

ties under this part to decide, as closely as possible—

(1) the cause of the casualty, including the cause of any death;

(2) whether an act of misconduct, incompetence, negligence, unskillfulness, or willful violation of law committed by any individual licensed, certificated, or documented under part E of this subtitle has contributed to the cause of the casualty, or to a death involved in the casualty, so that appropriate remedial action under chapter 77 of this title may be taken;

(3) whether an act of misconduct, incompetence, negligence, unskillfulness, or willful violation of law committed by any person, including an officer, employee, or member of the Coast Guard, contributed to the cause of the casualty, or to a death involved in the casualty;

(4) whether there is evidence that an act subjecting the offender to a civil penalty under the laws of the United States has been committed, so that appropriate action may be undertaken to collect the penalty;

(5) whether there is evidence that a criminal act under the laws of the United States has been committed, so that the matter may be referred to appropriate authorities for prosecution; and

(6) whether there is need for new laws or regulations, or amendment or repeal of existing laws or regulations, to prevent the recurrence of the casualty.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 537.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
6301 .....	46:239

Section 6301 requires the Secretary to prescribe regulations for the immediate investigation of marine casualties in order to determine, as closely as possible, the cause of the casualty; whether the actions of individuals licensed, certificated, or documented have contributed to the cause of the casualty, whether the action of an individual in the Coast Guard contributed to the cause of the casualty, whether there is evidence that an act subjecting the offender to civil or criminal penalty has been committed, and whether there is a need for new laws or to amend or repeal existing laws or regulations in order to prevent a recurrence of the casualty.

CONSTRUCTION

Pub. L. 98–89, §2(h), Aug. 26, 1983, 97 Stat. 599, provided that: “Chapter 63 of title 46 (as enacted by section 1 of this Act) does not supersede section 304(a)(1)(E) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(a)(1)(E)) [see 49 U.S.C. 1131(a)(1)(E), (b)].”

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.

§ 6302. Public investigations

Each investigation conducted under this chapter and regulations prescribed under this chap-

ter shall be open to the public, except when evidence affecting the national security is to be received.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 537.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
6302 .....	

Section 6302 provides that each investigation conducted under this chapter shall be open to the public, except when evidence affecting the national security of the United States is to be received.

§ 6303. Rights of parties in interest

In an investigation conducted under this chapter, the following shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses:

- (1) an owner,
- (2) any holder of a license or certificate of registry,
- (3) any holder of a merchant mariner’s document,
- (4) any other person whose conduct is under investigation, and
- (5) any other party in interest.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 537.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
6303 .....	46:239(d)

Section 6303 provides for the rights of parties in interest to an investigation by allowing them to be represented by counsel, to cross examine witnesses, and to call witnesses. This section merely states the rights of a party in interest but does not necessarily determine who is to be considered a party in interest. Clause (4) states that these rights are to be afforded to “any other person whose conduct is under investigation” (emphasis added). This implies that clauses (1) through (3) apply to individuals whose conduct is under investigation. If any individual does not qualify for these rights under clauses (1) through (4), that individual can still be entitled to these rights under clause (5), if designated as a party in interest. Since parties in interest are not clearly set out by statute, the Secretary has the authority to do this by regulation under section 6301. Thus the rights of these parties as presently provided for in existing law have been retained.

§ 6304. Subpena authority

(a) In an investigation under this chapter, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpoena. The subpoena authority granted by this section is co-extensive with that of a district court of the United States, in civil matters, for the district in which the investigation is conducted.

(b) When a person fails to obey a subpoena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpoena. The court may punish as contempt any disobedience of its order.

(c) A witness complying with a subpoena issued under this section may be paid for actual travel