

NTSB REQUESTS COMMENTS ON CERTIFICATE ACTION REVIEW PROCESS

January 3, 2011

What's at Issue

On December 22, 2010, the National Transportation Safety Board (NTSB) issued an Advanced Notice of Proposed Rulemaking (ANPRM) titled *Rules of Practice in Air Safety Proceedings and Implementing the Equal Access to Justice Act of 1980*.

Why it's Important

The ANPRM requests comments from the industry on the rules used by the NTSB in reviewing Federal Aviation Administration (FAA) certificate actions.

Major Provisions

The ANPRM covers Title 49 of the Code of Federal Regulations Parts 821 and 826.

49 CFR 821

Currently, under Part 821 an NTSB administrative law judge is required to assume that the facts presented by the FAA in an emergency certificate action are true when reviewing whether the emergency classification of that certificate action was reasonable. The NTSB is revisiting this regulatory language at the request of industry and is asking for public comment on possible proposed changes.

Additionally, the NTSB is asking for comments on the portions of Part 821 governing the “*discovery process and exchanges of information by the parties in air safety enforcement proceedings*” as well as possible methods for allowing the electronic submission of documents relating to its review of certificate actions.

49 CFR 826

The NTSB has received a request to modify Part 826 to update FAA contact information to conform with the Equal Access to Justice Act (5 U.S.C. 504) and requests comments from industry on Part 826.

NATA Position

NATA has long believed that Part 821 provided insufficient protection to certificate holders from arbitrary and capricious actions on the part of the FAA. NATA is pleased that the NTSB has taken the first steps to remedying this issue. NATA staff will be working closely with association members and others in the industry to develop comments to this NPRM that ensure that certificate holders are afforded protection and due process.

Status

The ANPRM has been published in the *Federal Register* and is open for public comment until February 22, 2011. The ANPRM is available for download [here](#).

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