

123.05



NEWS

## FROM THE PRESIDENT

PART 157: NO PARKING  
(WITHOUT A 90 DAY NOTICE).

Have you heard? Your town just adopted a by-law that provides that you cannot park downtown, to do your normal business, without giving the town a 90 day written notice! Sound ridiculous? Well, believe it or not, the FAA has just adopted the aeronautical equivalent to that scenario, by way of revising Part 157 of the FAR's.

In case you haven't heard, by way of our most recent NEHPA meeting, the recent article in Rotor and Wing, (January 1991, "FAA's New Part 157 Is Bad News") or the most recent HAI Operations Update, February 27, 1991 is the effective date of the new Part 157 Regulations.

Essentially, these new regulations throw helicopters into some airport notification procedures that have a devastating effect on our ability to operate and land both inside and outside control zones without giving at least a ninety (90) day notice to the FAA. Even temporary and transient landings are covered.

The text of these new provisions basically suffers, not from what it says, but from what it doesn't say. The new FAR is poorly written, lacks definition and was certainly conceived without even a basic understanding of rotorcraft operations.

In case you haven't read the text of the new regulations, basically they provide that you must provide FAA with a ninety (90) day notice of landings that are currently considered "temporary use heliports" whether they are in a control zone, a residential, business or industrial area, within ten (10) nautical miles of any airport for which an instrument approach has been authorized, or within three (3) nautical miles of any other airport other than a heliport, or within one (1) nautical mile of any heliport. By the time you draw out all the circles around all those areas, you are not going to have very much left on the chart. Unfortunately, the FAR doesn't help us with any definition as to what constitutes a "residential, business or industrial area." Since you cannot land in those areas without the prior notice, what is really left?

The FAR's do provide that we can land at a temporary site within those areas if it would justify an "unreasonable hardship" to give the 90 day notice. Unfortunately, the

## MARCH MEETING

Be sure to mark your calendar:

March 7, 1991

Westford Regency Inn, Westford, MA

6:30-7:30 P.M. Social Hour

7:30 P.M.—Meeting

### AGENDA

FAA Assistant Chief Regional Counsel, Amy L. Corbett, will be our guest speaker. Attorney Corbett will review with us the basic steps involved in an enforcement proceeding against pilots who have violated the FAR's. The presentation will also discuss the changing attitudes of FAA with respect to compliance with the FAR's.

You will also learn some statistics about what kinds of pilots get in trouble with the FAA and for what reasons—you will be surprised.

If you have ever wondered whether or not you could be the subject of an enforcement proceeding or what might happen if you are, be sure to be at this presentation. The presentation will be followed by a question and answer period.

Don't forget, this meeting is held at the Westford Regency Hotel in Westford, MA.

FAR doesn't define what "unreasonable hardship" is and leaves us to judge what that subjective standard is. Do you want to be the test case for what constitutes an unreasonable hardship in an enforcement proceeding where your Part 135 Air Carrier Certificate or your Airman's Certificate might be suspended or revoked? So what should we do? Well, NEHPA has already voiced its opposition to the adoption of the new Part 157 to our congressional delegation, and to the FAA. We have specifically recommended two things:

- (1) That the implementation date of February 27, 1991, be extended for at least six months.
- (2) That during such a period of time, the period for public comment be re-opened so that this important issue can be adequately discussed, particularly by rotorcraft operators who are most severely impacted.

You may be interested to know that HAI (Helicopter Association International) has been most vocal in its opposition to the adoption of these regulations and we thank them for their support. Unfortunately, this

issue never received the kind of attention and publication that would normally accompany such drastic regulations and, therefore, the aviation industry, both the users and regulators, have been surprised by the new regulations.

What can you do? The most important thing you can do is immediately spend some time to write a few letters to your U.S. Senators and your Congressmen. We suggest also that you immediately write a letter to the Federal Aviation Administration in Washington. Don't be bashful. Mail your letters right away and urge that these legislators support a delay in the implementation of Part 157 and a reopening of the period for public comment.

In the meantime, watch out for the parking tickets.

John P. Burke, President

## SAFETY AWARD NOMINATIONS

You will find inside this issue of the Newsletter a form for submitting nominations for the 1991 NEHPA Safety Award. This Safety Award will be presented at the NEHPA Safety Seminar to be held at the Westford Regency Hotel on Saturday, September 14, 1991. NEHPA officers will choose the recipient or recipients based on the nomination forms from the membership of NEHPA.

Please fill out the name of the recipient you wish to nominate and cite briefly the reason or reasons why the nominee should receive the award.

The award will be given to an individual or an organization who have demonstrated a special or unique commitment to aviation safety. That commitment could be demonstrated by a long safety history, a special activity, an advancement in safety technology, etc. (We do not wish to limit the nature of the commitment.)

Remember, this is not a popularity poll and the number of nominations for any nominee is not a criteria in the selection process.

Please return the completed form to any NEHPA officer, or mail it to NEHPA, P.O. Box 88, Bedford, MA 01730.

For membership applications or inquiries contact David Graham, Secretary, P.O. Box 88, Bedford, MA 01730.

## GETTING A MEDICAL? BETTER TAKE YOUR LAWYER ALONG!

by Michael Pangia, Esquire

You are having a marital problem which may have something to do with a physical or emotional difficulty relating to the bedroom. You telephone a friend who is a psychologist dealing in those matters. You consult privately, of course, for these are not matters most of us are given to openly sharing with even close friends or family. There are folks in powerful positions at the FAA, however, who want to know this information if you want to continue to fly. Read on.

Most of us are somewhat familiar with the form presented to us by the designated medical examiner when we are obtaining or renewing our airman's medical. It has a list of illnesses with "yes/no" columns. The latest questions address "Traffic Convictions" or "Other Convictions" followed by "Other Illnesses." Many pilots, inadvertently or otherwise, erroneously checked off "no" for these last items. Over the past few years, the FAA has checked drivers' data of several states, caught discrepancies, and not only brought enforcement actions to revoke certificates for fraud, but also turned over the information to U.S.

Attorneys for criminal prosecution. Having received complaints about the potential trap lurking in this "medical" form, the FAA took recent steps to cure any ambiguity about the detailed information it seeks. We now have a new application in the works at FAA (FAA Form 8500-8), but you must be warned about the legal ramifications which are in store.

The "yes/no" columns will be basically the same, except that the non-medical questions are wisely removed and placed in a separately numbered box. There will be a separate box marked "Conviction and/or Administrative Action History" requiring us to provide a history of any conviction for driving under the influence of alcohol or drugs and any conviction or administrative action involving an offense which resulted in a denial, suspension, cancellation, revocation of a driver's license or if an educational or rehabilitation program was required (presumably dealing with a driver's education or rehabilitation program) at any time in our lives. Your application will also require you to authorize the FAA to access the National Driver Register and to match it with information gathered from various States.

There will be a set of instructions accompanying this form. I must first tell you that the first released draft was written in such a way that it required a disclosure of even non-driving matters such as the relinquishment of a contractor's performance

bond on a building project. The far-reaching scope of the language was brought to the personal attention of the Administrator, and has since been amended to refer only to driving—I think. I hesitate because there is another subheaded box requesting a "yes/no" for a "History of Other Conviction(s) (misdemeanor or felonies)." The instructions cite examples: "assault, battery, public intoxication, robbery, etc." Does it mean such things as creating a public disturbance with a loud radio, trespassing, failure to tear the stamp when opening a cigarette pack, a violation of a boating regulation? If not, where is the dividing line?

The answer is when, as the form amply warns, you are faced with up to \$250,000 and/or a prison sentence up to 5 years for knowingly or willfully falsifying, concealing or covering up any material fact or making a false statement or entry, there is no dividing line. You'd better search back into your past, and for those who must go back 30, 40 or 50 years, it is too bad because there is no "I do not remember" box to check on this new form.

Now we get to the interesting part. Under a separate heading you will be required to set out the reasons, names, addresses, and types of all "health professionals" you "consulted in the last 3 years." The instructions for the traditional "yes/no" list state you need not report occasional common illnesses such as "colds or sore throats," but the proposed instructions relating to the health professional part do not contain this exclusion. Because the term "health professionals" is so broad, the FAA was asked to consider at least confining it to physicians, but so far that proposal has been rejected.

In the law, there is a rule of statutory or regulatory interpretation which essentially holds that when there are specific exclusions mentioned it means that what is not stated was meant to be specifically included. The only specifically excluded consultations are "routine [whatever that is] dental, eye, and FAA periodic medical examinations." Imagine, they do not want eye examination information, but they do want information about that psychologist with whom you consulted because of the marital problem. How about the consultation with a doctor for pregnancy test, blood test, athlete's foot or body lice?

This brings us back to a very basic question about the FAA's mission and how far we should allow our government to go to accomplish it. I have heard it said by one responsible FAA official that seeking this broad, intrusive information should not be a concern because such matters would hardly result in loss of the certificate or an indictment. I have also heard the justification that seeking this information is justified because "it could possibly reveal some-

thing that may lead the FAA to find out something important." Can not the same be said to justify similar actions of other agencies, particularly when safety or national security is involved? No one seems to be able to say or reveal exactly how the FAA intends to use this information.

We all want to see a strict enforcement of our laws dealing with drug traffic and drug and alcohol free driving and flying. We must be careful in our society, however, that the attempt by one agency to go too far in curing any of these ills does not become worse than the problem itself. Personal data can be a very powerful weapon. For those who serve as government employees, who must have airmen's certificates, such as flight inspectors or air traffic controllers, the combined personal information data bank can be so comprehensive that it would rival the wildest Orwellian fantasy. Of course, this new form will assist the FAA in its war against drugs and in enforcing our laws dealing with operating aircraft and automobiles while under the influence of alcohol or drugs. It would also help the FAA to enforce honesty. Will it be worth the price?

Now, the lawyer's dilemma: How do you advise a client who does not wish to reveal information such as the telephone call mentioned in the first paragraph. Could it be possible that the FAA really wants such information? I imagine that if the FAA means what it says that it also says what it means. So, with a possible felony involved, particularly considering the FAA's history of prosecutorial efforts regarding the present form, I would have to advise a client to err on the side of the most comprehensive disclosure possible. If you cherish your privacy and wish to protect it from the government that much, perhaps you may consider giving up your privilege to fly. An alternative might be that before you seek such consultation, remember the consequences and put that receiver back down. Big Brother will be watching you. A better approach is to bring this matter to the attention of your legislative representatives now to nip this proposed intrusion in the bud.

NOTE: Mike Pangia is a former FAA Asst. Chief Counsel, Chief of Litigation & Past President of the National Transportation Safety Board Bar Ass'n. He is also a regular contributor to the Mid-Atlantic Helicopter Ass'n. Newsletter, in which this article first appeared.

Many thanks, Mike — JPB

## VOLLEYBALL CANCELLED

Unfortunately, the Association's Annual Volleyball Game which was to have been held on Saturday, January 12, was cancelled due to the snow/ice storm. We will make sure that we will re-schedule this event to take place within our summer meeting in August.

## COMMITTEE APPOINTMENTS

If you think that NEHPA is just four meetings a year and a Safety Seminar—you're wrong! The number of people participating in NEHPA on a committee level to assure that all our activities are well planned and that our voice is heard where it is needed, is very broad. NEHPA President, John Burke, has appointed a whole new round of committees for 1991. A roster of those committee members is published for your information. Do not be afraid to communicate with any of the members of these committees on topics that you think are important to NEHPA or to yourself. Don't forget NEHPA is for you!

### Safety Seminar Committee:

Co-Chairman: David Manning  
Co-Chairman: Chris Harrington  
David Graham · Rick Wickson  
Stephen M. Finkel

### ATC Committee:

Chairman: Jack Keenan  
Bob Braceland · Tom Grassia  
Mike Peavey · Gary M. Rolfe  
Linda N. Bandoni

### IFR Committee:

Chairman: Chuck Spencer  
Bruce MacLeod · Bill Snead  
Dave O'Sullivan

### Dinner Dance:

Co-Chairman: Wendell Moore  
Co-Chairman: Holly Sawyers

### Public Relations/Activities Committee:

Chairman: LaRay Todd  
Michael Rhodes · Chris Harrington  
John Scanlon · Barry Birmingham

### Newsletter Staff:

Elberta Hilliard · Dave Graham  
Chuck Spencer · Kip LaVigne

### NEHPA Representatives:

Metropolitan Area Planning Council:  
Brian Holt · Tom Grassia

### Helicopter Association International:

### Legislative Advisory Committee:

Art Godjikian

Safety Committee: LaRay Todd

## ELECTION OF OFFICERS

At the January NEHPA Meeting, the 1990 officers were unanimously reelected for an additional term of one year. The officers for 1991 are as follows:

President: John P. Burke  
1st Vice President: LaRay Todd  
2nd Vice President: David S. Manning  
Treasurer: Robert Reynolds  
Secretary: David W. Graham

## NEW RATINGS

From B & A Helicopter Services—SOLO:  
Scott Lloyd, R22—CFIH Dave Adams  
Ed Mattingly, R22—CFIH Bob Lothrop  
Harry Singh, R22—CFIH Bob Lothrop

## WEARY OF WINTER?

Make plans now to attend the annual NEHPA dinner dance extravaganza on Saturday, March 30th, at the Westford Regency. Get ready for indoor body surfing, fabulous door prizes, and the most fun you can have with your clothes on. If you wish, you can combine an evening of fun and entertainment with a getaway weekend. The Regency has provided a special room rate for members which includes breakfast on Sunday. Contact the Regency (508-692-8200) for details and room reservations. Jon Peters (official NEHPA DJ) will provide the night's entertainment. Mail the enclosed dinner reservation form today. See you there!

## MORE NEW RATINGS

### PRIVATE:

William Cleary, R22—CFIH Bob Lothrop  
Sal Falzone, R22—CFIH Bob Lothrop  
Wayne Hannula, R22—CFIH Bob Lothrop  
Michael Mancusi, R22—CFIH Bob Lothrop

### COMMERCIAL:

Dave Keefe, R22—CFIH Bob Lothrop  
Colm Martyn, R22—CFIH Bob Lothrop

### CFIH:

Joe Paulanthony, R22—CFIH Bob Lothrop

### TURBINE TRANSITION:

Alan Beagley, Bell 206B—CFIH Bob Lothrop

## 123.05 NEWS

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We will consider for publication any photographs or manuscripts, and particularly seek material that has educational value to our membership.

Address submissions to the Editor, Elberta Hilliard, 8 Hope Street, Hopedale, MA 01747-1814 or FAX (508) 651-9276.

NEHPA is an affiliate member of Helicopter Association International.

## DID YOU FORGET?

Don't forget—if you have not sent in your dues for 1991, do so right away. Having to send out reminder notices and chasing those who have not renewed is an expensive and burdensome problem for our secretary, Dave Graham. Please help Dave out by sending in your dues and membership renewal immediately.

## HAI CONVENTION

At the recent HAI convention, Heli-PAC, a subcommittee of the Legislative Advisory Committee (LAC), moved to rejuvenate itself. Heli-PAC is HAI's political action committee that has sparked little interest of late and plans to raise membership involvement in the coming year. The current members of Heli-PAC are hoping to convince company executives and management to endorse the

committee and encourage their employees to contribute. The members, headed up by Bob DeCamp of Hawaii who is chairman of Heli-PAC, hope this effort coupled with an aggressive fund-raising campaign—utilizing ads, articles, and telemarketing—will allow them to meet their financial goal.

I argued and voted against reviving Heli-PAC. It is my feeling that the campaign will consume too much of HAI's valuable and limited resources, and will produce few results. Also, PAC's are meeting with growing disfavor with the public and may soon be outlawed. Thus, HAI would be reviving a dinosaur.

The LAC's Issues Subcommittee agreed to submit five legislative priorities to the LAC...

1. Appropriate use of public funds & resources.
2. Federal leadership in heliport and airway development.
3. Adoption of a national aviation product and general liability law.
4. Inclusion of helicopter standards in a national noise policy.
5. Labor classification of pilots as professionals under government service contracts.

Dropped from the priority list was the request to create a single-source advisory capability at the directorate level of the FAA to help respond to industry questions and demands quicker. Also dropped was a request to amend the endangered species act.

In the full LAC meeting we heard reports from the regional representatives. Most of the regional concerns centered around heliports and zoning laws. One member, Lu Mays of Ohio, described how he had a real fight on his hands recently to maintain a well established heliport on his property. Many members related similar incidents within their regions. All are concerned at how easily the public can target and close heliports and how little protection operators really have. The committee concluded that a national noise policy and a standard application for helicopters that addressed local zoning laws and concerns, might help protect operators and heliports from local politicians and unreasonable public restraints. The most controversial issue the committee debated was the public versus the private sector. HAI maintains that its programs, activities, and goals are aimed to promote the entire industry. The leadership feels that it is inappropriate to take sides when one group of members is pitted against another. The LAC feels very strongly that HAI must adopt a policy that supports the free enterprise system, and opposes helicopter operations performed by the public sector that compete with, or are similar to, operations performed by the private sector. HAI provided a forum for the membership to express their opinions. The issue has not been resolved and it may be some time before the matter is settled.

*Continued on next page.*

## STAY A WHILE

If you're going to Bell at Mirabel, you have the unique opportunity to mix business with pleasure. Less than a 30 minute drive from Bell, in the lower Laurentian Mountains, is the village of Saint-Sauveur. This quaint little town is reminiscent of Old Europe or, perhaps, Vail. The Manoir Saint-Sauveur is a perfect base-camp/hotel nestled in the valley at the foot of one of Saint-Sauveur's ski resorts. Having the "misfortune" of being snowed in for three days along with a pilot from Evergreen, Terry Lay, I had the chance to discover this special resort. Terry and I highly recommend it to you.

Although we were not able to sample every one of the 80 plus restaurants and pubs, or check out the many shops and boutiques, we walked most of the village's streets, including a short walk to one of the ski lodges for lunch. If you've ever been to Quebec you know that there is an ongoing conflict between the French-speaking and English-speaking Canadians. You will immediately sense a coolness from some natives, and in some cases they are downright rude, but don't take it personally. This conflict has deep social and political roots and is not generally aimed at Americans. However, if you do start feeling the need for some sincere hospitality, we found the friendliest place in town. You shouldn't miss it!

Moe's Deli & Bar is run by a Greek family,

and owner Terry, with waiter Kris, will make you feel like you are visiting family. Be sure to sit at the bar under the Bell Helicopter hat we donated and experience the hospitality of the most beautiful barmaid in Saint-Sauveur, Susanne Wood. Tell her John and Terry sent you! We guarantee you'll be in love when you leave.

If you manage to tear yourself away from Susanne, there are several cozy pubs you may want to visit. Each has its own distinctive atmosphere. We are told, too, that the summer season is just as delightful in Saint-Sauveur so don't just spend a routine night at a routine hotel in Montreal or Laval when you go to Bell, you'll be missing a spectacular experience!

The customer relations staff at Bell (514) 437-2763 will provide complimentary transportation and assist with special-rate hotel reservations. Enjoy... and bring a friend.

Contributed by member John Anderson

## HAI CONVENTION (continued)

Yours truly was elected vice-chairman of the LAC. My new responsibilities include chairing the Legislative Issues Subcommittee, presiding over the LAC in the absence of the chairman, and succeeding him next year. I think we made good progress at the convention, and we look forward to a year that may produce significant results for our industry.

Contributed by member Arthur Godjikian

## TIP O' THE HAT

First off, let's thank Jack Keenan for his informal report at January's meeting, on what's happening with the efforts to relocate Boston Heliport. Tom Grassia also filled us in on the activities of the vertiport planning committee. It is because of members like these that NEHPA remains an influential part of the helicopter community.

Thank you also to Lt. Peter Francis from the Massport Fire Department who gave an informative and entertaining presentation on the recent fire at Denver-Stapleton's fuel farm. Lt. Francis was a member of the Go Team that assisted in putting out the fire and came back to tell us all about Denver's methods. He was called up to replace Chief James P. Lonergan and Asst. Chief Robert J. Donahue when they were unexpectedly called away from a meeting at the last minute. We hope to someday here their presentation on aircraft rescue procedures at Logan, but Lt. Francis did a great job at letting us know how other airports get things done and we thank him for his time.

Finally, a big "tip o' the hat" to Arlene Feldman and Barry Birmingham from the FAA who were in attendance at January's meeting. We applaud their efforts to help us stall the implementation of the new Part 157 regulations and thank them deeply for their support.

## New England Helicopter Pilots Association

P.O. Box 88

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