

Committee on Commerce, Science, and Transportation of the Senate.”

Pub. L. 106-424, §6(b), Nov. 1, 2000, 114 Stat. 1886, provided that: “Not later than 1 year after the date of the enactment of this Act [Nov. 1, 2000], the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this Act [see Short Title of 2000 Amendment note set out under section 1101 of this title].”

MEMORANDUM OF UNDERSTANDING

Pub. L. 106-424, §8, Nov. 1, 2000, 114 Stat. 1886, provided that: “Not later than 1 year after the date of the enactment of this Act [Nov. 1, 2000], the National Transportation Safety Board and the United States Coast Guard shall revise their Memorandum of Understanding governing major marine accidents—

“(1) to redefine or clarify the standards used to determine when the National Transportation Safety Board will lead an investigation; and

“(2) to develop new standards to determine when a major marine accident involves significant safety issues relating to Coast Guard safety functions.”

§ 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—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---|---|
| 1132(a)(2) | 49 App.:1903(a)(1)(A). 49 App.:1441(c) (1st sentence). 49 App.:1655(d) (1st sentence). | Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), 88 Stat. 2168. |
| 1132(b) | 49 App.:1903(a)(1)(A). 49 App.:1441(a)(1). 49 App.:1655(d) (1st sentence). | |
| 1132(c) | 49 App.:1903(a)(1)(A). 49 App.:1441(g). 49 App.:1655(c)(1). | 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.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A). 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).

§ 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 issued 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

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 1132(a)(1) | 49 App.:1441(a)(2). 49 App.:1442(a). 49 App.:1655(d) (1st sentence). | 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. |

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---------------------|---|
| 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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 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). | 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. |
| | 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), (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 “inspect 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 inves-