

within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The proposed rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel.

#### E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates to agency management or personnel.

#### List of Subjects in 41 CFR Part 102–117

Transportation Management,  
Transportation Reporting.

Dated: June 18, 2014.

**Christine J. Harada,**  
*Associate Administrator.*

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 102–117 as follows:

#### PART 102–117—TRANSPORTATION MANAGEMENT

■ 1. The authority citation for 41 CFR part 102–117 continues to read as follows:

**Authority:** 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.*; 46 U.S.C. 55305; 49 U.S.C. 40118.

#### 102–117.355 [Redesignated as 102–117.361]

■ 2. In Subpart L, redesignate 102–117.355 as 102–117.361.

#### 102–117.360 [Redesignated as 102–117.362]

■ 3. In Subpart L, redesignate 102–117.360 as 102–117.362.

■ 4. Revise Subpart K to read as follows:

#### Subpart K—Transportation Reporting

Sec.

102–117.345 What is the Federal Transportation Summary?

102–117.350 Do I have to report?

102–117.355 Why should I report?

102–117.360 How do I submit information to GSA for the Federal Transportation Summary?

#### Subpart K—Transportation Reporting

##### 102–117.345 What is the Federal Transportation Summary?

(a) The Federal Transportation Summary is an annual summary of an agency's prior fiscal year transportation data for freight and cargo, including household goods (HHG). Reported items include agencies' data on transportation management, training, and shipments/expenditures by procurement method, spending, environmental/sustainable factors and shipping profile.

(b) Agencies that choose to report should submit their Federal Transportation Summary through a Web-based tool named the Federal Interagency Transportation System (FITS). It is anticipated that agencies will upload some data from operational transportation systems, while other data will be reported directly into FITS. Agencies' Federal Transportation Summaries will provide GSA the data necessary for analysis that will result in enhanced transportation policies for delivering a more efficient, cost-effective, sustainable, and accountable Government. The data will also allow agency benchmarking to drive improvement.

##### 102–117.350 Do I have to report?

No; however, all Chief Financial Officer (CFO) Act agencies are strongly encouraged to submit annually an agency-wide Federal Transportation Summary for the preceding fiscal year through FITS by October 31.

##### 102–117.355 Why should I report?

(a) Reporting transportation and transportation-related services will provide GSA with:

(1) Data to assess the magnitude and key characteristics of transportation within the Government (*e.g.*, how much agencies spend; what type of commodity is shipped; most used lanes, etc.), and

(2) Data to analyze and recommend changes to policies, standards, practices, and procedures to improve Government transportation.

(b) Agencies that choose to report may identify opportunities within their organization to improve transportation management program performance as a result of the data analytics.

##### 102–117.360 How do I submit information to GSA for the Federal Transportation Summary?

GSA will post a Federal Management Regulation bulletin at <http://gsa.gov/fmrbulletintransportation>, which will provide information regarding FITS, detail the submission process, including

data requested, and provide information concerning available training.

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#### NATIONAL TRANSPORTATION SAFETY BOARD

##### 49 CFR Part 821

RIN 3147–AA00

[Docket No. NTSB–GC–2011–0001]

#### Rules of Practice in Air Safety Proceedings; Withdrawal

**AGENCY:** National Transportation Safety Board (NTSB or Board).

**ACTION:** Notice of withdrawal of proposed rulemaking.

**SUMMARY:** The NTSB is withdrawing its Notice of Proposed Rulemaking (NPRM) published on September 19, 2013. The proposed change in the NPRM would have required the Federal Aviation Administration (FAA) to provide releasable portions of the enforcement investigative report (EIR) to each respondent in emergency cases.

**DATES:** As of July 17, 2014, the proposed rule published September 19, 2013, at 78 FR 57602, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** David Tochen, General Counsel, (202) 314–6080.

**SUPPLEMENTARY INFORMATION:** On September 19, 2013, the NTSB published an NPRM and a final rule, related to the enactment of the Pilot's Bill of Rights, Public Law 112–153 at section 2(b)(2)(E) (August 3, 2012). In the NPRM, published at 78 FR 57602, the NTSB proposed requiring the release of the EIR in emergency air safety enforcement cases proceeding under subpart I of the NTSB's rules (Special Rules Applicable to Proceedings Involving Emergency and Other Immediately Effective Orders).

The NTSB received three comments in response to the NPRM. Two of the comments, submitted by Aircraft Owners and Pilots Association (AOPA) and National Business Aviation Association (NBAA) expressed support for the NTSB's proposed change. AOPA's comment included a suggestion that the NTSB require, in some cases, privilege logs and *in camera* reviews of disclosed EIRs, to ensure the FAA disclosed all releasable portions under the proposed text of § 821.55. *See also* 49 CFR 821.19(d).

The remaining comment, from the FAA, discouraged the NTSB from proceeding with the proposed change,

on several bases. The FAA stated the NTSB, in its final rule which the NTSB also published on September 19, 2013, 78 FR 57527, recognized the NTSB lacks jurisdiction to oversee release of documents and discovery in a certificate enforcement action until the respondent has filed with the NTSB Office of Administrative Law Judges an appeal from an order issued by the FAA Administrator. For this reason, in the final rule, the NTSB set forth the requirement that the FAA release its EIR upon the request of the respondent at the time the FAA issues its complaint in non-emergency cases. By that rationale, the FAA asserts in its comments regarding the NPRM the NTSB cannot exercise authority over the FAA's release of EIRs in emergency cases until the FAA issues its complaint in such cases. The FAA also quotes the Pilot's Bill of Rights, which requires the FAA to *make available* the EIR, rather than release it outright in the absence of a

request. In addition, the FAA states it maintains authority to issue emergency orders orally, rather than in writing, and may do so in particularly egregious cases.

The FAA also points out the NTSB's promulgation of the proposed rule would have eliminated the paragraph concerning discovery procedures applicable to emergency cases. The FAA asks the NTSB to maintain its current rules concerning discovery procedures applicable to emergency cases.

The NTSB appreciates the points all three commenters proffered, and has carefully considered them. The NTSB finds the FAA's assertion concerning the lack of jurisdiction persuasive. The NTSB has decided to withdraw the proposed rulemaking, based on the lack of *express* statutory authority in the Pilot's Bill of Rights for the NTSB to exercise jurisdiction over emergency cases prior to a respondent's filing of an appeal of an order issued by the FAA

Administrator. Given this lack of authority, the NTSB has determined it cannot promulgate and enforce the proposed rule change. Consistent with this decision to withdraw this rulemaking, the existing paragraph in § 821.55 concerning the discovery procedure applicable to emergency cases, remains unchanged. Notwithstanding this determination concerning authority, the NTSB believes its administrative law judges may nevertheless administer appropriate remedies in emergency cases where, after the NTSB's jurisdiction attaches, the FAA fails to make available the EIR to a respondent. Based on these considerations, we withdraw the NPRM published September 19, 2013.

**Christopher A. Hart,**

*Acting Chairman.*

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