

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1155(a)(1), (2).	49 App.:1471(a)(1) (related to subchapter VII).	Aug. 23, 1958, Pub. L. 85-726, § 901(a)(1) (related to title VII), 72 Stat. 783; restated July 10, 1962, Pub. L. 87-528, § 12, 76 Stat. 149; Aug. 5, 1974, Pub. L. 93-366, § 107, 88 Stat. 414; Jan. 3, 1975, Pub. L. 93-633, § 113(b), 88 Stat. 2162.
	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.
1155(a)(3), (4).	49 App.:1471(a)(2) (related to subchapter VII).	Aug. 23, 1958, Pub. L. 85-726, § 901(a)(2) (related to title VII), 72 Stat. 784; July 10, 1962, Pub. L. 87-528, § 12, 76 Stat. 150; restated Oct. 24, 1978, Pub. L. 95-504, § 35(b), 92 Stat. 1740.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1155(a)(5)	49 App.:1473(b)(1).	Aug. 23, 1958, Pub. L. 85-726, § 903(b)(1), 72 Stat. 786; Oct. 24, 1978, Pub. L. 95-504, § 36, 92 Stat. 1741.
	49 App.:1473(b)(4).	Aug. 23, 1958, Pub. L. 85-726, § 903(b)(4), 72 Stat. 787.
	49 App.:1655(d) (1st sentence).	
	49 App.:1903(a)(1)(A).	
1155(b)	49 App.:1472(p).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 902(p); added Oct. 15, 1962, Pub. L. 87-810, § 4, 76 Stat. 921; Aug. 5, 1974, Pub. L. 93-366, § 103(b), 88 Stat. 410; Dec. 30, 1987, Pub. L. 100-223, § 204(e), 101 Stat. 1520.

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.

CHAPTER 13—SURFACE TRANSPORTATION BOARD

I—ESTABLISHMENT¹

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II—ADMINISTRATIVE ¹	
1321.	Powers.
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AMENDMENTS

2015—Pub. L. 114-110, §§ 3(a)(1), (2), 10, Dec. 18, 2015, 129 Stat. 2228, 2233, renumbered chapter 7 of this title as this chapter and amended analysis generally, substituting items 1301 to 1306 and 1321 to 1326 for former items 701 to 706 and 721 to 727, respectively.

SUBCHAPTER I—ESTABLISHMENT

§ 1301. Establishment of Board

(a) ESTABLISHMENT.—The Surface Transportation Board is an independent establishment of the United States Government.

(b) MEMBERSHIP.—(1) The Board shall consist of 5 members, to be 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.

(2) At all times—

(A) at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation, transportation regulation, or economic regulation; and

(B) at least 2 members shall be individuals with professional or business experience (including agriculture) in the private sector.

(3) The term of each member of the Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the

¹ So in original. Does not conform to subchapter heading since word “SUBCHAPTER” does not appear.

predecessor of that individual was appointed, shall be 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, but for a period not to exceed one year. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(4) No individual may serve as a member of the Board for more than 2 terms. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

(5) A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(6) A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board. The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

(c) CHAIRMAN.—(1) There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

(2) Subject to the general policies, decisions, findings, and determinations of the Board, the Chairman shall be responsible for administering the Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Board. The Chairman shall—

(A) appoint and supervise, other than regular and full-time employees in the immediate offices of another member, the officers and employees of the Board, including attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court;

(B) appoint the heads of offices with the approval of the Board;

(C) distribute Board business among officers and employees and offices of the Board;

(D) prepare requests for appropriations for the Board and submit those requests to the President and Congress with the prior approval of the Board; and

(E) supervise the expenditure of funds allocated by the Board for major programs and purposes.

(Added Pub. L. 104-88, title II, §201(a), Dec. 29, 1995, 109 Stat. 932, §701; amended Pub. L. 104-287, §5(5), Oct. 11, 1996, 110 Stat. 3389; renumbered §1301 and amended Pub. L. 114-110, §§3(a)(3), (b), 4, Dec. 18, 2015, 129 Stat. 2228, 2229.)

AMENDMENTS

2015—Pub. L. 114-110, §3(a)(3), renumbered section 701 of this title as this section.

Subsec. (a). Pub. L. 114-110, §3(b), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “There is hereby established within the Department of Transportation the Surface Transportation Board.”

Subsec. (b)(1). Pub. L. 114-110, §4(a)(1), substituted “5 members” for “3 members” and “3 members” for “2 members”.

Subsec. (b)(2). Pub. L. 114-110, §4(a)(2), added par. (2) and struck out former par. (2) which read as follows: “At any given time, at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience (including agriculture) in the private sector.”

Subsec. (b)(4). Pub. L. 114-110, §4(b)(3), struck out “who becomes a member of the Board pursuant to paragraph (4), or an individual” after “In the case of an individual”.

Pub. L. 114-110, §4(b)(1), (2), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “On January 1, 1996, the members of the Interstate Commerce Commission serving unexpired terms on December 29, 1995, shall become members of the Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission. Any member of the Interstate Commerce Commission whose term expires on December 31, 1995, shall become a member of the Board, subject to paragraph (3).”

Subsec. (b)(5), (6). Pub. L. 114-110, §4(b)(2), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

1996—Subsec. (b)(4). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of this section” and “December 29, 1995,” for “the date of the enactment of the ICC Termination Act of 1995”.

EFFECTIVE DATE

Pub. L. 104-88, §2, Dec. 29, 1995, 109 Stat. 804, provided that: “Except as otherwise provided in this Act [see Tables for classification], this Act shall take effect on January 1, 1996.”

SAVINGS PROVISION

Pub. L. 104-88, title II, §204, Dec. 29, 1995, 109 Stat. 941, provided that:

“(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act [see Tables for classification] or the amendments made by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board [Surface Transportation Board], any other authorized official, a court of competent jurisdiction, or operation of law. The Board shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.

“(b) PROCEEDINGS.—(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect [see Effective Date note above], insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or re-

voked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(2) The Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

“(3)(A) Except as provided in subparagraphs (B) and (C), in the case of a proceeding under a provision of law repeal [repealed], and not reenacted, by this Act such proceeding shall be terminated.

“(B) Any proceeding involving a pipeline carrier under subtitle IV of title 49, United States Code, shall be continued to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section [see Effective Date note above], until completion of such proceeding.

“(C) Any proceeding involving the merger of a motor carrier property under subtitle IV of title 49, United States Code, shall continue to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section, until completion of such proceeding.

“(4) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation, or service that was pending under the Intercoastal Shipping Act, 1933 [former 46 U.S.C. App. 843 et seq.] or the Shipping Act, 1916 [former 46 U.S.C. App. 801 et seq., see Disposition Table preceding section 101 of Title 46, Shipping] before the Federal Maritime Commission on November 1, 1995, shall continue to be heard until completion or issuance of a final order thereon under all applicable laws in effect as of November 1, 1995.

“(c) SUITS.—(1) This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 29, 1995], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) Any suit by or against the Interstate Commerce Commission begun before the effective date of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Board (to the extent the suit involves functions transferred to the Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

“(3) If the court in a suit described in paragraph (1) remands a case to the Board or the Secretary, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

“(d) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

“(e) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Board may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.”

CONSTRUCTION

Pub. L. 114–110, §17, Dec. 18, 2015, 129 Stat. 2238, provided that: “Nothing in this Act [see Tables for classification] may be construed to affect any suit commenced by or against the Surface Transportation

Board, or any proceeding or challenge pending before the Surface Transportation Board, before the date of the enactment of this Act [Dec. 18, 2015].”

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Pub. L. 104–88, title I, §101, Dec. 29, 1995, 109 Stat. 804, provided that: “The Interstate Commerce Commission is abolished.”

ORGANIZATION OF FUNCTIONS OF SURFACE TRANSPORTATION BOARD

Pub. L. 104–88, title II, §202, Dec. 29, 1995, 109 Stat. 940, provided that: “The Chairman of the Surface Transportation Board (in this Act [see Tables for classification] referred to as the ‘Board’) may allocate or reallocate any function of the Board, consistent with this title [see Tables for classification] and [former] subchapter I of chapter 7 [now 49 U.S.C. 1301 et seq.], as amended by section 201 of this title, among the members or employees of the Board, and may establish, consolidate, alter, or discontinue in the Board any organizational entities that were entities of the Interstate Commerce Commission, as the Chairman considers necessary or appropriate.”

TRANSFER OF ASSETS AND PERSONNEL

Pub. L. 104–88, title II, §203, Dec. 29, 1995, 109 Stat. 941, provided that:

“(a) TO BOARD.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Board [Surface Transportation Board] by this Act shall be transferred to the Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Board. Such unexpended balances, allocations, and other funds, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996, may be used to pay for the closedown of the Commission and severance costs for Commission personnel, regardless of whether those costs are incurred at the Commission or at the Board.

“(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

“(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).”

REFERENCES TO INTERSTATE COMMERCE COMMISSION DEEMED TO BE REFERENCES TO SURFACE TRANSPORTATION BOARD

Pub. L. 104–88, title II, §205, Dec. 29, 1995, 109 Stat. 943, provided that: “Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Board [Surface Transportation Board], a member or employee of the Board, or the Secretary, as appropriate.”

INFORMATION SECURITY IMPROVEMENT

Pub. L. 115–269, Oct. 16, 2018, 132 Stat. 3763, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘STB Information Security Improvement Act’.

“SEC. 2. REQUIREMENTS.

“(a) IN GENERAL.—The Surface Transportation Board (in this section referred to as the ‘STB’) shall develop a timeline and plan to implement the recommendations of the Inspector General of the Department of Transportation in Report No. FI2018002, including improvements—

“(1) to identify controls, including risk management, weakness remediation, and security authorization;

“(2) to protect controls, including configuration management, user identity and access management, and security training;

“(3) to detect controls, including continuous monitoring;

“(4) to respond [to] controls, including incident handling and reporting;

“(5) to recover controls for contingency planning; and

“(6) [sic] any additional tools that will improve the implementation of the recommendations.

“(b) IMPLEMENTATION.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Oct. 16, 2018], the STB shall submit the plan and timeline developed under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce of the Senate.

“(2) REPORT.—The STB shall report annually to such Committees on the progress on implementation of the recommendations until the implementation is complete.

“(3) PLAN IMPLEMENTATION.—The STB shall designate an individual to implement the plan developed under subsection (a).

“SEC. 3. NO ADDITIONAL FUNDS AUTHORIZED.

“No additional funds are authorized to carry out the requirements of this Act. Such requirements shall be carried out using amounts otherwise authorized.”

§ 1302. Functions

Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Board shall perform all functions that, immediately before January 1, 1996, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

(Added Pub. L. 104–88, title II, §201(a), Dec. 29, 1995, 109 Stat. 933, §702; amended Pub. L. 104–287, §5(6), Oct. 11, 1996, 110 Stat. 3389; renumbered §1302, Pub. L. 114–110, §3(a)(3), Dec. 18, 2015, 129 Stat. 2228.)

REFERENCES IN TEXT

The ICC Termination Act of 1995, referred to in text, is Pub. L. 104–88, Dec. 29, 1995, 109 Stat. 803. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

2015—Pub. L. 114–110 renumbered section 702 of this title as this section.

1996—Pub. L. 104–287 substituted “January 1, 1996” for “the effective date of such Act”.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104–88, set out as a note under section 1301 of this title.

§ 1303. Administrative provisions

(a) OPEN MEETINGS.—

(1) IN GENERAL.—The Board shall be deemed to be an agency for purposes of section 552b of title 5.

(2) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

(A) IN GENERAL.—Notwithstanding section 552b of title 5, a majority of the members may hold a meeting that is not open to public observation to discuss official agency business if—

(i) no formal or informal vote or other official agency action is taken at the meeting;

(ii) each individual present at the meeting is a member or an employee of the Board; and

(iii) the General Counsel of the Board is present at the meeting.

(B) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Except as provided under subparagraph (C), not later than 2 business days after the conclusion of a meeting under subparagraph (A), the Board shall make available to the public, in a place easily accessible to the public—

(i) a list of the individuals present at the meeting; and

(ii) a summary of the matters discussed at the meeting, except for any matters the Board properly determines may be withheld from the public under section 552b(c) of title 5.

(C) SUMMARY.—If the Board properly determines matters may be withheld from the public under section 555b(c) of title 5, the Board shall provide a summary with as much general information as possible on those matters withheld from the public.

(D) ONGOING PROCEEDINGS.—If a discussion under subparagraph (A) directly relates to an ongoing proceeding before the Board, the Board shall make the disclosure under subparagraph (B) on the date of the final Board decision.

(E) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.—Nothing in this paragraph may be construed to limit the applicability of section 552b of title 5 with respect to a meeting of the members other than that described in this paragraph.

(F) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed—

(i) to limit the applicability of section 552b of title 5 with respect to any information which is proposed to be withheld from the public under subparagraph (B)(ii); or

(ii) to authorize the Board to withhold from any individual any record that is accessible to that individual under section 552a of title 5, United States Code.

(b) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Board may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board pursuant to this chapter or subtitle IV or as otherwise authorized by law.

(c) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.