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49 CFR Ch. VIII (10–1–02 Edition)

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AUTHORITY: 49 U.S.C. 1101–1155, 44701–44723, 46301; unless otherwise noted.
SOURCE: 40 FR 30243, July 17, 1975, unless otherwise noted.
EDITORIAL NOTE: Nomenclature changes to part 821 appear at 65 FR 42639, July 11, 2000.

Subpart A—General Provisions

§ 821.1 Definitions.

As used in this part:

Administrator means the Administrator of the Federal Aviation Administration (FAA);

Airman certificate means any certificate issued by the FAA to an airman and shall include medical certificates required for an airman;

Appeal from an initial decision means a request to the Board to review a law judge's decision;

Appeal to the Board means a request to the Board for the review by a law judge of an order of the Administrator;

Board means the National Transportation Safety Board;

Certificate means any certificate issued by the Administrator under 49 U.S.C. Chapter 447;

Chief Law Judge means the administrative law judge in charge of the Office of Administrative Law Judges;

Complaint means an order of the Administrator from which an appeal to the Board has been taken pursuant to sections 501(e)(2), 49 U.S.C. 44709, 611(c), or 901 of the Act.

Emergency order means an order of the Administrator issued pursuant to 49 U.S.C. 44709, which recites that an emergency exists and that safety in air commerce or air transportation and the public interest require the immediate effectiveness of such order;

Flight engineer means a person who holds a flight engineer certificate issued under part 63 of title 14 of the Code of Federal Regulations.

Initial decision means the law judge's decision on the issue remaining for disposition at the close of a hearing before him or her and/or an order that has the effect of terminating the proceeding, such as one granting a motion to dismiss in lieu of an answer, as provided in §821.17, and one granting a motion for summary judgment. *Initial decision* does not include cases where the record is certified to the Board, with or without a recommended decision, orders partly granting a motion to dismiss and requiring an answer to any remaining allegations, or rulings by the law judge on interlocutory matters appealed to the Board under §821.16;

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Law judge means the administrative law judge assigned to hear and preside over the respective proceedings;

Mechanic means a person who holds a mechanic certificate issued under part 65 of title 14 of the Code of Federal Regulations.

Order means the document (sometimes also called a complaint) in which the Administrator seeks to impose a civil penalty or amend, modify, suspend or revoke a certificate.

Petition for review means a petition filed pursuant to 49 U.S.C. 44709 for review of the Administrator's denial of an application for issuance or renewal of an airman certificate;

Petitioner means a person who has filed a petition for review;

Pilot means a person who holds a pilot certificate issued under part 61 of title 14 of the Code of Federal Regulations.

Repairman means a person who holds a repairman certificate issued under part 65 of Title 14 of the Code of Federal Regulations.

Respondent means the holder of a certificate who has appealed to the Board from an order of the Administrator imposing a civil penalty or amending, modifying, suspending, or revoking a certificate.

Terms defined in 49 U.S.C. Chapters 11, 447, and 463 are used as so defined.

[40 FR 30243, July 17, 1975, as amended at 58 FR 11380, Feb. 25, 1993; 59 FR 59046, Nov. 15, 1994; 65 FR 42639, July 11, 2000]

§ 821.2 Applicability and description of part.

The provisions of this part govern all air safety proceedings, including proceedings involving airman medical certification, before a law judge on petition for review of the denial of any airman certificate or on appeal from any order of the Administrator amending, modifying, suspending or revoking any certificate. The provisions of this part also govern all proceedings on appeal from an order of the Administrator imposing a civil penalty on a flight engineer, mechanic, pilot, or repairman, or a person acting in that capacity, where the underlying violation occurred on or after August 26, 1992, and all pro-

ceedings on appeal to the Board from any order or decision of a law judge.

[59 FR 59054, Nov. 15, 1994]

§ 821.3 Description of docket numbering system.

In addition to sequential numbering of cases as received, each case formally handled by the Board receives a letter prefix. These letter prefixes reflect the case type: "SE" for the safety enforcement (suspension/revocation) docket; "SM" (safety medical) for an enforcement case involving a medical application; "SR" for a case involving safety registration issues under 49 U.S.C. 44101 *et seq.*; "CD" for certificate denial (see 49 U.S.C. 44703); "CP" for cases in which the Administrator seeks a civil penalty; and "EAJA" for applications seeking Equal Access to Justice Act awards.

[59 FR 59046, Nov. 15, 1994, as amended at 65 FR 42639, July 11, 2000]

Subpart B—General Rules Applicable to Petitions for Review, Appeals to the Board, and Appeals From Initial Decisions

§ 821.6 Appearances and rights of witnesses.

(a) Any party to a proceeding may appear and be heard in person or by attorney or other representative designated by him or her. No register of persons who may practice before the Board is maintained, and no application for admission to practice is required. Upon hearing, and for good cause shown, the Board may suspend or bar any person from practicing before it.

(b) Any person appearing in person in any proceeding governed by this part, may be accompanied, represented, and advised by counsel and may be examined by his or her own counsel or representative.

(c) Any person who submits data or evidence in a proceeding governed by this part, may by timely request procure a copy of any document submitted by him or her, or a copy of any transcript made of his or her testimony on payment of reasonable costs. Original documents or data or evidence may be retained by a party upon permission of