

National Transportation Safety Board

Office of the Chair

Washington, DC 20594



December 28, 2021

Docket Operations, M-30
US Department of Transportation
1200 New Jersey Avenue SE
Room W12-140
West Building Ground Floor
Washington, DC 20590-0001

Re: Docket Number FAA-2021-1040

Dear Sir or Madam:

The National Transportation Safety Board (NTSB) has reviewed the Federal Aviation Administration's (FAA) notice of proposed rulemaking (NPRM) titled "Medical Certification Standards for Commercial Balloon Operations," published at 86 *Federal Register* 64419 on November 18, 2021. The proposed rulemaking would require that aviators hold a valid second-class medical certificate when exercising the privileges of a commercial pilot certificate in a balloon for compensation or hire except when conducting flight training in a balloon. The NTSB strongly supports the proposed requirement and believes this rulemaking will significantly improve commercial balloon safety.

Historically, all balloon pilots have been exempted from regulation requiring medical certificates (see Title 14 *Code of Federal Regulations* Part 61 sections 3 and 23). This NPRM states that only balloon pilots with a commercial rating who are actively performing flights for compensation or hire would require a second-class medical certificate. Balloon pilots involved in flight training or other personal activities would not require a second-class medical certificate.

On July 30, 2016, a hot air balloon accident occurred in Lockhart, Texas, when the balloon struck power lines and crashed; the pilot and 15 passengers died.¹ The NTSB determined that the probable cause of the accident was "the pilot's pattern of poor decision-making that led to the initial launch, continued flight in fog and above

¹ (a) National Transportation Safety Board, *Impact with Power Lines, Heart of Texas Hot Air Balloon Rides, Balóny Kubíček BB85Z, N2469L, Lockhart, Texas, July 30, 2016, AAR-17/03* (Washington, DC: National Transportation Safety Board, 2017). (b) Visit [nts.gov](https://www.nts.gov) to find additional information in the [public docket](#) for this NTSB accident investigation (case number DCA16MA204).

clouds, and descent near or through clouds that decreased the pilot's ability to see and avoid obstacles." The NTSB found that the pilot had a history of depression and attention deficit hyperactivity disorder—each of which may increase the risk of poor decision-making and crashing—and was using multiple potentially impairing psychoactive medications at the time of the accident. Based on the FAA's [Guide for Aviation Medical Examiners](#), if the pilot had told his medical examiner about his diagnoses and medications, he would not have been eligible for a medical certificate.²

In addition, to obtain a medical certificate, the pilot would have had to submit to a review of the National Driver Register, which contained his history of several previous convictions for driving under the influence of alcohol or other drugs. Even if the pilot failed to fully communicate his medical history and medication use during the aviation medical examination, the National Driver Register findings would have led the FAA to initially medically disqualify the pilot and initiate a review of his medical fitness. If the pilot had been flying any other aircraft capable of holding 15 paying passengers (or any paying passengers), he would have been required to hold a second-class medical certificate; a certificate he would have been unable to obtain. As a result, the NTSB found that "(1) the pilot's impairing medical conditions and medications and (2) the [FAA's] policy to not require a medical certificate for commercial balloon pilots" contributed to the accident. As a result, the NTSB issued the following recommendation to the FAA:

Remove the medical certification exemption in [Title] 14 *Code of Federal Regulations* 61.23(b) for pilots who are exercising their privileges as commercial balloon pilots and are receiving compensation for transporting passengers. ([A-17-34](#))³

On June 22, 2020, the NTSB classified Safety Recommendation [A-17-34](#) "Open—Acceptable Response," pending our review of the FAA's NPRM and corresponding final rule. As stated above, the NTSB strongly supports this NPRM and its proposed requirement that aviators hold a valid second-class medical certificate when exercising the privileges of a commercial pilot certificate in a balloon for compensation or hire except when conducting flight training in a balloon. Issuing a final rule based on this NPRM will satisfy Safety Recommendation [A-17-34](#), assuming no substantive changes are made.

² The latest revision date for the FAA's [Guide for Aviation Medical Examiners](#) is November 24, 2021.

³ Use the [CAROL Query](#) for more information about this safety recommendation.

The NTSB appreciates the opportunity to comment on this NPRM.

Sincerely,

Jennifer Homendy
Chair