



Pilot Records Database NPRM

By Elizabeth A. Vasseur-Browne

The Federal Aviation Administration has issued a Notice of Proposed Rule Making (NPRM) wherein it is proposing to make significant changes to the reporting requirements of pilot records. Some of the changes are necessary and long overdue, however, many others are overreaching by the Administration and will be unduly burdensome on many Part 119 operators, and now some Part 91 operators, if it is passed as proposed. The Pilot Records Database NPRM was published on March 30, 2020 and set a deadline for comments for no later than June 29, 2020. A short suspense considering the magnitude of changes.

Background: The “Pilot Records Improvement Act of 1996” (PRIA) was enacted in 1997 after a number of fatal aircraft accidents. The NTSB attributed these accidents to pilot error and specifically the pilots’ histories of poor training, performance and decision making. However, at the time of the accidents, the pilots’ employers were unaware of this history. PRIA was enacted to mandate that all Part 119 operators (also fractional ownership programs, air tour operators and governmental entities conducting public aircraft operations) maintain pilot performance records and to investigate certain aspects of applicant pilots’ background before making their hiring decisions. The operator must request from the FAA the pilot’s certificate and type ratings, current medical certificate as well as any limitations, and enforcement history. They must search the National Driver Registry (NDR) for any unfavorable history such as driving under the influence arrests, etc. Finally, they must contact the pilot’s former Part 119 employers for information relating to performance, training, disciplinary actions and drug and alcohol testing. The scope of PRIA is five years from the date of the request.

However, under PRIA the process of gathering this information is time consuming and often ineffective. The information is to be provided to the requesting operator within 30 days of the request. However, it typically takes four to six weeks to receive this requested information, long after the pilot completed the requisite training and was otherwise ready to begin flying for his/her new operator/employer. Sometimes the information would not be provided at all. These delays have left potential hires and operators in a preverbal holding pattern.

PRD. Following the Colgan Air accident in February 2009, Congress enacted the Airline Safety and Federal Aviation Administration Extension Act of 2010, referred to as the PRD Act.

PRD Section 203 requires the FAA to establish and maintain an electronic pilot records database and to sunset PRIA. The goal of the PRD is to facilitate the sharing of pilot records among air carriers and other operators. In this digital age and in light of the problems with operators' lack of access to certain pilot records as mandated by PRIA, the enactment of PRD and the creation of a single electronic database is a welcomed and necessary improvement to the process.

The PRD NPRM proposes many changes to the existing reporting requirements; and two categories are particularly troubling. First, the FAA is proposing to expand the reporting responsibilities beyond Part 119 operators to include some corporate flight departments that operate under Part 91. Second, they are also proposing to broaden the scope of the information to be reported from five years to the life of the pilot.

- Expanding PDA Beyond Part 119 operators.

PRIA applies to air carriers. In the PRD Act, Congress added the term "other persons" to these reporting requirements but did not define it. In the NPRM the FAA interprets "other persons" to "... mean those "other persons" that employ pilots that would likely be air carrier pilots or prospective air carrier pilots at some later date." They refer to these operators as gateway operators and include some Part 91 corporate flight departments. They define for the first time "corporate flight department" under the Act as a:

person (1) that operates a fleet (two or more) of standard airworthiness airplanes, (2) that requires a type rating under 14 CFR 61.31(a), and is operated in furtherance of, or incidental to, a business, pursuant to the general operating and flight rules of Part 91 or airplanes being operated under a deviation authority issued under §125.3.

For a host of reasons, the industry has already pushed back by opposing this definition and the reporting requirements. This definition goes beyond the Act and will be burdensome to many corporate flight departments as many are not sufficiently staffed and do not have the resources to comply with the PRD. Also, since the pilots that would be operating these type rated aircraft are most often trained in Part 141 and Part 142 training facilities, they would likely be a better source of this information.

- The FAA Proposes to Expand and Maintain Pilot Records to the Life of the Pilot

PRIA mandates that the FAA, air carriers and operators maintain pilot records for a five-year period. These records include training and certification, FAA certificate/enforcement actions, drug and alcohol testing, employer disciplinary actions, among others. These records are expunged after five years. However, the FAA proposes in the NPRM that these records be maintained for the life of the pilot. Not only does this proposal go beyond the Act, the retention of this information will be burdensome to many operators. Most important, however, is that the retention and reporting of these records will not enhance aviation safety and will certainly stigmatize pilots for performance and incidents that occurred early in their training or employment

and has since been resolved or is no longer a concern. The five-year retention period is sufficient to determine whether the conduct or performance is still a factor that bears scrutiny.

There are many other new requirements proposed by the FAA that are concerns for the industry. We will monitor the FAA's rule making for this PRD and will provide updates as they become available. Look for an update when the final rule is published.



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