

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Parts 800 and 831

Organization of the Board and Accident/Incident Investigation Procedures

AGENCY: National Transportation Safety Board.

ACTION: Final rules.

SUMMARY: The Board is correcting minor typographical errors and making other non-substantive changes primarily to update these rules to reflect the Board's current organization.

DATES: The new rules are effective January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314-6080.

SUPPLEMENTARY INFORMATION: The existing rules at parts 800 and 831 contain a small number of typographical errors that, although likely mislead no one, merit correction.¹ Other amendments contained here reflect recent organizational changes to eliminate the Office of Administration, consolidate the Offices of Public Affairs and Government Affairs and include family affairs matters in this office as well, and to separate the Office of Surface Transportation Safety into modal offices for railroad, highway, marine, and pipeline/hazardous materials matters. As all the changes are of agency organization only and none has substantive effect on the public, notice and comment are not necessary.

List of Subjects

49 CFR Part 800

Authority delegations, Organization and functions.

49 CFR Part 831

Aviation safety, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, 49 CFR Parts 800 and 831 are amended as follows:

PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD AND DELEGATIONS OF AUTHORITY

1. The Authority citation for Part 800 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

¹ That is, (1) in § 800.2, "was" should be "as;" (2) in the Appendix to part 800, paragraph (b), "serial" should be "aerial;" and in § 831.11(a)(2), "actively" should be "activity."

Section 800.2 is amended by revising the introductory text, revising paragraphs (b) through (j) and adding paragraph (k)

§ 800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the Members is designated by the President as Chairman with the advice and consent of the Senate and one as Vice Chairman. The Members exercise various functions, powers, and duties set forth in the Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*), and the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*). The Board is an independent agency of the United States. More detailed descriptions of the Board and its work are contained in other parts of this chapter VIII, notably parts 825, 830 through 835, and 840 through 850. Various special delegations of authority from the Board and the Chairman to the staff are set forth in subpart B of this part. The Board's staff is comprised of the following principal components:

* * * * *

(b) The Office of Government, Public, and Family Affairs, which supplies the Congress and Federal, State, and local government agencies with information regarding the Safety Board's activities, programs and objectives; supplies the public, the transportation industry and the news media with current, accurate information considering the work, programs, and objectives of the Board; coordinates public and private responsibilities, including aid to survivors and families of accident victims, in the wake of transportation disasters. This Office maintains the 24-hour Communications Center, which assists in coordinating accident notification and launch operations for all modes and provides an off-hour base for family assistance functions during accident investigations.

(c) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff; prepares Board rules, opinions and/or orders, and advice to all offices on matters of legal significance; and represents the Board in judicial matters to which the Board is a party or in which the Board is interested.

(d) The Office of Administrative Law Judges, which conducts all formal proceedings arising under the Federal Aviation Act of 1958, as amended, including proceedings involving civil penalties and suspension or revocation of certificates, and appeals from actions of the Federal Aviation Administration

Administrator in refusing to issue airman certificates.

(e) The Office of Aviation Safety, which conducts investigations of all aviation accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future aviation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered and/or U.S.-manufactured aircraft; and conducts special investigations into selected aviation accidents involving safety issues of concern to the Board.

(f) The Office of Railroad Safety, which conducts investigations of railroad accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future railroad accidents; and conducts special investigations into selected rail accidents involving safety issues of concern to the Board.

(g) The Office of Highway Safety, which conducts investigations of highway accidents, including railroad grade-crossing accidents, within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future highway accidents; and conducts special investigations into selected highway accidents involving safety issues of concern to the Board.

(h) The Office of Marine Safety, which conducts investigations of marine accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future marine accidents; participates in the investigation of

accidents that occur in foreign countries and that involve U.S.-registered vessels; and conducts special investigations into selected marine accidents involving safety issues of concern to the Board.

(i) The Office of Pipeline and Hazardous Materials Safety, which conducts investigations of pipeline and hazardous materials accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable causes of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future pipeline and hazardous materials accidents; and conducts special investigations into selected pipeline and hazardous materials accidents involving safety issues of concern to the Board.

(j) The Office of Research and Engineering, which conducts research and carries out analytical studies and tests involving all modes, including readouts of voice and data recorders, flight path analysis and computer simulation/animation, component examination and material failure analysis; conducts safety studies of specific safety issues; performs statistical analyses of transportation accident and incident data; maintains archival records of the Board's accident investigation and safety promotion activities and supports public access to these records; and administers the Board's information technology infrastructure, including computer systems, networks, databases, and application software.

(k) The Office of Safety Recommendations & Accomplishments, which oversees the Board's safety recommendations program, including the Board's "MOST WANTED" recommendations, and the Board's safety accomplishment program.

3. Section 800.24 is amended by adding paragraph (j) to read as follows:

§ 800.24 Delegation to the General Counsel.

* * * * *

(j) Dismiss late filed notices of appeal and appeal briefs for lack of good cause.

4. Section 800.25 is amended by revising the section heading and the introductory text to read as follows:

§ 800.25 Delegation to the Directors of Office of Aviation Safety, Office of Railroad Safety, Office of Highway Safety, Office of Marine Safety, and Office of Pipeline and Hazardous Materials Safety.

The Board delegates to the Directors of the Offices of Aviation, Railroad,

Highway, Marine, and Pipeline and Hazardous Materials Safety, the authority to:

* * * * *

5. Section 800.26 is revised to read as follows:

§ 800.26 Delegation to the Chief, Public Inquiries Branch.

The Board delegates to the Chief, Public Inquiries Branch, the authority to determine, initially, the withholding of a board record from inspection or copying, pursuant to part 801 of this chapter.

6. A new section 800.28 is added to read as follows:

§ 800.28 Delegation to the Chief Financial Officer.

The Board delegates to the Chief Financial Officer the authority to settle claims for money damages of \$2,500 or less against the United States arising under Section 2672 of 28 United States Code (the Federal Tort Claims Act) because of acts or omissions of Board employees.

7. The Appendix to part 800 is amended by revising paragraph (b) introductory text to read as follows:

Appendix to Part 800—Request to the Secretary of the Department of Transportation To Investigate Certain Aircraft Accidents

* * * * *

(b) the authority to be exercised hereunder shall include the investigation of all civil aircraft accidents involving rotorcraft, aerial application, amateur-built aircraft, restricted category aircraft, and all fixed-wing aircraft which have a certificated maximum gross takeoff weight of 12,500 pounds or less except:

* * * * *

PART 831—ACCIDENT/INCIDENT INVESTIGATION PROCEDURES

8. The Authority citation for Part 831 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

9. Section 831.3 is revised to read as follows:

§ 831.3 Authority of Directors..

The Directors, Office of Aviation Safety, Office of Railroad Safety, Office of Highway Safety, Office of Marine Safety, and Office of Pipeline and Hazardous Materials Safety, subject to the provisions of § 831.2 and part 800 of this chapter, may order an investigation into any accident or incident.

10. Section 831.11 is amended by revising paragraph (a)(2) to read as follows:

§ 831.11 Parties to the investigation.

(a) * * *

(2) Participants in the investigation (*i.e.*, party representatives, party coordinators, and/or the larger party organization) shall be responsive to the direction of Board representatives and may lose party status if they do not comply with their assigned duties and activity proscriptions or instructions, or if they conduct themselves in a manner prejudicial to the investigation.

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Issued in Washington, DC this 18th day of December, 1998.

Jim Hall,

Chairman.

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NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 835

Testimony of Board Employees

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: The Board is modifying rules regarding the testimony of Board employees to clarify and codify existing policies.

DATES: The new rules are effective January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314-6080.

SUPPLEMENTARY INFORMATION: The amendments made here are intended primarily to answer questions that often arise: regarding the use of Board reports in litigation; regarding the scope of permissible testimony; regarding procedures and policies in criminal matters; and regarding testimony of current Board employees concerning their activities before joining the Safety Board. Because these rule changes affect only rules of agency organization, procedure, or practice, notice and comment procedures are not required and are not provided here. 5 U.S.C. 553(b)(B).

List of Subjects in 49 CFR Part 835

Courts, Government employees.

Accordingly, 49 CFR Part 835 is amended as follows: