

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-287 substituted “December 29, 1995” for “the date of enactment of the ICC Termination Act of 1995” in introductory provisions.

§ 727. Definitions

All terms used in this chapter that are defined in subtitle IV shall have the meaning given those terms in that subtitle.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 940.)

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CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

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AMENDMENTS

1996—Pub. L. 104-264, title IV, §407(a)(2), title VII, §702(a)(2), Oct. 9, 1996, 110 Stat. 3258, 3267, added items 1119 and 1136.

1994—Pub. L. 103-272, §1(c), (d), July 5, 1994, 108 Stat. 745, added subtitle II (comprised of chapter 11, §§1101-1155) and struck out former subtitle II, except that chapter 31 (comprised of §§3101-3104) of subtitle II was redesignated and restated as chapter 315 (comprised of §§31501-31504) of subtitle VI, as enacted by Pub. L. 103-272, §1(e).

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 329 of this title.

SUBCHAPTER I—GENERAL

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 746.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|----------------------------|
| 1101 | (no source) | |

A number of the source provisions of the chapter are taken from 49 App.:ch. 20. The text of 49 App.:ch. 20 contains general definitions, some of which are used in those source provisions.

This section is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision note for section 40102(a) of the revised title.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-291, title I, §101, Oct. 11, 1996, 110 Stat. 3452, provided that: “This title [amending sections 1114, 1115, and 1118 of this title] may be cited as the ‘National Transportation Safety Board Amendments of 1996.’”

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

§ 1111. General organization

(a) ORGANIZATION.—The National Transportation Safety Board is an independent establishment of the United States Government.

(b) APPOINTMENT OF MEMBERS.—The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) TERMS OF OFFICE AND REMOVAL.—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) DUTIES AND POWERS OF CHAIRMAN.—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

(1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;

(2) distribute business among the officers, employees, and administrative units of the Board; and

(3) supervise the expenditures of the Board.

(f) **QUORUM.**—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) **OFFICES, BUREAUS, AND DIVISIONS.**—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

- (1) aviation.
- (2) highway and motor vehicle.
- (3) rail and tracked vehicle.
- (4) pipeline.

(h) **SEAL.**—The Board shall have a seal that shall be judicially recognized.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 746.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--|---|
| 1111(a) | 49 App.:1902(a). | Jan. 3, 1975, Pub. L. 93-633, §303(a), (b)(2)-(c), 88 Stat. 2167, 2168. |
| 1111(b) | 49 App.:1902(b)(1) (1st sentence words before comma, 2d-last sentences). | Jan. 3, 1975, Pub. L. 93-633, §303(b)(1), 88 Stat. 2167; Oct. 14, 1982, Pub. L. 97-309, §1 (1st sentence), 96 Stat. 1453. |
| 1111(c) | 49 App.:1902(b)(2). | |
| 1111(d) | 49 App.:1902(b)(1) (1st sentence words after comma), (3) (1st, 2d, 4th sentences). | |
| 1111(e) | 49 App.:1902(b)(3) (3d, last sentences), (c)(3). | |
| 1111(f) | 49 App.:1902(b)(4). | |
| 1111(g) | 49 App.:1902(b)(5), (c)(1). | |
| 1111(h) | 49 App.:1902(c)(2). | |

In subsection (a), the words “previously established within the Department of Transportation” are omitted as unnecessary. The words “in accordance with this section, on and after April 1, 1975” are omitted as executed.

In subsection (c), the words “except as otherwise provided in this paragraph” are omitted as surplus. The text of 49 App.:1902(b)(2) (4th sentence) is omitted as executed.

In subsection (d), the words “On or before January 1, 1976” are omitted as executed. The words “(and thereafter as required)” and “(hereafter in this chapter referred to as the ‘Chairman’)” are omitted as unnecessary.

In subsection (e), before clause (1), the words “is the chief executive and administrative officer of the Board” are substituted for “shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board” for clarity. The words “Subject to the general policies and decisions of the Board, the Chairman shall” are substituted for 49 App.:1902(b)(3) (last sentence) to eliminate unnecessary words. In clause (1), the words “Subject to the civil service and classification laws” are omitted as unnecessary because of title 5, United States Code, especially sections 3301, 5101, and 5331. The words “the Board is authorized” are omitted for consistency be-

cause the authority to appoint officers and employees is vested in the Chairman subject to the “general policies and decisions of the Board” as provided in the source provisions. The words “including investigators, attorneys, and administrative law judges” are omitted as covered by “officers and employees”. The words “carry out this chapter” are substituted for “carry out its powers and duties under this chapter” to eliminate unnecessary words. In clause (3), the words “expenditures of the Board” are substituted for “the use and expenditure of funds” for clarity.

In subsection (f), the words “duties and powers” are substituted for “function” for consistency in the revised title and with other titles of the Code.

In subsection (g), the text of 49 App.:1902(c)(1) is omitted as unnecessary because of 40:ch. 10.

§ 1112. Special boards of inquiry on air transportation safety

(a) **ESTABLISHMENT.**—If an accident involves a substantial question about public safety in air transportation, the National Transportation Safety Board may establish a special board of inquiry composed of—

(1) one member of the Board acting as chairman; and

(2) 2 members representing the public, appointed by the President on notification of the establishment of the special board of inquiry.

(b) **QUALIFICATIONS AND CONFLICTS OF INTEREST.**—The public members of a special board of inquiry must be qualified by training and experience to participate in the inquiry and may not have a pecuniary interest in an aviation enterprise involved in the accident to be investigated.

(c) **AUTHORITY.**—A special board of inquiry has the same authority that the Board has under this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 747.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------------|--|
| 1112 | 49 App.:1443. | Aug. 23, 1958, Pub. L. 85-726, §703, 72 Stat. 782. |
| | 49 App.:1655(d) (1st sentence). | Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. |
| | 49 App.:1903(a)(1)(A). | Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), 88 Stat. 2168. |

In subsection (c), the words “when convened to investigate an accident certified to it by the National Transportation Safety Board” are omitted as surplus.

§ 1113. Administrative

(a) **GENERAL AUTHORITY.**—(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct hearings to carry out this chapter, administer oaths, and require, by subpoena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a hearing under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the hearing. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpoena shall be issued under the signature of the Chairman or the Chairman’s delegate

but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpoena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpoena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena, order, or notice as a contempt of court.

(b) ADDITIONAL POWERS.—(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board; and

(I) require that the departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries provide appropriate consideration for the reasonable costs of goods and services supplied by the Board.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1)(I) of this subsection to be credited to the appropriation of the Board.

(c) SUBMISSION OF CERTAIN COPIES TO CONGRESS.—When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer, department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress.

(d) LIAISON COMMITTEES.—The Chairman may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumental-

ities of the Government, State and local governmental authorities, and independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) INQUIRIES.—The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the inquiry in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

(f) REGULATIONS.—The Board may prescribe regulations to carry out this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 747.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|--------------------------------|---|--|
| 1113(a) | 49 App.:1903(b)(1), (3). | Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), (b)(1), (3), (4), (7)-(9), 88 Stat. 2168, 2169, 2170; July 19, 1988, Pub. L. 100-372, §4, 102 Stat. 876. |
| 1113(b)(1)(A) | 49 App.:1441(b) (words before semicolon). 49 App.:1655(d) (1st sentence). | Aug. 23, 1958, Pub. L. 85-726, §701(b), 72 Stat. 781. Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. |
| 1113(b)(1)(B) 1113(b)(1)(C) | 49 App.:1903(a)(1)(A), (b)(6)(C). 49 App.:1903(b)(4). 49 App.:1441(b) (words after semicolon). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). 49 App.:1903(b)(6)(A). | Jan. 3, 1975, Pub. L. 93-633, §304(b)(6), 88 Stat. 2170; July 19, 1988, Pub. L. 100-372, §5, 102 Stat. 877. |
| 1113(b)(1)(D)-(I), (2). | 49 App.:1903(b)(6)(B), (D)-(H). | |
| 1113(c) | 49 App.:1903(b)(7). | |
| 1113(d) | 49 App.:1903(b)(8). | |
| 1113(e) | 49 App.:1903(b)(9). | |
| 1113(f) | 49 App.:1903(b)(12). | Jan. 3, 1975, Pub. L. 93-633, §304(b)(12), 88 Stat. 2171; July 19, 1988, Pub. L. 100-372, §4, 102 Stat. 876; Nov. 28, 1990, Pub. L. 101-641, §6, 104 Stat. 4656. |

In subsection (a)(1), the words “sit and act at such times and places” are omitted as unnecessary. The word “necessary” is substituted for “as the Board or such officer or employee deems advisable” because it is more accurate.

In subsection (a)(2), the words “the witness would have been” are added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words “If a person disobeys” are substituted for “In case of contumacy or refusal to obey” for consistency in the revised title and with other titles of the Code. The words “of the Board” are substituted for “of the Board, or of any duly designated employee thereof” to eliminate unnecessary words. The

words “the Board may bring a civil action in a district court of the United States” are substituted for “such district court shall, upon the request of the Board, have jurisdiction” for consistency in the revised title and because of 28:1331. The word “forthwith” is omitted as surplus. The words “An action under this paragraph may be brought in the judicial district” are added for clarity.

In subsection (b)(1)(A), the text of 49 App.:141(b) (words before semicolon) is omitted as superseded by 49 App.:1903(b)(6)(C).

In subsection (b)(1)(B), the words “make agreements and other transactions” are substituted for “enter into . . . such contracts, leases, cooperative agreements, or other transactions” to eliminate unnecessary words. The words “to carry out this chapter” are substituted for “in the conduct of the functions and the duties of the Board under this chapter” for consistency. The words “with any government entity or any person” are omitted as surplus.

In subsection (b)(1)(C), the words “Department of Transportation and of other” are omitted as surplus. The words “department, agency, or instrumentality of the United States Government” are substituted for “civilian or military agencies and instrumentalities of the Federal Government” in 49 App.:1903(b)(6)(A) for consistency in the revised title and with other titles of the Code. The text of 49 App.:141(b) (words after semicolon) is omitted as superseded by 49 App.:1903(b)(6)(A).

In subsection (b)(1)(D), the word “available” is omitted as surplus.

In subsection (b)(1)(E), the words “one or more” are omitted as surplus because the authority to appoint advisory committees is discretionary and unlimited on its face. The word “appropriate” is substituted for “necessary or appropriate” to eliminate unnecessary words. The words “in accordance with the Federal Advisory Committee Act” are omitted as surplus because that Act applies unless specifically excluded. (See 5 App. U.S.C.)

In subsection (b)(1)(G), the words “gifts of money and other property” are substituted for “gifts or donations of money or property (real, personal, mixed, tangible, or intangible)” to eliminate unnecessary words.

In subsection (b)(1)(H), the words “public or private” are omitted as surplus.

Subsection (b)(2) is substituted for “and to apply the funds received to the Board’s appropriations” for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c), the word “submits” is substituted for “submits or transmits” for consistency. The words “Director of the Office of Management and Budget” are substituted for “Office of Management and Budget” because of 31:502(a).

In subsection (d), the word “appropriate” is substituted for “necessary or appropriate” to eliminate unnecessary words.

In subsection (e), the words “officer or employee” are substituted for “employee” for consistency in the revised title. The words “by order” are substituted for “by special or general orders” to eliminate unnecessary words. The word “individuals” is substituted for “people” for consistency in the revised title.

In subsection (f), the words “prescribe regulations to carry out this chapter” are substituted for “rules and regulations as may be necessary to the exercise of its functions” for consistency in the revised title and with other titles of the Code and because “rule” and “regulation” are synonymous.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1131, 1132 of this title.

§ 1114. Disclosure, availability, and use of information

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section, a copy of

a record, information, or investigation submitted or received by the National Transportation Safety Board, or a member or employee of the Board, shall be made available to the public on identifiable request and at reasonable cost. This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.

(b) TRADE SECRETS.—(1) The Board may disclose information related to a trade secret referred to in section 1905 of title 18 only—

(A) to another department, agency, or instrumentality of the United States Government when requested for official use;

(B) to a committee of Congress having jurisdiction over the subject matter to which the information is related, when requested by that committee;

(C) in a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

(D) to the public to protect health and safety after giving notice to any interested person to whom the information is related and an opportunity for that person to comment in writing, or orally in closed session, on the proposed disclosure, if the delay resulting from notice and opportunity for comment would not be detrimental to health and safety.

(2) Information disclosed under paragraph (1) of this subsection may be disclosed only in a way designed to preserve its confidentiality.

(3) PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose voluntarily provided safety-related information if that information is not related to the exercise of the Board’s accident or incident investigation authority under this chapter and if the Board finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(c) COCKPIT VOICE RECORDINGS AND TRANSCRIPTS.—(1) The Board may not disclose publicly any part of a cockpit voice recorder recording or transcript of oral communications by and between flight crew members and ground stations related to an accident or incident investigated by the Board. However, the Board shall make public any part of a transcript the Board decides is relevant to the accident or incident—

(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing; or

(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident or incident are placed in the public docket.

(2) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(d) DRUG TESTS.—(1) Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (Public Law 100-71, 101 Stat. 471), the Secretary of Transportation shall provide the following information to the Board when requested in writing by the Board:

(A) any report of a confirmed positive toxicological test, verified as positive by a medical review officer, conducted on an officer or employee of the Department of Transportation under post-accident, unsafe practice, or reasonable suspicion toxicological testing requirements of the Department, when the officer or employee is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the Board.

(B) any laboratory record documenting that the test is confirmed positive.

(2) Except as provided by paragraph (3) of this subsection, the Board shall maintain the confidentiality of, and exempt from disclosure under section 552(b)(3) of title 5—

(A) a laboratory record provided the Board under paragraph (1) of this subsection that reveals medical use of a drug allowed under applicable regulations; and

(B) medical information provided by the tested officer or employee related to the test or a review of the test.

(3) The Board may use a laboratory record made available under paragraph (1) of this subsection to develop an evidentiary record in an investigation of an accident or incident if—

(A) the fitness of the tested officer or employee is at issue in the investigation; and

(B) the use of that record is necessary to develop the evidentiary record.

(e) FOREIGN INVESTIGATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose records or information relating to its participation in foreign aircraft accident investigations; except that—

(A) the Board shall release records pertaining to such an investigation when the country conducting the investigation issues its final report or 2 years following the date of the accident, whichever occurs first; and

(B) the Board may disclose records and information when authorized to do so by the country conducting the investigation.

(2) SAFETY RECOMMENDATIONS.—Nothing in this subsection shall restrict the Board at any time from referring to foreign accident investigation information in making safety recommendations.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 749; Pub. L. 104-291, title I, §§102, 103, Oct. 11, 1996, 110 Stat. 3452.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 1114(a) | 49 App.:1905(a). | Jan. 3, 1975, Pub. L. 93-633, §306(a), (b), 88 Stat. 2172; Oct. 14, 1982, Pub. L. 97-309, §2, 96 Stat. 1453. |
| 1114(b) | 49 App.:1905(b). | Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §306(c); added Oct. 14, 1982, Pub. L. 97-309, §2, 96 Stat. 1453; re-stated Nov. 28, 1990, Pub. L. 101-641, §4, 104 Stat. 4654. |
| 1114(c) | 49 App.:1905(c). | |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|----------------------------|---|
| 1114(d)(1) | 49 App.:1903(b) (1)(A). | Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §304(b)(11); added Nov. 28, 1990, Pub. L. 101-641, §6, 104 Stat. 4656. |
| 1114(d)(2) | 49 App.:1903(b) (1)(B). | |
| 1114(d)(3) | 49 App.:1903(b) (1)(C). | |

In subsection (a), the words “record, information, or investigation” are substituted for “communication, document, investigation, or other report, or information” to eliminate unnecessary words. The words “of the United States” are added for clarity.

In subsection (c)(1), before clause (A), the words “Notwithstanding any other provision of law” are omitted as surplus. The word “relevant” is substituted for “relevant and pertinent” to eliminate unnecessary words.

In subsection (d), the words “officer or employee” are substituted for “employee” for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (d)(2), before clause (A), the words “maintain the confidentiality of” are substituted for “maintain in confidence” for consistency in the revised title and with other titles of the Code. In clause (A), the words “of a confirmed and verified toxicological test” are omitted as unnecessary because of the re-statement of the source provisions in paragraph (1) of this subsection.

In subsection (d)(3), the words “laboratory record made available under paragraph (1) of this subsection” are substituted for “such a laboratory record” for clarity.

REFERENCES IN TEXT

Section 503(e) of the Supplemental Appropriations Act, 1987, referred to in subsec. (d)(1), is section 503(e) of Pub. L. 100-71, which is set out as a note under section 7301 of Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-291, §102(1), substituted “(b), (c), and (e)” for “(b) and (c)”.

Subsec. (b)(3). Pub. L. 104-291, §103, added par. (3).

Subsec. (e). Pub. L. 104-291, §102(2), added subsec. (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1154 of this title.

§ 1115. Training

(a) DEFINITION.—In this section, “Institute” means the Transportation Safety Institute of the Department of Transportation and any successor organization of the Institute.

(b) USE OF INSTITUTE SERVICES.—The National Transportation Safety Board may use, on a reimbursable basis, the services of the Institute. The Secretary of Transportation shall make the Institute available to—

(1) the Board for safety training of employees of the Board in carrying out their duties and powers; and

(2) other safety personnel of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations the Board designates in consultation with the Secretary.

(c) FEES.—(1) Training at the Institute for safety personnel (except employees of the Gov-

ernment) shall be provided at a reasonable fee established periodically by the Board in consultation with the Secretary. The fee shall be paid directly to the Secretary, and the Secretary shall deposit the fee in the Treasury. The amount of the fee—

(A) shall be credited to the appropriate appropriation (subject to the requirements of any annual appropriation); and

(B) is an offset against any annual reimbursement agreement between the Board and the Secretary to cover all reasonable costs of providing training under this subsection that the Secretary incurs in operating the Institute.

(2) The Board shall maintain an annual record of offsets under paragraph (1)(B) of this subsection.

(d) TRAINING OF BOARD EMPLOYEES AND OTHERS.—The Board may conduct training of its employees in those subjects necessary for the proper performance of accident investigation. The Board may also authorize attendance at courses given under this subsection by other government personnel, personnel of foreign governments, and personnel from industry or otherwise who have a requirement for accident investigation training. The Board may require non-Board personnel to reimburse some or all of the training costs, and amounts so reimbursed shall be credited to the appropriation of the “National Transportation Safety Board, Salaries and Expenses” as offsetting collections.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 750; Pub. L. 104–291, title I, §104, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 1115(a) | (no source). | |
| 1115(b) | 49 App.:1903(b)(10) (1st, 2d sentences). | Jan. 3, 1975, Pub. L. 93–633, §304(b)(10), 88 Stat. 2156; added July 19, 1988, Pub. L. 100–372, §4, 102 Stat. 876. |
| 1115(c) | 49 App.:1903(b)(10) (3d–last sentences). | |

In subsections (b) and (c), the words “or successor organization” are omitted as unnecessary because of subsection (a) of this section.

In subsection (b), before clause (1), the words “(established for the purpose of developing courses and conducting training in safety and security for all modes of transportation)” are omitted as surplus. In clause (1), the words “carrying out their duties and powers” are substituted for “in the performance of all of their authorized functions” for consistency in the revised title and with other titles of the United States Code. In clause (2), the words “of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations” are substituted for “of Federal, interstate, State, local, and foreign governments and non-governmental organizations” for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(1), before clause (A), the words “the Secretary shall deposit the fee in the Treasury” are added for clarity. In clause (B), the words “direct and indirect” are omitted as surplus. The word “administration” is omitted as being included in “operating”. The text of 49 App.:1903(b)(10) (last sentence) is omitted because 5:ch. 41 applies to the National Transportation Safety Board by its own terms.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–291 added subsec. (d).

§ 1116. Reports and studies

(a) PERIODIC REPORTS.—The National Transportation Safety Board shall report periodically to Congress, departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities concerned with transportation safety, and other interested persons. The report shall—

(1) advocate meaningful responses to reduce the likelihood of transportation accidents similar to those investigated by the Board; and

(2) propose corrective action to make the transportation of individuals as safe and free from risk of injury as possible, including action to minimize personal injuries that occur in transportation accidents.

(b) STUDIES, INVESTIGATIONS, AND OTHER REPORTS.—The Board also shall—

(1) carry out special studies and investigations about transportation safety, including avoiding personal injury;

(2) examine techniques and methods of accident investigation and periodically publish recommended procedures for accident investigations;

(3) prescribe requirements for persons reporting accidents and aviation incidents that—

(A) may be investigated by the Board under this chapter; or

(B) involve public aircraft (except aircraft of the armed forces and the intelligence agencies);

(4) evaluate, examine the effectiveness of, and publish the findings of the Board about the transportation safety consciousness of other departments, agencies, and instrumentalities of the Government and their effectiveness in preventing accidents; and

(5) evaluate the adequacy of safeguards and procedures for the transportation of hazardous material and the performance of other departments, agencies, and instrumentalities of the Government responsible for the safe transportation of that material.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 751.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|------------------|--|--|
| 1116(a) | 49 App.:1441(a)(3), (5) (related to reducing accidents). 49 App.:1655(c)(1). | Aug. 23, 1958, Pub. L. 85–726, §701(a)(3), (5), 72 Stat. 781. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444. |
| | 49 App.:1655(d) (1st sentence). | Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938. |
| | 49 App.:1903(a)(1)(A), (3). | Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), (3)–(5), (7), (8), 88 Stat. 2168, 2169. |
| 1116(b)(1) ... | 49 App.:1441(a)(5) (related to studies). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A), (4). | |
| 1116(b) (2)–(5). | 49 App.:1903(a)(5). | |

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--|
| | 49 App.:1903(a)(6). | Jan. 3, 1975, Pub. L. 93-633, § 304(a)(6), 88 Stat. 2169; Nov. 3, 1981, Pub. L. 97-74, § 4, 95 Stat. 1065; Dec. 30, 1987, Pub. L. 100-223, § 311(a), 101 Stat. 1528. |
| | 49 App.:1903(a)(7), (8). | |

In subsection (a)(1), the word “recommending” is omitted as being included in “advocate” in 49 App.:1903(a)(3). The word “recurrence” is omitted as surplus. The text of 49 App.:1441(a)(3) and (5) (related to reducing accidents) is omitted as superseded by 49 App.:1903(a)(3).

In subsection (b)(1), the words “carry out” are substituted for “initiate and conduct” in 49 App.:1903(a)(4) for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1441(a)(5) (related to studies) is omitted as superseded by 49 App.:1903(a)(4).

In subsection (b)(2), the word “examine” is substituted for “assess and reassess” for clarity. The words “prepare and” are omitted as surplus.

In subsection (b)(3), the words “by regulation” are omitted as unnecessary because of section 1113(f) of the revised title.

In subsection (b)(4), the word “effectiveness” is substituted for “efficacy” for clarity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1131 of this title.

§ 1117. Annual report

The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation; and

(3) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a State.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 751; Pub. L. 104-66, title II, §2151, Dec. 21, 1995, 109 Stat. 731.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 1117 | 49 App.:1904. | Jan. 3, 1975, Pub. L. 93-633, § 305, 88 Stat. 2171. |

In this section, before clause (1), the words “but need not be limited to” are omitted as surplus. In clause (2), the words “in such detail as the Board deems advisable” are omitted as surplus. In clause (3), the words “departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities” are substituted for “other governmental agencies” for clarity and consistency in the revised title and with other titles of the United States Code. The words “for those activities” are substituted

for “in this field” for clarity. In clause (4), the word “evaluation” is substituted for “appraisal and evaluation and review” because it is inclusive.

AMENDMENTS

1995—Par. (4). Pub. L. 104-66 struck out par. (4) which read as follows: “an evaluation conducted every 2 years of transportation safety and recommendations for legislative and administrative action and change.”

§ 1118. Authorization of appropriations

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this chapter \$37,580,000 for fiscal year 1994, \$44,000,000 for fiscal year 1995, \$45,100,000 for fiscal year 1996, \$42,400,00¹ for fiscal year 1997, \$44,400,000 for fiscal year 1998, and \$46,600,000 for fiscal year 1999..¹ Such sums shall remain available until expended.

(b) EMERGENCY FUND.—The Board has an emergency fund of \$1,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. The following amounts may be appropriated to the fund:

- (1) \$1,000,000 to establish the fund.
- (2) amounts equal to amounts expended annually out of the fund.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 752; Pub. L. 103-411, §2, Oct. 25, 1994, 108 Stat. 4236; Pub. L. 104-291, title I, §105, Oct. 11, 1996, 110 Stat. 3453.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--|---|
| 1118(a) | 49 App.:1907(a) (1st-6th, last sentences). | Jan. 3, 1975, Pub. L. 93-633, §309(a), 88 Stat. 2173; Oct. 11, 1976, Pub. L. 94-481, 90 Stat. 2080; Sept. 11, 1978, Pub. L. 95-363, §2, 92 Stat. 597; Nov. 3, 1981, Pub. L. 97-74, §2, 95 Stat. 1065; June 6, 1983, Pub. L. 98-37, 97 Stat. 204; July 19, 1988, Pub. L. 100-372, §2, 102 Stat. 876; Nov. 28, 1990, Pub. L. 101-641, §2, 104 Stat. 4654. |
| 1118(b) | 49 App.:1907(b) (1st, 2d sentences). | Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §309(b); added July 19, 1988, Pub. L. 100-372, §2(b), 102 Stat. 876. |
| 1118(c) | 49 App.:1907(a) (7th sentence), (b) (last sentence). | |

In subsection (a), the words “to the National Transportation Safety Board” are added for clarity and consistency in the revised title. References to the fiscal years ending June 30, 1975, through September 30, 1992, are omitted as obsolete.

In subsection (b)(2), the words “amounts equal to amounts expended annually out of the fund” are substituted for “to replenish the fund annually” for clarity.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-291 struck out “and” after “1995,” and inserted “, \$42,400.00 for fiscal year 1997, \$44,400,000 for fiscal year 1998, and \$46,600,000 for fiscal year 1999.” before period at end of first sentence.

1994—Subsec. (a). Pub. L. 103-411 reenacted heading without change and amended text generally. Prior to

¹ So in original.

amendment, text read as follows: "Not more than \$38,800,000 may be appropriated to the National Transportation Safety Board for the fiscal year ending September 30, 1993, to carry out this chapter."

§ 1119. Accident and safety data classification and publication

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the National Transportation Safety Board shall, in consultation and coordination with the Administrator of the Federal Aviation Administration, develop a system for classifying air carrier accident data maintained by the Board.

(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of the enactment of this section, provides for safety-related categories that provide clearer descriptions of accidents associated with air transportation, including a more refined classification of accidents which involve fatalities, injuries, or substantial damage and which are only related to the operation of an aircraft.

(2) PUBLIC COMMENT.—In developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

(4) PUBLICATION.—The Board shall publish on a periodic basis accident and safety data in accordance with the final classifications issued under paragraph (3).

(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.

(Added Pub. L. 104-264, title IV, § 407(a)(1), Oct. 9, 1996, 110 Stat. 3257.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a) and (b)(1), is the date of enactment of Pub. L. 104-264, which was approved Oct. 9, 1996.

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SUBCHAPTER III—AUTHORITY

§ 1131. General authority

(a) GENERAL.—(1) The National Transportation Safety Board shall investigate or have inves-

tigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

(A) an aircraft accident the Board has authority to investigate under section 1132 of this title or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States;

(B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;

(D) a pipeline accident in which there is a fatality, substantial property damage, or significant injury to the environment;

(E) a major marine casualty (except a casualty involving only public vessels) occurring on the navigable waters or territorial sea of the United States, under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2) An investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(3) This section and sections 1113, 1116(b), 1133, and 1134(a) and (c)–(e) of this title do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b) ACCIDENTS INVOLVING PUBLIC VESSELS.—(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c) ACCIDENTS NOT INVOLVING GOVERNMENT MISFEASANCE OR NONFEASANCE.—(1) When asked

by the Board, the Secretary of Transportation may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.

(e) ACCIDENT REPORTS.—The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 752; Pub. L. 103–411, §3(c), Oct. 25, 1994, 108 Stat. 4237.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---|--|
| 1131(a)(1) | 49 App.:1903(a)(1)(A)–(E) (less last sentence of (E)), (F). | Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A)–(F), 88 Stat. 2168; Oct. 24, 1992, Pub. L. 102–508, §303, 106 Stat. 3307. |
| 1131(a)(2) | 49 App.:1903(a)(1) (2d, 3d sentences). | Jan. 3, 1975, Pub. L. 93–633, §304(a)(1) (less (A)–(F)), 88 Stat. 2168; Nov. 3, 1981, Pub. L. 97–74, §3, 95 Stat. 1065. |
| 1131(a)(3) | 49 App.:1903(a)(1) (4th, 5th sentences). | |
| 1131(b) | 49 App.:1903(a)(1)(E) (last sentence). | |
| 1131(c) | 49 App.:1441(f). 49 App.:1655(c)(1). 49 App.:1655(d) (1st sentence). | Aug. 23, 1958, Pub. L. 85–726, §701(a)(4), (f), 72 Stat. 781. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444. Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938. |
| 1131(d) | 49 App.:1903(a)(1)(A) (6th, last sentences). 49 App.:1441(a)(4). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). 49 App.:1903(a)(2). | Jan. 3, 1975, Pub. L. 93–633, §304(a)(2), 88 Stat. 2168; July 19, 1988, Pub. L. 100–372, §3(a), 102 Stat. 876. |

In this section, the word “conditions” is omitted as being included in “circumstances”. The words “head of the department in which the Coast Guard is operating” are substituted for “Secretary of the department in which the Coast Guard is operating” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1)(A), the words “the Board has authority to investigate under section 1132 of this title” are substituted for “which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 1655(d) of this Appendix pursuant to title VII of the Federal Aviation Act of 1958, as amended [49 App. U.S.C. 1441 et seq.]” because of the restatement.

In subsection (a)(1)(F), before subclause (i), the word “decides” is substituted for “in the judgment of” for

clarity. The word “individuals” is substituted for “people” for consistency in the revised title. In subclause (iii), the words “the investigation of” are added as being more precise.

In subsection (a)(3), the word “developed” is substituted for “obtained or developed” to eliminate unnecessary words.

In subsection (b)(2), the word “affect” is substituted for “eliminate or diminish” for clarity.

In subsection (c), the text of 49 App.:1441(f) is omitted as superseded by 49 App.:1903(a)(1) (6th, last sentences).

In subsection (d), the words “in writing” in 49 App.:1903(a)(2) are omitted as surplus. The words “by it” are added for clarity. The text of 49 App.:1441(a)(4) is omitted as superseded by 49 App.:1903(a)(1)(A) and (2).

AMENDMENTS

1994—Subsec. (a)(1)(A). Pub. L. 103–411, §3(c)(1), inserted before semicolon at end “or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States”.

Subsec. (d), (e). Pub. L. 103–411, §3(c)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(d) of Pub. L. 103–411 provided that: “The amendments made by subsections (a) and (c) [amending this section and section 40102 of this title] shall take effect on the 180th day following the date of the enactment of this Act [Oct. 25, 1994].”

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

CONTIGUOUS ZONE OF UNITED STATES

For extension of contiguous zone of United States, see Proc. No. 7219, Sept. 2, 1999, 64 F.R. 48701, set out as a note under section 1331 of Title 43, Public Lands.

§ 1132. Civil aircraft accident investigations

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1113(b)(1) of this title that is conducting an investigation or hearing about an aircraft accident has the same authority to conduct the investigation or hearing as the Board.

(b) NOTIFICATION AND REPORTING.—The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft.

(c) PARTICIPATION OF SECRETARY.—The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) ACCIDENTS INVOLVING ONLY MILITARY AIRCRAFT.—If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft,

the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 753.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--|--|
| 1132(a)(1) | 49 App.:1441(a)(2). 49 App.:1442(a). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | Aug. 23, 1958, Pub. L. 85-726, §§701(a)(1), (2), (c) (1st sentence), (g), 702, 72 Stat. 781, 782. Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), 88 Stat. 2168. |
| 1132(a)(2) | 49 App.:1441(c) (1st sentence). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | |
| 1132(b) | 49 App.:1441(a)(1). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | |
| 1132(c) | 49 App.:1441(g). 49 App.:1655(c)(1). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444. |
| 1132(d) | 49 App.:1442(b), (c). 49 App.:1655(c)(1), (d) (1st sentence). 49 App.:1903(a)(1)(A). | |

In subsection (a)(1)(A), the words “and report the facts, conditions, and circumstances related to each accident and the probable cause thereof” in 49 App.:1441(a)(2) are omitted as unnecessary because of section 1131(d) of the revised title.

In subsection (a)(1)(B), the words “provide for” in 49 App.:1442(a) are omitted as surplus.

In subsection (a)(2), the words “any member of the National Transportation Safety Board or any officer or employee of the National Transportation Safety Board” in 49 App.:1441(c) are omitted as unnecessary because of sections 1113 and 1134 of the revised title.

In subsections (c) and (d), the words “Secretary of Transportation” and “Secretary” are substituted for “Administrator” in sections 701(g) and 702(b) and (c) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 782) for consistency. Section 6(c)(1) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 938) transferred all duties and powers of the Federal Aviation Agency and the Administrator to the Secretary of Transportation. However, the Secretary was to carry out certain provisions through the Administrator. In addition, various laws enacted since then have vested duties and powers in the Administrator. All provisions of law the Secretary is required to carry out through the Administrator are included in 49:106(g).

In subsection (c), the words “and his representatives” in 49 App.:1441(g) are omitted because of 49:322(b). The words “when participation is necessary to carry out the duties and powers” are substituted for “In order to assure the proper discharge . . . of his duties and responsibilities” to eliminate unnecessary words. The words “or his representatives” are omitted because of 49:322(b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 1131, 1151, 1152, 1155 of this title.

§ 1133. Review of other agency action

The National Transportation Safety Board shall review on appeal—

- (1) the denial, amendment, modification, suspension, or revocation of a certificate is-

sued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title;

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under section 6101, 6301, or 7503, chapter 77, or section 9303 of title 46; and

(4) under section 46301(d)(5) of this title, an order imposing a penalty under section 46301.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 754.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 1133(1)-(3) ... | 49 App.:1903(a)(9). | Jan. 3, 1975, Pub. L. 93-633, §304(a)(9), 88 Stat. 2169; Oct. 19, 1984, Pub. L. 98-499, §4(b), 98 Stat. 2315. |
| 1133(4) | (no source). | |

In clause (1), the word “certificate” is substituted for “operating certificate” for consistency in the revised title. The words “or license” are omitted as unnecessary because only certificates are issued under the sections cited in this section.

In clause (3), the words “head of the department in which the Coast Guard is operating” are substituted for “Commandant of the Coast Guard” for consistency with 14:5 and 46:2101(34).

Clause (4) is added to reflect all the appellate responsibilities of the National Transportation Safety Board.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1131 of this title.

§ 1134. Inspections and autopsies

(a) ENTRY AND INSPECTION.—An officer or employee of the National Transportation Safety Board—

- (1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

- (2) during reasonable hours, may inspect any record, process, control, or facility related to an accident investigation under this chapter.

(b) INSPECTION, TESTING, PRESERVATION, AND MOVING OF AIRCRAFT AND PARTS.—(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

- (2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, vessel, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

- (1) does not interfere unnecessarily with transportation services provided by the owner

or operator of the vehicle, vessel, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) EXCLUSIVE AUTHORITY OF BOARD.—Only the Board has the authority to decide on the way in which testing under this section will be conducted, including decisions on the person that will conduct the test, the type of test that will be conducted, and any individual who will witness the test. Those decisions are committed to the discretion of the Board. The Board shall make any of those decisions based on the needs of the investigation being conducted and, when applicable, subsections (a), (c), and (e) of this section.

(e) PROMPTNESS OF TESTS AND AVAILABILITY OF RESULTS.—An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(f) AUTOPSIES.—(1) The Board may order an autopsy to be performed and have other tests made when necessary to investigate an accident under this chapter. However, local law protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation.

(2) With or without reimbursement, the Board may obtain a copy of an autopsy report performed by a State or local official on an individual who died because of a transportation accident investigated by the Board under this chapter.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 754.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1134(a) | 49 App.:1903(b)(2) (1st sentence words before 3d comma, 3d sentence). | Jan. 3, 1975, Pub. L. 93–633, §304(b)(2), 88 Stat. 2170; Nov. 3, 1981, Pub. L. 97–74, §5, 95 Stat. 1065; Nov. 28, 1990, Pub. L. 101–641, §3, 104 Stat. 4654. |
| 1134(b) | 49 App.:1441(c) (2d sentence), (d). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | Aug. 23, 1958, Pub. L. 85–726, §701(c) (2d, last sentences), (d), 72 Stat. 781; Oct. 15, 1962, Pub. L. 87–810, §§1, 2, 76 Stat. 921. Oct. 15, 1966, Pub. L. 89–670, §6(d) (1st sentence), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93–633, §304(a)(1)(A), (b)(5), 88 Stat. 2168, 2170. |
| 1134(c) | 49 App.:1903(b)(2) (1st sentence words after 3d comma, 2d sentence). | |
| 1134(d) | 49 App.:1903(b)(2) (5th, last sentences). | |
| 1134(e) | 49 App.:1903(b)(2) (4th sentence). | |
| 1134(f) | 49 App.:1441(c) (last sentence). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A), (b)(5). | |

In subsection (a), before clause (1), the word “officer” is added for consistency in the revised title.

In subsection (b)(1), the words “investigating an aircraft accident” are substituted for “carrying out its duties” in 49 App.:1441(c) for clarity. The words “in-

spect and test” are substituted for “examine and test” for consistency in the revised title and with other titles of the United States Code.

In subsection (c), before clause (1), the words “In carrying out subsection (a)(1) of this section, an officer or employee” are added because of the restatement. The words “or any part of any such item” are omitted as surplus. The words “when such examination or testing is determined to be required for purposes of such investigation” are omitted as unnecessary because of the words “do anything necessary to conduct an investigation” in subsection (a)(1) of this section. In clause (1), the word “obstruct” is omitted as being included in “interfere”.

In subsection (d), the word “individuals” is substituted for “persons” the 2d time that word is used for clarity. The words “The Board shall make any of those decisions” are substituted for “and shall be made” because of the restatement.

In subsection (e), the word “promptly” is substituted for “with reasonable promptness” to eliminate unnecessary words.

In subsection (f)(1), the words “In the case of any fatal accident” in 49 App.:1441(c) are omitted as surplus. The words “to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident” are omitted as unnecessary because of the authority of the Board to conduct autopsies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1131, 1151, 1152, 1155 of this title.

§ 1135. Secretary of Transportation’s responses to safety recommendations

(a) GENERAL.—When the National Transportation Safety Board submits a recommendation about transportation safety to the Secretary of Transportation, the Secretary shall give a formal written response to each recommendation not later than 90 days after receiving the recommendation. The response shall indicate whether the Secretary intends—

- (1) to carry out procedures to adopt the complete recommendation;
- (2) to carry out procedures to adopt a part of the recommendation; or
- (3) to refuse to carry out procedures to adopt the recommendation.

(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) of this section shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) of this section shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendation. A response under subsection (a)(3) of this section shall detail the reasons for the refusal to carry out procedures.

(c) PUBLIC AVAILABILITY.—The Board shall make a copy of each recommendation and response available to the public at reasonable cost.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary’s response to each recommendation.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 755.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---------------------------------------|--|
| 1135(a), (b) | 49 App.:1906(a) (less last sentence). | Jan. 3, 1975, Pub. L. 93-633, § 307(a), 88 Stat. 2172; Nov. 3, 1981, Pub. L. 97-74, § 6, 95 Stat. 1066; July 19, 1988, Pub. L. 100-372, § 3(b), 102 Stat. 876. |
| 1135(c) | 49 App.:1906(a) (last sentence). | |
| 1135(d) | 49 App.:1906(b). | Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, § 307(b); added Nov. 3, 1981, Pub. L. 97-74, § 6, 95 Stat. 1066. |

In subsections (a) and (b), the words “carry out” are substituted for “initiate and conduct” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the word “complete” is substituted for “in full” for consistency in the revised title.

§ 1136. Assistance to families of passengers involved in aircraft accidents

(a) IN GENERAL.—As soon as practicable after being notified of an aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

- (1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and
- (2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

- (1) To provide mental health and counseling services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.
- (2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.
- (3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.
- (4) To communicate with the families as to the roles of the organization, government

agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

(5) To arrange a suitable memorial service, in consultation with the families.

(d) PASSENGER LISTS.—

(1) REQUESTS FOR PASSENGER LISTS.—

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the aircraft involved in the accident.

(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a list described in subparagraph (A).

(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

- (1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and
- (2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of the carrier can be used to the greatest extent possible to carry out the organization’s responsibilities under this section.

(g) PROHIBITED ACTIONS.—

(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air transportation, no unsolicited communication concerning a potential action for personal injury

or wrongful death may be made by an attorney or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 30th day following the date of the accident.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRCRAFT ACCIDENT.—The term “aircraft accident” means any aviation disaster regardless of its cause or suspected cause.

(2) PASSENGER.—The term “passenger” includes an employee of an air carrier aboard an aircraft.

(Added Pub. L. 104-264, title VII, §702(a)(1), Oct. 9, 1996, 110 Stat. 3265.)

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1155, 41113, 41313 of this title.

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

§ 1151. Aviation enforcement

(a) CIVIL ACTIONS BY BOARD.—The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS BY ATTORNEY GENERAL.—On request of the Board, the Attorney General may bring a civil action in an appropriate court—

(1) to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) PARTICIPATION OF BOARD.—On request of the Attorney General, the Board may participate in a civil action to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1151(a) | 49 App.:1487(a) (related to CAB). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | Aug. 23, 1958, Pub. L. 85-726, §§1007 (related to CAB), 1008 (related to CAB), 72 Stat. 796. Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), 88 Stat. 2168. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|----------------------------|
| 1151(b) | 49 App.:1487(b) (related to CAB). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | |
| 1151(c) | 49 App.:1488 (related to CAB). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | |

In this section, the words “section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title” are substituted for “issued under this chapter” and “provisions of this chapter” because those sections restate the relevant provisions of 49 App.ch. 20 carried out by the National Transportation Safety Board.

In subsections (a) and (b), the word “rule” is omitted as being synonymous with “regulation”. The word “requirement” is omitted as being included in “order”. The words “or any term, condition, or limitation of any certificate or permit” are omitted because the National Transportation Safety Board does not have authority to issue certificates or permits.

In subsection (a), the words “their duly authorized agents” are omitted as surplus. The words “may bring a civil action” are substituted for “may apply” in 49 App.:1487(a) for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “An action under this subsection may be brought in the judicial district in which” are substituted for “for any district wherein” for clarity. The text of 49 App.:1487(a) (words after semicolon) is omitted as unnecessary because of rule 81(b) of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (b), before clause (1), the words “Attorney General” are substituted for “any district attorney of the United States” in 49 App.:1487(b) because of 28:509. The words “to whom the Board or Secretary of Transportation may apply” are omitted as surplus. The words “may bring a civil action” are substituted for “is authorized to institute . . . all necessary proceedings” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “under the direction of the Attorney General” are omitted as unnecessary because of 28:516. The text of 49 App.:1487(b) (words after last comma) is omitted as obsolete.

In subsection (c), the words “civil action” are substituted for “proceeding in court” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 1152. Joinder and intervention in aviation proceedings

A person interested in or affected by a matter under consideration in a proceeding or a civil action to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title, or a regulation prescribed or order issued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 1152 | 49 App.:1489. 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). | Aug. 23, 1958, Pub. L. 85-726, §1009, 72 Stat. 796. Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), 88 Stat. 2168. |

The words “civil action” are substituted for “proceedings . . . begun originally in any court of the

United States” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title” are substituted for “the provisions of this chapter” in 49 App.:1489 because 49 App.:1489 is taken from 49 App.:ch. 20 and the sections in quotations restate the relevant provisions of 49 App.:ch. 20 carried out by the National Transportation Safety Board. The remaining relevant provisions of 49 App.:ch. 20 are restated in part A of subtitle VII of the revised title, and provisions comparable to this section are included as section 46109 of the revised title. The word “rule” is omitted as being synonymous with “regulation”. The word “requirement” is omitted as included in “order”. The words “or any term, condition, or limitation of any certificate or permit” are omitted because the Board does not have authority to issue certificates or permits. The words “may be joined as a party or permitted to intervene” are substituted for “it shall be lawful to include as parties, or to permit the intervention of” for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§ 1153. Judicial review

(a) GENERAL.—The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is issued.

(b) PERSONS SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists. Findings of fact by the Board, if supported by substantial evidence, are conclusive.

(4) In reviewing an order under this subsection, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Administration decides that an order of the Board under section 44709 or 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 1153(a) | 49 App.:1655(d) (last sentence). 49 App.:1903(d). | Oct. 15, 1966, Pub. L. 89-670, §6(d), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(d), 88 Stat. 2171. |
| 1153(b)(1) | 49 App.:1486(a), (b) (as 1486(a), (b) relates to CAB). 49 App.:1655(d) (1st sentence). | Aug. 23, 1958, Pub. L. 85-726, §1006(a), (b), (e), (f) (as §1006(a), (b), (e), (f) relates to CAB), 72 Stat. 795. |
| 1153(b)(2) | 49 App.:1486(c) (related to CAB). 49 App.:1655(d) (1st sentence). | Aug. 23, 1958, Pub. L. 85-726, §1006(c) (related to CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86-546, §1, 74 Stat. 255. |
| 1153(b)(3) | 49 App.:1486(d), (e) (1st sentence) (as 1486(d), (e) (1st sentence) relates to CAB). 49 App.:1655(d) (1st sentence). | Aug. 23, 1958, Pub. L. 85-726, §1006(d) (related to CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87-225, §2, 75 Stat. 497. |
| 1153(b)(4) | 49 App.:1486(e) (last sentence related to CAB). 49 App.:1655(d) (1st sentence). | |
| 1153(b)(5) | 49 App.:1486(f) (related to CAB). 49 App.:1655(d) (1st sentence). | |
| 1153(c) | 49 App.:1429(a) (8th-last sentences related to Administrator under subch. VII). 49 App.:1471(a) (3)(D)(v) (related to Administrator under subch. VII). 49 App.:1655(c)(1). | Aug. 23, 1958, Pub. L. 85-726, §609(a) (8th-last sentences related to Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92-159, §2(a), 85 Stat. 481; Aug. 26, 1992, Pub. L. 102-345, §3(a)(2), 106 Stat. 925. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §901(a) (3)(D)(v) (related to Administrator under title VII); added Nov. 18, 1988, Pub. L. 100-690, §7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102-345, §2(a), 106 Stat. 923. Oct. 15, 1966, Pub. L. 89-670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, §7(b), 96 Stat. 2444. |

In subsection (a), the text of 49 App.:1903(d) (last sentence) is omitted as unnecessary because 5:ch. 7 applies by its own terms. The words “final order” are substituted for “order, affirmative or negative” in 49 App.:1903(d) and “Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final” in 49 App.:1655(d) to eliminate unnecessary words. The words “is issued” are substituted for “after the entry” for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1655(d) (last sentence words after last comma) is omitted as unnecessary because of 49 App.:1903(d).

In subsection (b)(1), the words “affirmative or negative” are omitted as surplus. The words “related to an aviation matter” are added because the source provi-

sions being restated only apply to aviation matters. The words “is issued” are substituted for “the entry of” for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words “if any” are omitted as surplus. The words “of the proceeding” are added for clarity. The words “complained of” and “as provided in section 2112 of title 28” are omitted as surplus.

In subsection (b)(3), the word “amend” is added for consistency in the revised title. The word “interim” is substituted for “interlocutory” for clarity. The words “taking other appropriate action” are substituted for “by such mandatory or other relief as may be appropriate” for clarity and to eliminate unnecessary words.

In subsection (b)(4), the words “made in the proceeding conducted by” are substituted for “urged before” for clarity.

In subsection (c), the source provisions are combined to eliminate unnecessary words and are restated in this chapter to alert the reader to the authority of the Administrator of the Federal Aviation Administration to seek judicial review of an order of the National Transportation Safety Board under section 44709 or 46301(d) of the revised title that the Administrator decides will have a significant adverse impact on carrying out source provisions restated in this chapter that are derived from title VII of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 781).

§ 1154. Discovery and use of cockpit voice and other material

(a) TRANSCRIPTS AND RECORDINGS.—(1) Except as provided by this subsection, a party in a judicial proceeding may not use discovery to obtain—

(A) any part of a cockpit voice recorder transcript that the National Transportation Safety Board has not made available to the public under section 1114(c) of this title; and

(B) a cockpit voice recorder recording.

(2)(A) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit voice recorder transcript if, after an in camera review of the transcript, the court decides that—

(i) the part of the transcript made available to the public under section 1114(c) of this title does not provide the party with sufficient information for the party to receive a fair trial; and

(ii) discovery of additional parts of the transcript is necessary to provide the party with sufficient information for the party to receive a fair trial.

(B) A court may allow discovery, or require production for an in camera review, of a cockpit voice recorder transcript that the Board has not made available under section 1114(c) of this title only if the cockpit voice recorder recording is not available.

(3) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit voice recorder recording if, after an in camera review of the recording, the court decides that—

(A) the parts of the transcript made available to the public under section 1114(c) of this title and to the party through discovery under paragraph (2) of this subsection do not provide the party with sufficient information for the party to receive a fair trial; and

(B) discovery of the cockpit voice recorder recording is necessary to provide the party

with sufficient information for the party to receive a fair trial.

(4)(A) When a court allows discovery in a judicial proceeding of a part of a cockpit voice recorder transcript not made available to the public under section 1114(c) of this title or a cockpit voice recorder recording, the court shall issue a protective order—

(i) to limit the use of the part of the transcript or the recording to the judicial proceeding; and

(ii) to prohibit dissemination of the part of the transcript or the recording to any person that does not need access to the part of the transcript or the recording for the proceeding.

(B) A court may allow a part of a cockpit voice recorder transcript not made available to the public under section 1114(c) of this title or a cockpit voice recorder recording to be admitted into evidence in a judicial proceeding, only if the court places the part of the transcript or the recording under seal to prevent the use of the part of the transcript or the recording for purposes other than for the proceeding.

(5) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(b) REPORTS.—No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 757.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1154(a) | 49 App.:1905(c)(3), (d). | Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §306(c)(3), (d); added Oct. 14, 1982, Pub. L. 97-309, §2, 96 Stat. 1453; restated Nov. 28, 1990, Pub. L. 101-641, §4, 104 Stat. 4655. |
| 1154(b) | 49 App.:1441(e). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A), (c). | Aug. 23, 1958, Pub. L. 85-726, §701(e), 72 Stat. 781. Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), (c), 88 Stat. 2168, 2171. |

In subsection (a), the word “transcript” is substituted for “transcriptions” for clarity.

In subsection (a)(1)(A), the words “that the National Transportation Safety Board has not made available to the public” are substituted for “other than such portions made available to the public by the Board” for clarity.

In subsection (a)(2)(B), the words “prepared by or under the direction of the Board” are omitted as unnecessary and for consistency with the source provisions restated in this subsection.

In subsection (b), the words “civil action” are substituted for “suit or action” in 49 App.:1441(e) and 1903(c) for consistency with the Federal Rules of Civil Procedure (28 App. U.S.C.).

§ 1155. Aviation penalties

(a) CIVIL PENALTY.—(1) A person violating section 1132, section 1134(b), section 1134(f)(1), or section 1136(g) (related to an aircraft accident) of this title or a regulation prescribed or order issued under any of those sections is liable to

the United States Government for a civil penalty of not more than \$1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces of the United States or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) CRIMINAL PENALTY.—A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 758; Pub. L. 104-264, title VII, §702(b), Oct. 9, 1996, 110 Stat. 3267.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 1155(a)(1), 1155(a)(3), 1155(a)(5), and 1155(b).

In subsection (a)(1), the words "section 1132 or 1134(b) or (f)(1) (related to an aircraft accident) of this title" are substituted for "any provision of subchapter . . .

VII . . . of this chapter" in 49 App.:1471(a)(1) because those sections restate the relevant source provisions of 49 App.:ch. 20 carried out by the Board. The words "regulation prescribed or order issued under either of those sections" are substituted for "rule, regulation, or order issued thereunder" for clarity and consistency in the revised title and with other titles of the United States Code and because "rule" and "regulation" are synonymous. The words "liable to the United States Government" are substituted for "subject to" for clarity. The words "for each such violation" are omitted as unnecessary because of 18:1.

In subsection (a)(2), the word "civilian" is omitted as unnecessary. The words "with respect thereto" are omitted as surplus.

In subsection (a)(4), the words "imposed or compromised" are substituted for "finally determined or fixed by order of the Board, or the amount agreed upon in compromise" in 49 App.:1471(a)(2) for consistency and to eliminate unnecessary words.

In subsection (a)(5), the words "imposed or assessed" are omitted as surplus. The words "civil action against the person" are substituted for "proceedings in personam against the person" in 49 App.:1473(b)(1) for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.) and to eliminate unnecessary words. The text of 49 App.:1473(b)(1) (1st sentence words after 1st comma and last sentence) is omitted as unnecessary because penalties imposed by the National Transportation Safety Board do not involve liens on aircraft. The text of 49 App.:1473(b)(4) is omitted as unnecessary because of 28:ch. 131.

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a)(2), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

PRIOR PROVISIONS

Prior chapter 31 (§§3101-3104) of subtitle II redesignated and restated as chapter 315 (§§31501-31504) of subtitle VI of this title by Pub. L. 103-272, §1(c), (e).

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-264 substituted " , section 1134(b), section 1134(f)(1), or section 1136(g)" for "or 1134(b) or (f)(1)" and "any of" for "either of".

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1152 of this title.

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

Chapter 51. Transportation of Hazardous Material 5101
53. Mass Transportation 5301
55. Intermodal Transportation 5501
57. Sanitary Food Transportation 5701
59. Intermodal Safe Container Transportation 5901
61. One-Call Notification Programs 6101

AMENDMENTS

1998—Pub. L. 105-178, title VII, §7302(b), June 9, 1998, 112 Stat. 482, added item for chapter 61.