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NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Parts 800, 803, and 804

[Docket No.: NTSB-GC-2017-001]

RIN 3147-AA03, 3147-AA08, 3147-AA09

Administrative Rules; Official Seal; Rules Implementing the Government in the Sunshine Act

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: The NTSB makes technical updates and corrects citations in its administrative regulations governing agency organization and functions, delegations of authority to staff members, and procedures for adopting rules, regulations governing the agency's official seal, and regulations implementing the Government in the Sunshine Act. These revisions make no substantive changes.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this Final Rule, published in the **Federal Register** (FR), is available for inspection and copying in the NTSB's public reading room, located at 490 L'Enfant Plaza, SW., Washington, D.C. 20594-2003. Alternatively, a copy is available on the government-wide

website on regulations at <http://www.regulations.gov>
(Docket ID Number NTSB-GC-2017-001).

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SUPPLEMENTARY INFORMATION:

I. Legal Basis for the Final Rule.

The Administrative Procedure Act (APA), 5 U.S.C. 553, provides exceptions to its notice and public comment rulemaking procedures where (1) the rules are rules of agency organization, procedure, or practice; or (2) the agency finds there is good cause to forego notice and comment, and incorporates the finding and a brief statement of reasons therefore in the rule issued. Generally, good cause exists where the agency determines that notice and public comment procedures are impractical, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b).

Parts 800, 803, and 804 govern internal agency organization, procedure, or practice. Part 800, subparts A and B, describes the organization of the agency. Part 800, subpart C, prescribes procedures for the agency's rulemakings. Part 803 describes the agency's seal and limits its use. Part 804 prescribes procedures for the agency's open meetings.

The amendments made in this final rule merely correct inadvertent errors and omissions, remove obsolete references, and make minor editorial changes to improve clarity and consistency. The technical amendments do not impose any new requirements, nor do they make any substantive changes to the Code of Federal Regulations. For these reasons, the NTSB finds good cause that notice and public comment on this final rule are unnecessary. For these same reasons, this rule will be effective on the date of publication in the Federal Register.

II. Background.

On June 25, 2012, the NTSB announced its plan to review its regulations, 49 CFR parts 800 through 850, to comply with Executive Order (E.O.) 13563, Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011); E.O. 13579, Regulation and Independent Regulatory Agencies, 76 FR 41587 (July 11, 2011); and E.O. 13610, Identifying and Reducing Regulatory Burdens, 77 FR 28469 (May 14, 2012). NTSB Plan for Retrospective Analysis of Existing Rules, 77 FR 37865. Though the Executive Orders require retrospective review of only "significant regulations," NTSB stated it would review all of its regulations to implement the principles in the Orders. Id. at 37867.

On January 8, 2013, after reviewing its regulations, the NTSB announced its plan to update its regulations, including revising internal agency procedures for which no public comment was required. Retrospective Analysis of Existing Rules; Notification, 78 FR 1193, 1194.

Pursuant to that plan, in this Final Rule, the NTSB makes editorial improvements and corrects obsolete information and citations in parts 800 (Administrative Rules), 803 (Official Seal), and 804 (Rules Implementing the Government in the Sunshine Act).

III. Regulatory Analysis.

This rule does not require an assessment of its potential costs and benefits under section 6(a)(3) of E.O. 12866, Regulatory Planning and Review, 58 FR 51735 (Sept. 30, 1993), because it is not a "significant regulatory action" under section 3(f) of that Order. Thus, the Office of Management and Budget has not reviewed this rule under E.O. 12866. Likewise, this rule does not require an analysis under the Unfunded Mandates Reform Act, 2 U.S.C. 1501-71, or the National Environmental Policy Act, 42 U.S.C. 4321-47.

In addition, under the Regulatory Flexibility Act, 5 U.S.C. 601-12, the NTSB has considered whether this rule would have a significant economic impact on a substantial

number of small entities. The NTSB certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. Moreover, in accordance with 5 U.S.C. 605(b), the NTSB will submit this certification to the Chief Counsel for Advocacy at the Small Business Administration.

Moreover, the NTSB does not anticipate this rule will have a substantial, direct effect on state or local governments or will preempt state law; as such, this rule does not have implications for federalism under E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999).

This rule also complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, 61 FR 4729 (Feb. 5, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

NTSB has evaluated this rule under: E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, 53 FR 8859 (Mar. 15, 1988); E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 62 FR 19885 (Apr. 21, 1997); E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000); E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 18,

2001); and the National Technology Transfer and Advancement Act, 15 U.S.C. 272 note. The NTSB has concluded that this Final Rule neither violates, nor requires further consideration under, those Orders and statutes.

List of Subjects

49 CFR Part 800

Administrative practice and procedure, Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies).

49 CFR Part 803

Seals and insignia.

49 CFR Part 804

Sunshine Act.

For the reasons stated in the preamble, the National Transportation Safety Board amends 49 CFR parts 800, 803, and 804 as set forth below:

PART 800—ADMINISTRATIVE RULES

1. The authority citation for part 800 is revised to read as follows:

Authority: 49 U.S.C. 1101 *et seq.*; 49 U.S.C.40101 *et seq.*

Subpart A—Organization and functions

§ 800.1 [Amended]

1. Amend § 800.1 by removing "part" and adding in its place "subpart".

§ 800.2 [Amended]

2. Amend § 800.2 as follows:

a. In the introductory text, remove "the Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*), and the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*)" and add in its place "49 U.S.C. chapter 11".

b. In paragraph (d), remove "the Federal Aviation Act of 1958, as amended" and add in its place "49 U.S.C. 1133".

3. Revise § 800.3 to read as follows:

§ 800.3 Functions.

(a) The primary function of the Board is to promote safety in transportation. The Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause or causes of:

(1) All accidents involving civil aircraft, and certain public aircraft;

(2) Highway accidents, including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States;

(3) Railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train;

(4) Pipeline accidents in which there is a fatality, significant injury to the environment, or substantial property damage; and

(5) Major marine casualties and marine accidents involving a public and a non-public vessel or involving Coast Guard functions.

(b) The Board makes transportation safety recommendations to federal, state, and local agencies and private organizations to reduce the likelihood of transportation accidents. It initiates and conducts safety studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy of other Government agencies, and evaluates the adequacy of safeguards and procedures concerning the transportation of hazardous materials.

(c) Upon application of affected parties, the Board reviews in quasijudicial proceedings, conducted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, denials by the Administrator of the Federal Aviation

Administration of applications for airman certificates and orders of the Administrator modifying, amending, suspending, or revoking certificates or imposing civil penalties. The Board also reviews on appeal the decisions of the head of the agency in which the U.S. Coast Guard is operating, on appeals from orders of administrative law judges suspending, revoking, or denying seamen licenses, certificates, or documents.

(d) The Board, as provided in part 801 of this chapter, issues reports and orders pursuant to its duties to determine the cause or probable cause or causes of transportation accidents and to report the facts, conditions and circumstances relating to such accidents; issues opinions and/or orders in accordance with 49 U.S.C. 1133 after reviewing on appeal the imposition of a civil penalty or the suspension, amendment, modification, revocation, or denial of a certificate or license issued by the Secretary of the Department of Transportation (who acts through the Administrator of the Federal Aviation Administration) or by the Commandant of the United States Coast Guard; and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.

§ 800.4 [Amended]

4. Amend § 800.4 as follows:

a. In paragraph (b), removing "Government Printing Office" and adding in its place "Government Publishing Office".

b. In paragraph (e), adding ", or the Commandant of the United States Coast Guard" after "Department of Transportation".

§ 800.5 [Amended]

5. Amend § 800.5 by adding "-003" after "20594".

Subpart B-Delegations of Authority to Staff Members

§ 800.21 [Amended]

6. Amend § 800.21 by removing "Subpart B" and adding in its place "subpart".

§ 800.22 [Amended]

7. Amend § 800.22(a)(2) by removing "sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (49 U.S.C. 1131(d) and 1135(c))" adding in its place "49 U.S.C. 1131(e), 1135(c)".

§ 800.24 [Amended]

8. Amend § 800.24(f) by removing "the Independent Safety Board Act of 1974, as amended," adding in its place "49 U.S.C. chapter 11, subchapter IV,".

§ 800.25 [Amended]

9. Amend § 800.25 as follows:

a. In paragraph (c), removing "\$845.41 of this Chapter" adding in its place "\$845.32 of this chapter".

b. In paragraph (d), removing "\$304(a) of the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1131(a)) and the Appendix to this Part" adding in its place "49 U.S.C. 1131 and the appendix to this part".

§ 800.26 [Amended]

10. Amend § 800.26 by removing "board" and adding in its place "Board".

§ 800.27 [Amended]

11. Amend § 800.27 by removing "of the Safety Board".

Subpart C-Procedures for Adoption of Rules

§ 800.30 [Amended]

12. Amend § 800.30 by removing "1101-1155" and adding in its place "1113(f)".

§ 800.31 [Amended]

13. Amend § 800.31 by removing "deemed relevant by the NTSB relating to rulemaking" and adding in its place "relevant to NTSB rulemaking".

§ 800.33 [Amended]

14. Amend § 800.33 by removing "551" and adding in its place "553".

§ 800.35 [Amended]

15. Amend § 800.35(a) by:

a. Removing "in rulemaking" and adding in its place "in a rulemaking"; and

b. Removing "comments in writing containing" adding in its place "written comments,".

§ 800.41 [Amended]

16. Amend § 800.41 by removing "unless all persons subject to it are named and are personally served with a copy of it".

Part 803-Official Seal

17. The authority citation for part 803 is revised to read as follows:

Authority: 49 U.S.C. 1111(j), 1113(f).

§ 803.3 [Amended]

18. Amend § 803.3 by removing "Bureau" everywhere it appears and adding in its place "Office".

§ 803.5 [Amended]

19. Amend § 803.5(c) by:

- a. Removing "Bureau" and adding in its place "Office";
- b. Removing "800 Independence Avenue" and adding in its place "490 L'Enfant Plaza"; and
- c. Adding "-003" after "20594".

Part 804-Rules Implementing the Government in the Sunshine Act.

20. The authority citation for part 804 is revised to read as follows:

Authority: 5 U.S.C. 552b; 49 U.S.C. 1113(f).

§ 804.1 [Amended]

21. Amend § 804.1(b) by removing "the NTSB regulations (49 CFR part 801)" and adding in its place "this chapter".

22. Revise § 804.5(d) to read as follows:

§ 804.5 Ground on which meetings may be closed or information may be withheld.

* * * * *

(d) Disclose trade secrets or privileged or confidential commercial or financial information obtained from a person;

* * * * *

§ 804.6 [Amended]

23. Amend § 804.6(b) by:

a. Removing "800 Independence Avenue" and adding in its place "490 L'Enfant Plaza"; and

b. Adding "-003" after "20594".

§ 804.7 [Amended]

24. Amend § 804.7(b)(2) by removing "be" and adding in its place "is".

§ 804.10 [Amended]

25. Amend § 804.10 by removing "the NTSB shall maintain" and adding in its place "The NTSB shall maintain".

David Tochen,

General

Counsel.

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