

An FAA “get out of jail free” card

By Chris Hope, Master CFI

I woke up early this morning as a result of a bad dream. I have no idea where this dream came from, but I dreamt that I was in a Cessna 172, taking off from a poorly-maintained grass runway out in the middle of some large open field. I was taking off to the south, and I could see that the runway was in pretty poor condition, and that there were mole hills all over. And I was thinking that I was going to have to maneuver a bit to miss them. (At least, I know where that thought came from. Those little fellows are all over my yard.)

Anyway, I dreamt that as I added power for takeoff, I suddenly realized that since I was on a grass runway, I assumed that there was no control tower – but there was and I had neglected to contact them for takeoff clearance. To make matters worse, I had not even called for taxi clearance. I immediately aborted my imaginary takeoff. That was when I awoke, and the first thought in my mind was that I should immediately file a NASA report. At least I got that part right.

So you are thinking that the dream is continuing on its own bizarre little way. Why would I want to contact the National Aeronautics and Space Administration? Well, there is a real good reason. By filing a NASA report, I can spare myself the disciplinary action that is sure to follow for this runway incursion that I just committed.

In the mid 1970s, the FAA realized that they had a problem in trying to get a handle on potential safety issues. The only problems they could document were those that somehow came to their attention and resulted in either an aircraft accident or aircrew / pilot / controller disciplinary action. No one was coming to the Agency with first-hand reports of “here is what I did wrong.” After all, who would put themselves in that position?

Well, the FAA did not have the reputation of being the friendly organization that it is today. (yes, it was even worse.) So, they knew that there was no way that anyone was going to admit errors to them. But they teamed up with NASA, and on April 30, 1975, the two agencies officially formed the Aviation Safety Reporting System. And this was put out to the aviation community in Aviation Advisory Circular 00-46E. While the reporting system involves mechanics, controllers, and aircrew members, for the sake of this column I am only concerned with its affects on us pilots. And the crux of the circular, as far as we pilots are concerned, is in paragraph 9(c):

The FAA considers the filing of a report with NASA concerning an incident or occurrence involving a violation of 49 U.S.C. subtitle VII or 49 CFR to be indicative of a constructive attitude. Such an attitude will tend to prevent future violations. Accordingly, although a finding of violation may be

made, neither a civil penalty or certificate suspension will be imposed if:

- 1. The violation was inadvertent and not deliberate;*
- 2. The violation did not involve a criminal offense, accident or action under 49 U.S.C § 44709 which discloses a lack of qualification or competency, which is wholly excluded from this policy;*
- 3. The person has not been found in any prior FAA enforcement action to have committed a violation of 49 U.S.C subtitle VII, or any regulation promulgated there for a period of five years prior to the date of occurrence; and*
- 4. The person proves that, within ten days of the violation or date when the person became aware of the violation, he or she completed and delivered or mailed a written report of the incident or occurrence to NASA.*

So, what does this mean to us pilots? How do we go about taking advantage of this leniency? Well, of course there is an app for that – or at least a website. Details regarding the system, as well as filing procedures are found at: http://asrs.arc.nasa.gov/overview/su_mmary.html And a pilot can either file on line or file by mail.

The system is pretty much the same in either case. There are some fill-in-the-blanks questions regarding name and location and the general situation. And then there is a large free-form space for a narrative that is used to describe the entire situation – what you did, what you were thinking, what you did when you realized that you were not in compliance with the regulations. Then, if you are working on-line, just hit “Submit”, or if you like the US postal service, print the form out, stick it in an envelope and mail it to the address shown.

OK. What then? NASA assigns the report a case number, and sends you a note back informing you of the case number. Hang on to this. This receipt is your proof that your report has been received. (Of course, if you file electronically, you get proof-of-filing immediately.) Then, all of the personal information is removed from the report and the report is forwarded on to the people who try to make sense of the big picture.

Ever wonder how the FAA knows about runway incursions, especially at non-towered airports. At towered airports, of course, the tower controller may (or may not, depending on the situation) file a report with the local FSDO. But otherwise, the information comes from these reports.

Ever wonder how the FAA learns about aircraft which come too close to one another if the pilots are not talking to an FAA controller? How about airspace incursions? A lot of

that data comes from these reports, which, we hope, helps the FAA make some intelligent decisions regarding these situations. And the big benefit for us pilots is that we can admit our actions and know that we will not be penalized.

While we are on the subject of forgiveness, were you aware that there are some other factors that come into play when they FAA thinks that your actions are worthy of some type of sanction? We all know that we are required by FAR 61.56 to obtain a flight review from a certified flight instructor every two years. And most of us agree that flying once every two years is probably not enough to keep our skills up to snuff.

There are a ton of ways to help us keep proficient: additional flight training, which may or may not lead to an additional rating; attending a safely presentation sanctioned under the FFAST Wings program; completing various on-line training courses prepared by the AOPA-Air Safety Foundation, the FAA, or any other third party vender. Just document your training, and keep

the info on file where you can find it later.

Does the system work? A few examples from people close to me. A pilot on a VFR sight-seeing flight climbs up into Class Bravo airspace and continues in the airspace for about five miles. A different pilot, an instructor conducting instrument training under Visual Flight Rules, enters Class Bravo airspace when he forgets that the initial approach fix for an outlying airport is actually within the Class Bravo airspace of another airport. And finally, a commercial pilot, flying VFR at night, runs out of fuel one mile short of his destination.

All of these situations were ripe for enforcement action. However, in all three cases, the pilot had a provable record of continuing training, and in all cases the four conditions listed above regarding the NASA reporting system were met. Happy endings for all.

Here's hoping all of your aviation dreams are pleasant.

Don't just practice until you get right. Practice until you don't get it wrong

Chris Hope has taught fledgling and experienced pilots for more nearly 40 years, mostly in the Kansas City area. Chris holds flight instructor certificates for single engine land and sea airplanes and multi-engine land planes, as well as for instrument training. He holds ground instructor certificates for advanced and instrument training. Chris is an FAA Gold Seal Instructor and a Master Certified Flight Instructor. Chris serves as a member of the FFASTeam in the Kansas City area. His website is www.ChrisHopeFAAFlightInstructor.com