry Training Standardization (FITS) initiative a few years ago as a representative of the insurance industry I commented that my desired outcome of the initiative would be that it would devise some guidelines for transitioning to Technically Advanced Aircraft (TAAs) that would be effective, yet *voluntary*. I suggested that insurance companies such as Avemco® could then have the option of writing those standards into our policies to have a reasonable chance of knowing that effective transition training was taking place. I felt that a free market solution could be offered to the problem of transition training. That way not every insurance company would adopt the standards, giving the consumer the choice

as to whether to insure with a company that required the training or one who didn't. Our industry would thus be able to avoid the cumbersome heavy hand of FAA regulation on this new technology, regulation that invariably would be extremely difficult to keep up with given the amazing technological developments and advancements in avionics.

My idea was immediately labeled by individuals representing pilot associations as "de facto regulation" by insurance companies. The association representative said he preferred that this "regulation" be done through the FAA regulatory process where, he asserted, it belonged. Interestingly he admitted that the FAA was ill-equipped to do this effectively, but that he still preferred that process to a free market one.

It is my belief that these illustrations represent a view of the FAR's that are both unrealistic and dangerous. By their very nature, regulations are "minimum" standards. They are designed that way to give the pilot maximum leeway in making his or her own decisions. For example, the FAR's permit a newly minted Private Pilot to obtain a multi-engine rating (and complex endorsement) in a Seminole and be "legal" to fly a brand new Beech Baron. Does anyone really think that is a "safe" situation? If you were an insurer, would you be willing to risk \$2,000,000 on that pilot's skill (considering both hull and liability)?

Was the pilot of the fatal C-182 a "safe" pilot simply because he met the FAA's Practical Test Standards and could pass the check ride? Did the FAR's protect his passengers?

Can you regulate away complacency?

Do we really want the FAA to dictate the standards for transition training into a TAA? Doesn't it seem evident that such an approach would probably be ineffective and that after a few bad "high profile" losses the FAA would be forced to impose stringent (and non-negotiable) standards that could damage the TAA market? Whatever one believes about "de facto" regulation by insurers, I strongly suspect that insurance for expensive TAAs would dry up long before the FAA had a chance to take action.

My point here is not to denigrate the hard working people who write and enforce the FAR's. I know many of them and I can assure you that they want a safe and profitable General Aviation as much as you and I do. Instead, it is my intent to help all of us rise to a higher level of personal responsibility for aviation safety other than just "meeting the FAR's".

Consider this: regulations, by their very nature, are written to be legally enforceable. They are black and white attempts to codify acceptable behavior. Flying an aircraft, however, is a complex act that involves not only the mind, but also emotions and values. Recent efforts by people like John and Martha King to engage in real world risk management training recognize this reality and offer much promise in reducing accidents (and, might I add, helping to control insurance costs).

But for our industry to fully engage in serious risk management we must first get past the "FAR mentality". I encourage each of you to think about that deeply the next time you are managing your own risks of flight.