

October 21, 2013

National Transportation Safety Board
Office of General Counsel
409 L'Enfant Plaza East, S.W.
Washington, D.C. 20594-2003

Re: Docket Number NTSB-GC-2011-0001; Notice of proposed rulemaking, Rules of Practice in Air Safety Proceedings

The National Business Aviation Association (NBAA) represents the interests of more than 9,000 Member companies who operate general aviation aircraft as a solution to some of their business travel challenges. Over NBAA's 65-year history, the Association and our Membership have been fundamental participants in the development, analysis and implementation of numerous regulatory initiatives that have impacted the business aviation community. We believe that this involvement has helped to produce sound and effective safety policy related to the operation of general aviation aircraft for business purposes.

The business aviation community's commitment to reasonable and effective safety standards and practices has led to a safety record for corporate aviation that is equal to, and sometimes better than that of the scheduled airlines. This safety record results from the business aircraft operators applying practical safety strategies to manage and mitigate risk. The business aviation community has a long and demonstrated history of partnership with government safety and security regulatory agencies. These partnerships are based on common objectives and underscore our preference for working cooperatively with these agencies to jointly develop solutions. It is in that spirit that the NBAA offers these comments on Docket Number NTSB-GC-2011-0001 published on September 19, 2013, entitled Notice of proposed rulemaking (NPRM).

I. History of Safety Enforcement Proceedings

NBAA in the past has participated in many rulemaking efforts involving aviation safety enforcement proceedings, including the recently published NTSB Final Rule (September 19, 2013) finalizing changes to various sections of 49 CFR part 821, as a result of the Pilot's Bill of Rights and efforts of NBAA's Regulatory Issues Advisory Group (RIAG) which approached the NTSB in 2009 regarding more transparency. NBAA and our Members seek to ensure air safety is preserved and enhanced through rigorous safety enforcement efforts and procedures that are meaningful, fair, reasonable and evenly applied to both FAA and those accused of wrongdoing. NBAA welcomes and appreciates the NTSB's current review of its regulation dealing with the

rules of practice in air safety proceedings and the Equal Access to Justice Act of 1980, with a view towards ensuring that they are fair and appropriate.

II. Emergency Cases

The NPRM addresses two issues in regards to emergency cases: FAA disclosure of the Enforcement Investigative Report (EIR) to respondents of emergency cases and a respondent's right to move for dismissal. The NTSB's recent Final Rule revised language in §821.19(d), which requires the FAA to disclose the Enforcement Investigative Report (EIR) in non-emergency cases. This NPRM would correct an inconsistency that the Final Rule created by not specifically addressing disclosure of the EIR in emergency cases. The Final Rule only required the FAA to provide a copy of the EIR to respondents in standard airman certificate enforcement cases and specifically excludes emergency proceedings from this requirement. NBAA's comments regarding the initial Interim Final Rule pointed out this potential loophole, which could allow the FAA to withhold the EIR from a certificate holder if that certificate holder was subject to emergency enforcement action. NBAA agrees with the Board that applying consistent disclosure requirements, regardless of the type of enforcement case, will set clearer expectations of enforcement proceedings for all parties.

NBAA supports the NTSB's move to require the FAA to provide the EIR to respondents in emergency cases by revising §821.55(d). This disclosure requirement applies a needed level of transparency to emergency certificate actions, which typically have an immediate and severe impact on the certificate holder pending outcome of the investigation and appeals process. NBAA believes requiring the FAA to provide the EIR to respondents in emergency cases allows a certificate holder facing emergency enforcement action a fair opportunity to defend themselves.

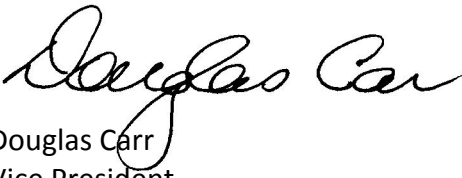
The NRPM also addresses §821.55(c) which prohibits a respondent from filing a motion to dismiss an enforcement case or request more specific information from the FAA. Proposed §821.55(c) would allow a respondent to file a motion to dismiss the complaint if the FAA does not provide a copy of the releasable portions of the EIR by the time the agency serves an emergency or "other immediately effective order" on the respondent. The regulatory language presented in the NPRM would more closely align the right to motion for dismissal of emergency cases with the existing §821.19(d) language regarding non-emergency cases with the exception that the FAA must provide a copy of the EIR by the time the agency serves a complaint in non-emergency cases. This discrepancy (disclosure at time of emergency order versus time of complaint) is appropriate as it recognizes the expedited timeframe the Board is held to in reviewing emergency proceedings and the typically severe impact of emergency orders on certificate holders.

NBAA supports this proposed change.

III. Summary and Conclusion

NBAA truly appreciates the NTSB's willingness to revisit the appropriateness and effectiveness of its regulations dealing with the rules of practice in air safety proceedings, as well as the opportunity to comment on those proposed regulations. We continue to stand ready to support any NTSB efforts to update and improve these regulations. Please contact us if you require any additional information.

Sincerely,

A handwritten signature in black ink that reads "Douglas Carr". The signature is written in a cursive style with a large, looping initial "D".

Douglas Carr
Vice President
Safety, Security & Regulation