

National Transportation Safety Board

§ 826.3

PART 826—RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT OF 1980

Subpart A—General Provisions

Sec.

- 826.1 Purpose of these rules.
- 826.2 When the Act applies.
- 826.3 Proceedings covered.
- 826.4 Eligibility of applicants.
- 826.5 Standards for awards.
- 826.6 Allowable fees and expenses.
- 826.7 Rulemaking on maximum rates for attorney fees.
- 826.8 Awards against the Federal Aviation Administration.

Subpart B—Information Required From Applicants

- 826.21 Contents of application.
- 826.22 Net worth exhibit.
- 826.23 Documentation of fees and expenses.
- 826.24 When an application may be filed.

Subpart C—Procedures for Considering Applications

- 826.31 Filing and service of documents and general procedures.
- 826.32 Answer to application.
- 826.33 Reply.
- 826.34 Comments by other parties.
- 826.35 Settlement.
- 826.36 Further proceedings.
- 826.37 Decision.
- 826.38 Board review.
- 826.39 Judicial review.
- 826.40 Payment of award.

AUTHORITY: Section 203(a)(1) Pub. L. 99-80, 99 Stat. 186 (5 U.S.C. 504).

SOURCE: 46 FR 48209, Oct. 1, 1981, unless otherwise noted.

Subpart A—General Provisions

§ 826.1 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (the Act), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (adversary adjudications) before the National Transportation Safety Board (Board). An eligible party may receive an award when it prevails over the Federal Aviation Administration (FAA), unless the Government agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe

the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that this Board will use to make them. As used hereinafter, the term "agency" applies to the FAA.

§ 826.2 When the Act applies.

The Act applies to any adversary adjudication identified in § 826.3 as covered under the Act.

[59 FR 30531, June 14, 1994]

§ 826.3 Proceedings covered.

(a) The Act applies to certain adversary adjudications conducted by the Board. These are adjudications under 5 U.S.C. 554 in which the position of the FAA is presented by an attorney or other representative who enters an appearance and participates in the proceedings. Proceedings to grant or renew certificates or documents, hereafter referred to as "licenses," are excluded, but proceedings to modify, suspend, or revoke licenses or to impose a civil penalty on a flight engineer, mechanic, pilot, or repairman (or person acting in that capacity) are covered if they are otherwise "adversary adjudications." For the Board, the type of proceeding covered includes (but may not be limited to) aviation enforcement cases appealed to the Board under sections 501, 609, 611 and 901 of the Federal Aviation Act (49 U.S.C. 44101 *et seq.*, 44720-44711, 44715, 46301).

(b) The Board may also designate a proceeding not listed in paragraph (a) as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The Board's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the procedure is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage,