

S. HRG. 106-977

**REAUTHORIZATION OF THE NATIONAL  
TRANSPORTATION SAFETY BOARD (NTSB)**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

**ONE HUNDRED SIXTH CONGRESS**

**FIRST SESSION**

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**JULY 15, 1999**  
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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# **REAUTHORIZATION OF THE NATIONAL TRANSPORTATION SAFETY BOARD (NTSB)**

**THURSDAY, JULY 15, 1999**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10 a.m. in room SR-253, Russell Senate Office Building, Hon. Ted Stevens presiding.

Staff members assigned to this hearing: Charlotte Casey and Ann Begeman, Republican Professional Staff; and Carl Bentzel, Democratic Senior Counsel.

## **OPENING STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA**

Senator STEVENS. On behalf of the Chairman, I would like to start this hearing. He has been delayed.

With regard to the funding resolution I believe the Chairman will take care of that in one way or another after he gets here. We would like to turn to Mr. Hall first, Mr. James Hall, Chairman of the National Transportation Safety Board, accompanied by Peter Goelz, Dan Campbell, and Craig Keller, all of the National Transportation Safety Board staff.

I am pleased to see you again, Mr. Chairman, and hope it is true that you will come visit us this summer. Do you have an opening statement, sir?

Senator HUTCHISON. Mr. Chairman.

Senator STEVENS. Do you have an opening statement?

## **STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. I do, if I could just say a couple of words.

I want to welcome my former colleagues here. As many of you know, I was vice chairman of the NTSB for many years. Thanks to the courtesy of the sitting Chairman, who helped me at the time with my confirmation through the Commerce Committee, which was not a very easy confirmation process, because it was at the end of an administration, but thanks to your efforts, Senator Stevens, I was confirmed.

I want to say that I think the NTSB is doing a super job, and I am very proud of the Board and the cooperation, and I want to say, too, that I think your mission is a good one, and I believe that NTSB recommendations have made a difference in safety through the years, not only in investigations of what has passed, but learn-

ing from that, making recommendations, and having those recommendations make a difference.

NTSB recommendations for fire resistant materials in aircraft, floor level safety escape lighting in aircraft cabins, child safety seats in automobiles, improved school bus construction standards, and Amtrak passenger car safety improvements have saved lives, and I think we can take credit for much of the good safety record because of those improvements. I also think that NTSB's independence and credibility has been maintained.

You are asking for a big leap in federal funding. You are asking for a 17 percent increase in funding, which is 28 percent over the current level. That is going to require a lot of scrutiny and prioritization. I realize that accident investigations are more complex, that technology has made it more complex, and that you have to have better expertise, but I'm going to ask you to prioritize, Chairman Hall, where you really need the extra resources if you had to do what we do on our side of the dais, and that is to make priority funding decisions, because we are all trying to stay within the budget.

We know you are doing a great job. We know you are trying to go into the 21st Century with the strength you are going to need, but I would like for you to focus on your priorities so that when we, including the Chairman of the Appropriations Committee sitting here, start looking at the bottom line, we would know where you would want the most increase of your resources.

So I thank you for doing a great job, and I certainly will be supportive of your mission.

Thank you, Mr. Chairman.

**STATEMENT OF HON. JOHN McCAIN,  
U.S. SENATOR FROM ARIZONA**

The CHAIRMAN. I want to thank the witnesses. I want to thank Senator Hutchison for her opening remarks, and I want to thank the Members of the NTSB for the fine job they have been doing. They worked tirelessly in many cases.

I would be remiss if I did not bring up the fact that there has been great concern about Board Member travel expenses and expenditures, and I hope, Chairman Hall, you will address this.

According to NTSB travel documents, only 15 percent of Board Member travel has been accident related in the past 5 years. Non-accident, domestic, and foreign travel accounts for 85 percent of the total travel expenditures, with 51 percent for domestic travel and 34 percent for foreign travel.

I recognize a legitimate need may exist to participate in important seminars and to gain professional expertise that may necessitate travel. The Board's travel record, however, is excessive.

From January through the first week of June 1999, \$121,805 has been spent by five Board Members. Of this amount, only 12 percent has been accident-related, according to Safety Board information. Board Members have traveled to dozens of exotic foreign countries, including South Africa, Nepal, China, and Indonesia, in addition to yearly visits to France and England, sometimes several trips to Paris in a single year.

The NTSB travel report shows that taxpayers are even covering the travel expenses of a Board Member to lecture at a university in California.

I am informed just yesterday, Board Members were given individual travel budgets to abide by. The travel budgets would cover only nonaccident foreign and domestic travel.

Under the plan, the Chairman would have a foreign and domestic travel budget of \$50,000 a year, the Vice Chairman \$25,000, and each of the other three Board Members \$20,000. Although the travel budgets would be less than some Board Members currently spend, the Safety Board Members would still have a nonaccident travel-related kitty of \$135,000 a year. That seems excessive for nonaccident travel. In fact, that exceeds the total amount of all Board Members' travel in 1996.

I believe these budgets are too high. I think a strong case can be made for further restraints. I will be interested in hearing from Chairman Hall regarding this issue.

As my colleagues on the Committee know, other Federal agencies under our jurisdiction have travel approval guidelines. For example, all foreign travel involving DOT modal administrators requires a request to the Office of the Secretary for approval. The FTC and the FCC also have procedures for governing member travel.

It seems reasonable that the Safety Board take fiscally responsible action to eliminate travel excesses, and I intend for our Committee to take appropriate action to ensure NTSB travel expenditures are reined in.

Thank you, Chairman Hall, thank you, Members of the NTSB, for being here. Welcome to the Committee.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

This morning the Committee will discuss reauthorization of the National Transportation Safety Board (NTSB). The Chairman of the NTSB, Jim Hall, will testify, and he is accompanied by Peter Goelz (pronounced goalz), Managing Director, Daniel Campbell, Deputy Managing Director, and Craig Keller, Chief Financial Officer.

I want to begin by commending the NTSB for the excellent work it does. The staff of the NTSB works tirelessly, and in many cases, under the least desirable circumstances. Their commitment to accident investigation and the development of safety recommendations to prevent accidents from recurring is admirable. I know the Congress and the Board Members appreciate and applaud their dedication.

The Committee is particularly interested this morning in learning what the Safety Board believes Congress can do to assist it in fulfilling its mission.

The Safety Board has submitted a wide-ranging 3-year reauthorization request, one that seeks 100 more employees than currently authorized, significant funding increases, clarification of Safety Board investigation priority, personnel management reforms, and electronic recorder disclosure protections. I can assure you that the Committee will do everything it can to assist the Board, within our given budget constraints.

While I have the highest regard for the Board, I would be remiss if I didn't express concerns over what appears to be a serious lack of budget restraint in one particular area—namely Board Member travel expenditures.

According to NTSB travel documents, only 15 percent of Board Member travel has been accident-related in the past five years. Non-accident domestic and foreign travel accounts for 85 percent of the total travel expenditures—with 51 percent for domestic travel and 34 percent for foreign travel. While I recognize a legitimate need may exist to participate in important seminars and to gain greater professional expertise that may necessitate travel, this is simply excessive.

From January through the first week of June 1999, more than \$121,805 has been spent by the 5 Board Members. Of this amount, only 12 percent has been accident related according to Safety Board information.

Upon review of NTSB travel data over the past five years, Board Members have traveled to dozens of exotic foreign countries including South Africa, Nepal, China, and Indonesia in addition to yearly visits to France and England—sometimes several trips to Paris in a single year. NTSB travel reports show that taxpayers are even covering the travel expenses of a Board Member to lecture at a university in California. I find this baffling. I am further frustrated to learn that procedures governing Board Member travel have been essentially non-existent.

I am informed that just yesterday, Board Members were given individual travel budgets to abide by. The travel budgets would cover only non-accident foreign and domestic travel. Under the plan, the Chairman would have a foreign and domestic travel budget of \$50,000 a year, the Vice Chairman would receive \$25,000, and each of the other three Board Members would receive \$20,000. Although the travel budgets would be less than some Board Members currently spend, the Safety Board Members would still have a non-accident related travel kitty of \$135,000 a year. That seems excessive for non-accident travel. In fact, that exceeds the total amount of all Board Member travel in 1996.

Consequently, I believe these budgets are still too high and I think a strong case can be made for further restraints on Board Member travel. I will be very interested to hearing from Chairman Hall regarding this issue.

As my colleagues on the Committee know, other federal agencies under our jurisdiction have travel approval guidelines. For example, all foreign travel involving DOT modal Administrators requires a request to the Office of the Secretary for approval. The FTC and the FCC also have procedures governing member travel. It seems only reasonable the Safety Board take fiscally responsible action to eliminate travel excesses. And, I intend for our Committee to also take appropriate action to ensure NTSB travel expenditures are reigned in.

Again, thank you Chairman Hall for taking the time to appear before us today. I will ask you to proceed with your statement after hearing opening comments from the Committee members.

Senator Wyden, do you have an opening statement?

**STATEMENT OF HON. RON WYDEN,  
U.S. SENATOR FROM OREGON**

Senator WYDEN. Just very briefly, Mr. Chairman.

I appreciate the chance to address an issue briefly today with Mr. Hall that is of enormous interest to my constituents. Particularly, the NTSB proposal to give higher priority to maritime accidents is one that I think needs to be explored very seriously.

Last February, we had a real tragedy in my State where a foreign vessel, the *New Carissa*, ran aground near Coos Bay, Oregon, causing extensive environmental damage to our State's fisheries and other coastal resources. We faced thousands and thousands of gallons of fuel oil leaked out of our wrecked ship as it lay stranded on one of Oregon's treasures, on our beaches for more than 3 weeks.

We have been waiting now for more than 5 months to try to get the facts from the Coast Guard with respect to this accident. We badly need to know what happened, and their recommendations for keeping this sort of thing from taking place again, so I'm very interested in exploring this option with you. We have not been able to get timely answers from the Coast Guard with respect to this matter, even as to what caused the initial grounding, and as the Coast Guard's formal board of inquiry just drags on and on we are concerned that the conditions that led to the *New Carissa* wreck continue unabated.

We are not going to allow this kind of Russian roulette with treasures on the Oregon coast, and so I will be exploring with you in a few minutes some of the creative proposals the NTSB has for looking into maritime accidents. It seems to me that if you are

going to look at a relatively small number of accidents, but very important ones, that might well be an appropriate role to give you. It would also allow for a role for the Coast Guard, and we will be anxious to explore that with you.

I thank you for the time, Mr. Chairman, to talk about something of great interest to my constituents.

The CHAIRMAN. Thank you very much. Welcome, Chairman Hall and Members of the NTSB. Please proceed, sir.

[The prepared statements of Senator Hollings and Senator Rockefeller follow:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS,  
U.S. SENATOR FROM SOUTH CAROLINA

Good morning. Today we will review the needs of the National Transportation Safety Board (NTSB). First, let me thank the NTSB and its Chairman, Jim Hall, for their contributions to improving safety. I noticed that the Vice Chairman, Bob Francis, recently announced his desire not be reappointed. He played a key role in numerous investigations—TWA Flight 800 and the ValuJet come to mind.

It is critical that the NTSB continue to serve as an independent investigator, and be able to make key safety recommendations. When called upon to go to the scene of an accident, your teams of experts leave upon a minute's notice. State by state, step by step, the NTSB is there to help us understand why a certain tragedy occurred and to make recommendations to prevent a recurrence.

In South Carolina, your team spent a great deal of time and effort looking into the accident concerning the *Morning Dew*. Two hearings were held, but the report has not yet been issued. You must continue in your efforts to review the cause of this accident, and all accidents, in an expeditious fashion.

I also want to commend you and the NTSB. By all accounts, your family assistance program seems to be working. I suspect its because of all of your hard work, and that of your staff.

You are requesting a significant increase in resources for the NTSB. Generally I am supportive of the needs of the NTSB, but you will need to explain and justify the proposed increases. I understand that the FY 2000 Appropriations bill provides you with \$51.5 million and deletes monies to rent the facility in Calverton, that now contains TWA Flight 800, a cut of \$3.2 million.

When we look at accident statistics, we know that the safest mode, according to your data, is the aviation system. Yet, the Board spends most of its resources on aviation, and the increases in staffing are in the aviation arena. I know you share my concern that we make strides in other modes too.

I look forward to hearing from you Mr. Hall, and working with you to make sure the NTSB is on the right course.

PREPARED STATEMENT OF JOHN D. ROCKEFELLER IV,  
U.S. SENATOR FROM WEST VIRGINIA

Good morning. I want to thank the Chairman for holding this hearing on the reauthorization of the National Transportation Safety Board. I have known Chairman Jim Hall for a number of years prior to his service at the NTSB, and I appreciate his leadership at the Board and am glad to see him as our witness today.

When I look at the NTSB, I see many people that work for the Chairman—people dedicated to safety and working under difficult conditions and often around the clock to sift through the wreckage of a train, a plane or other means of transportation. They use their trained eyes to figure out what happened and to determine whether we (in industry and in government) could have done something differently or better and perhaps prevented the accident.

The process is a time-consuming one, and while we may sometimes complain that a report takes too long, I do not believe those delays are due to some sort of bureaucratic snafu, but rather that they are the necessary evil of a tedious and difficult task.

Last year alone, the NTSB sent out 31 "go teams"—people called upon to immediately go to the scene of a disaster. While I am spending a great deal of my time on aviation issues these days, I certainly recognize that the NTSB's investigatory authority covers all of the modes of transportation. Improving safety is a common goal for all of us. We have the best transportation system in the world, in many ways, but we must continue to make improvements.

For example, there was a near-miss incident over Kennedy Airport in New York on June 27 involving two planes that came within a few feet of one another. Why that happened, how that happened, and how we avoided a major disaster, are questions that the NTSB investigators must review.

And we know that in the wake of the recent American Airlines tragedy in Little Rock, the NTSB is taking a close look at the question of crew fatigue, and I look forward to the benefit of the Board's conclusions and guidance on that issue.

We also are going to talk today about the future of the NTSB—the training needs of its employees, personnel changes that may make it easier to attract the kinds of talent the NTSB needs, and the number of people the agency needs to meet its mission and mandate.

I want to work with Chairman Hall, Senator McCain and the Committee on crafting a worthwhile authorization bill—one that gives the NTSB support they need so that the U.S. public can continue the high level of confidence it has today in this important agency.

**STATEMENT OF HON. JAMES E. HALL, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD, ACCOMPANIED BY PETER GOELZ, MANAGING DIRECTOR, DANIEL CAMPBELL, GENERAL COUNSEL, AND CRAIG KELLER, CHIEF FINANCIAL OFFICER OF THE NATIONAL TRANSPORTATION SAFETY BOARD**

Mr. HALL. Chairman McCain, Senator Stevens, Senator Hutchison, and Senator Wyden, it is a pleasure to be here this morning on behalf of the National Transportation Safety Board, and it was a pleasure to begin my morning listening to Don Imus with his guest, the distinguished senior Senator from Arizona.

Before I begin my remarks, please let me note the untimely death this week in an aviation accident in Nevada of Don Engen, who served not only as a member of the National Transportation Safety Board, but was also the former Administrator of the FAA. He was, most recently, currently of course, the head of the Air and Space Museum. He had a distinguished career in the military, including extensive service on behalf of our Nation in World War II, and I know you all join me in wishing Mary and his family our deepest condolences during this period.

Mr. Chairman, I appear before you today with a number of carefully considered legislative proposals that the Safety Board believes will, if adopted, strengthen our ability to fulfill our mission well into the next century. The Board's testimony submitted for the record goes into detail on our activities over the past 3 years, and explains in depth why the Safety Board is requesting changes in its authorizing statute.

Let me highlight briefly for you why I believe these changes are essential. As Chairman of the Board, I believe my greatest responsibility is to do everything I can to ensure that the agency is prepared to successfully carry out its mission into the 21st Century.

It is for that reason that we contracted with the RAND Corporation last year to conduct an independent review of two critical aspects of our operation. We asked them to review the emerging trends in aviation and to assess the Safety Board's ability to meet the challenges of the next century. Second, we asked them to review the party process, the way in which the Safety Board conducts its investigations.

While the report is not in final form, RAND has briefed the Board and this Committee staff on their preliminary findings and

recommendations. I would like to highlight just a few of the important areas.

RAND has indicated that although future major aviation accidents in the United States may be fewer in number, they will be more complex. In other words, accident investigations like those of USAir 427 and TWA Flight 800 are more likely to be the norm rather than the exception.

They also project tremendous growth in all areas of transportation. For example, domestic enplanements are expected to grow from \$561 million in 1998, to over \$850 million in 2010. The domestic commercial air carrier fleet will also grow from a level of just over 5,000 aircraft, to more than 7,500 aircraft by 2010.

We have brought along a number of charts, and we have supplied for the Members copies of those charts. Senator Stevens may be interested to note specifically that the general aviation active fleet is expected to increase by more than 24,000 aircraft by 2009. The worldwide fleet will also grow, almost doubling in size to 20,000 aircraft by 2010.

What this means for the Safety Board is a substantially greater demand on our resources to investigate aviation accidents and incidents both here and overseas. The expansion in the other transportation modes will be equally compelling and equally demanding on our resources.

For example, by 2010, highway traffic will increase to over 3 trillion miles traveled, and heavy truck miles traveled will rise by 27 percent. Truck weight will increase by 32 percent. The number of trucks however, will only increase by 13 percent, suggesting that trucks will be heavier and travel greater distances.

We will see an even greater statistical increase on our railroad lines. Between 1997 and 2010, annual train miles will increase from 500 million to over 750 million, a 50 percent increase. In the same period, shipping tons carried in connection with U.S. oceanborne foreign trade and commercial cargo will increase from 950 million to over 1.25 billion, an increase of 30 percent, and the number of passengers on cruise ships, which will just become in the future small floating cities, will also increase. In 2000, 7 million passengers are expected to take deep water cruises.

Finally, by 2010, we will have more than 1½ million miles of gas and liquid pipeline throughout the United States.

I would now like to briefly outline some of the proposals we are asking the Committee to adopt. In our first proposal, we seek a re-statement of Congressional intent regarding NTSB accident priority because of the increasing likelihood that criminal investigations will be undertaken in conjunction with NTSB investigations. Certainly that has been the case in some of our recent major accident investigations, such as TWA Flight 800, the ValuJet 592 crash, and the Fine Air cargo crash in Miami.

In addition, the EPA often initiates criminal investigations following maritime accidents, and the ATF frequently investigates fires aboard vessels. The recent Amtrak truck collision in Illinois and the pipeline accident in Billingham, Washington, are also under criminal investigation.

Interagency coordination between ongoing safety investigations and criminal investigations can be complicated. Although the Safe-

ty Board believes that Congress assigned priority to NTSB accident investigations, we readily acknowledge that the pressing needs of a criminal investigation requires special care in the handling of evidence at the scene, the conduct of witness interviews, and in the release of information to the public.

We accommodate such requirements within our investigative processes. We understand and support the importance of the criminal investigative process, but it should not impede safety investigations. Without a clear statutory premise for NTSB safety priority, the negotiation of such compromises and accommodations will remain dependent on circumstances and personalities.

A second proposal would enhance the Safety Board's authority to conduct independent investigations in major marine accidents. What we seek for major marine accidents is no more than what Congress believes necessary for all the other modes, including highway, railway, aviation, and pipeline. We seek truly independent authority to conduct safety investigations without conflict or compromise.

I want to make it very clear to the Committee that the Safety Board cannot do that now. The recent accident on Lake Hamilton in Arkansas should leave no doubt on this point. The Lake Hamilton accident resulted in the loss of 13 lives. The vessel that sank, commonly called a duck, is one of at least 100 converted World War II amphibious craft operated nation-wide. It is certificated and inspected by the United States Coast Guard.

The first Coast Guard officer sent to the scene for the accident investigation was the chief of the merchant vessel safety department, who has the dual responsibility for inspections and investigations. We believe it is obvious that an independent investigation is required, but the Coast Guard has declined to participate with us, and they have insisted on custody of the wreckage in that accident, notwithstanding that they were the ones responsible for the inspection.

The NTSB investigates only about a dozen of the most important marine accidents. The Coast Guard investigates 5,000. This will not change under our proposal. The only implication our proposal has for the Coast Guard is that there would be fully independent review of their procedures, just as there is for other modes of transportation, whether it be the FAA, the FRA, or the FHWA. It will not affect their search and rescue operations, it will not confuse on-scene incident command, and it will not disrupt their enforcement activity.

The Coast Guard's use of military investigative procedures to investigate major civilian accidents is ineffective and counter-productive. They focus on finding fault rather than seeking ways to prevent similar accidents from recurring, and the process currently in place gives the Coast Guard the power to veto an NTSB independent investigation.

A third requested amendment involves four management revisions which, if adopted, will give us the ability to hire and retain the best-qualified individuals. These revisions include reasonable rates for overtime pay for our investigators, accepted service appointment authority, discretionary base pay supplement for em-

ployees engaged in investigative work, and retirement at age 55 with 20 or more years of service.

A fourth amendment will extend the same protections currently provided for cockpit voice recorders to video and voice recorders in all modes of transportation. We believe there can be great safety advances if video and voice recorder technologies are applied to all modes of transportation. We need to make sure that a lack of disclosure protection is not an impediment to their introduction and use.

We have proposed other amendments, and I have supplied detailed support for them in our written testimony.

Finally, Mr. Chairman, I would like to briefly mention one more important issue in the RAND study, and that is the workload of our staff and the knowledge base they will need to successfully accomplish our mission.

As the RAND report will probably conclude, we need greater depth in many of our high-skilled positions, and our investigators must keep current in the latest technologies and procedures. Mr. Chairman, that takes time. Just to get one of my investigators rated on an airbus aircraft requires 6 weeks of training.

Our authorization request will allow us to meet that need and to continue to be the world's foremost accident investigative agency.

Mr. Chairman, the Department of Transportation is proposing \$3.4 billion for direct safety funding in its total budget of \$50.5 billion for this coming fiscal year. The NTSB's request of \$73 million reflects just 2 percent of the Department of Transportation's safety program request. Mr. Chairman, I believe that that investment is the most cost-effective investment this Committee and Congress can make to ensure that American taxpayers are assured that their transportation safety concerns are being protected through independent oversight.

That concludes my statement, Mr. Chairman. I have a number of the members of the staff here, and we will be glad to attempt to respond to any of the questions or concerns that the Committee members might have.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF HON. JAMES E. HALL, CHAIRMAN,  
NATIONAL TRANSPORTATION SAFETY BOARD

Chairman McCain and Members of the Committee, I am pleased to appear before you today on behalf of the National Transportation Safety Board regarding our request for reauthorization.

Before beginning, I would like to thank this Committee for its continued support of the Safety Board and its mission. The Safety Board's effectiveness depends on a sufficient level of resources, which you have always provided, to enable us to make timely and accurate determinations of the causes of accidents; to issue realistic and feasible safety recommendations; and to respond to the families of victims of transportation disasters in a timely, compassionate, and professional manner following these tragedies. We believe the Safety Board's 18-cent annual cost per person to the American public has resulted in countless lives saved, numerous injuries prevented, and millions, if not billions, of dollars in property damage being averted.

Since I last appeared before you regarding the Safety Board's reauthorization on April 16, 1996, we have contracted with the RAND Institute of Civil Justice to perform an in-depth review of the Board's investigative process; reorganized the Office of Surface Transportation Safety into separate modal offices; reorganized the Office of Safety Recommendations to include an accomplishments division; created a 24-hour Communications Center; and established an Office of Family Affairs as re-

quired by the Aviation Disaster Family Assistance Act of 1996. Before updating you on specific modal issues, I would like to briefly discuss the items mentioned above.

#### RAND INSTITUTE OF CIVIL JUSTICE

Last year the Safety Board asked the RAND Corporation to conduct an independent review of two critical areas. First, we asked them to examine and evaluate the Safety Board's workload, staffing levels, and training programs in light of the emerging trends in aviation. Second, we asked them to review the Safety Board's party system. We asked them to make recommendations to us in both areas to ensure the Safety Board's continuing ability to accomplish its mission.

While the study primarily focused on aviation issues and challenges, there are a number of areas that will have agency-wide applicability. We anticipate receiving the final report shortly, and we will share it with the Committee as soon as we receive it.

As you know, Mr. Chairman, the Committee staff has been briefed by the RAND Corporation, but I would like to highlight a few of their findings and preliminary recommendations.

Probably the most important issue raised in the report indicates that complex and contentious accident investigations, such as the recently completed USAir Flight 427 investigation and the on-going TWA Flight 800 investigation, are likely to be the norm in the future rather than the exception. These investigations have been extremely taxing to the Safety Board and its personnel; if we are to be prepared to investigate similar accidents, we must adopt a number of new and different strategies.

We need new management and financial practices that will ensure financial and programmatic effectiveness for the 21st Century. We began the process this year by implementing a new financial management system. In addition, we will hold a senior management retreat in September to design new strategies that will help us implement the RAND recommendations.

The second most important issue in the RAND report focuses on the workload of our staff and on the knowledge base they will need to successfully accomplish our mission. We need greater depth in many of our high-skill positions and we must have the resources to keep our investigators current in the latest technologies and procedures. I have made this a top priority this past year and for the first time the training requests are fully funded. The Board is also proposing in its authorization request a number of administrative personnel changes that will allow the Safety Board to successfully compete in today's marketplace.

And finally, we anticipate that the RAND Corporation will make recommendations concerning the party system—the way in which we conduct our investigations. As you know, the party system has been in effect with regard to Safety Board investigations for almost 30 years. The Safety Board itself has periodically reviewed the party process, but this is the first time that we have had an independent, outside expert look at our investigative procedures. There have been a number of calls recently to revisit this subject. Interestingly, these calls have come from two extremely different perspectives. On one hand, some industry representatives would like to expand their role in the process, particularly as it relates to involvement in the analysis stage of the Board's work. On the other hand, some family members of victims and plaintiffs' attorneys believe just as strongly that the current system gives party members what amounts to a privileged position in terms of future litigation while giving them no role.

Although we do not expect RAND to recommend significant changes to the party system, we understand that certain adjustments will be recommended regarding a broadening of the probable cause statement and greater usage of outside laboratories and experts during the actual accident investigation phase.

We look forward to sharing a copy of the final report with all of you so that together we can evaluate its recommendations. I hope that the RAND report will serve as a blueprint for the Safety Board as it moves forward into the next Century.

#### NEW STRUCTURE FOR THE SURFACE TRANSPORTATION MODES

Over the past few years, the surface modal programs have made significant contributions to safety because of the attention and dedication of the staff. In an effort to make the surface modal offices even more effective, I reorganized the management structure of the Office of Surface Transportation Safety. Each of the four surface modal divisions became offices reporting directly to the Board's Managing Director in October 1997. I believe the modifications have improved communications and the timeliness of investigations and reports, and have increased the Board's impact on improving transportation safety in the surface modes.

## OFFICE OF SAFETY RECOMMENDATIONS AND ACCOMPLISHMENTS

Safety recommendations are the primary tool used by the Board to implement safety improvements and prevent future accidents. Eighty percent of our safety recommendations have been implemented over the years across the modes, helping us achieve our ultimate goal of saving lives, reducing injuries, and preventing future accidents.

The Office of Safety Recommendations was recently centralized by moving recommendation specialists from the other modal offices into the Office of Safety Recommendations and Accomplishments. These individuals no longer have collateral duties, but focus full-time on recommendation development, implementation, and followup. We have also increased our emphasis on an internal review process that assesses safety proposals submitted by our nine regional offices, and strengthened a program that recognizes our investigators for improving safety without going through the formal recommendation process.

The Board uses its "Most Wanted" list of safety issues to highlight recommendations with the greatest impact on transportation safety. Since March 1996, 15 issues have been removed, 7 issues have been added, and 10 items remain on the list. We continue to believe the items on the "Most Wanted" list have the greatest potential to save lives, and they continue to receive aggressive follow up. A copy of the current "Most Wanted" list is attached.

## 24-HOUR COMMUNICATIONS CENTER

Following the ValuJet Flight 592 and TWA Flight 800 accidents, it became obvious that the Board needed to improve coordination and communications from the time we are notified of an event through the on-scene phase of an accident investigation. In February 1997, I established a 24-hour Communications Center in response to our critical need to centrally coordinate accident communications and launch operations.

The Communications Center has relieved the Board's investigators of launch logistical responsibilities by coordinating travel, lodging, on-scene command center, and telephone and equipment needs. The center runs interference for the en route go-team; gathers accident information; and alerts local police and fire/rescue personnel of the details regarding the team's arrival. Once on-scene, the investigator-in-charge can check with the Communications Center to receive the latest information needed to efficiently initiate the investigation, coordinate activities between agencies, or to arrange telephone conferences. In addition, the Communications Center provides assistance during international investigations that literally involve 24-hour communications.

The Board and its employees have found the Communications Center to be an invaluable resource—a resource whose responsibilities change as the needs of our employees and the nature of our investigations change.

## OFFICE OF FAMILY AFFAIRS

Mr. Chairman, your Committee was instrumental in providing the Safety Board with the additional responsibility of coordinating the Federal effort to the families of the victims of major aviation accidents. Since this legislation was enacted in October 1996, we have hired a family affairs staff of seven individuals; developed, in concert with family advocacy groups and the aviation industry, a Safety Board family assistance plan; received assurances from foreign and domestic air carriers regarding their plans to assist family members following an aviation disaster; co-chaired, with the Secretary of Transportation, a task force on assistance to families of aviation disasters; hosted an international symposium on family affairs; completed memoranda of understanding with seven Federal organizations and the American National Red Cross; met with dozens of industry and local organizations regarding the importance of family assistance; and entered into negotiations with the Air Transport Association regarding extraordinary accident investigation costs, particularly in relation to identification and recovery of accident victims. We are also currently working with other Federal agencies to develop assistance plans for government employees traveling on government-owned or chartered aircraft.

In addition, we have launched our family affairs staff to seven aviation accidents, four highway accidents, two marine accidents, and an Amtrak accident. We also continue to assist family members of four aviation accidents, including those of TWA Flight 800. For example, at the request of TWA Flight 800 family members, last fall Safety Board staff and family members sorted the personal effects and organized the items for display in the Calverton facility. In January, family members were invited to view and claim recognized items. In addition, we will again open

the Calverton facility for family viewing of the reconstruction and personal effects this weekend to commemorate the third anniversary of the accident.

Mr. Chairman, we saw a marked difference in how family members were treated following the accident involving Swiss Air Flight 111 as compared to previous aviation disasters. It was due largely to the Family Assistance Act of 1996, and legislation enacted in 1997 that extended this Act to foreign carriers flying into and out of the United States, that Swiss Air and Delta Airlines were so well prepared to handle family members following that tragedy, and you and the members of this Committee should take pride in your actions in regard to this endeavor.

#### SAFETY BOARD ACTIVITIES

Before I present our request for our three-year reauthorization, I would like to highlight some Board activities since our last reauthorization hearing.

Since our last appearance before this Committee regarding reauthorization, we have investigated nearly 7,000 aviation accidents, and issued 20 major aviation reports; 147 highway accidents and issued 11 major highway reports; 21 marine accidents and issued 8 major marine reports; 54 pipeline/hazardous materials accidents and issued 7 major pipeline/hazardous materials reports; and 165 railroad accidents, and issued 13 major railroad reports.

In addition, we have issued a total 1,045 safety recommendations. The modal breakdown follows: aviation—377; highway—155; intermodal—15; marine—209; pipeline—100; and railroad—189.

#### *Aviation*

The investigation of the accident involving USAir Flight 427 was the longest and one of the most complex investigations in Safety Board history. The Board completed its investigation in March 1999. One of our early safety recommendations, issued in October 1996, resulted in a redesign of the Boeing 737 servo valve to preclude rudder reversals. In addition, Board recommendations addressed the redundancy of the Boeing 737 rudder system design; advanced maneuver training for air carrier pilots; and increased flight data recorder parameters. There are over 3,000 Boeing 737 aircraft flying somewhere in the world today, with over 1,300 of those registered in the United States, and we believe our recommendations will go far in making a safe aircraft safer.

Additionally, the Safety Board is continuing its investigation into the explosion and crash of TWA Flight 800 that killed all 230 on board near East Moriches, New York, in July 1996. This investigation has resulted in the largest aircraft reconstruction in aviation history, and has already resulted in numerous safety recommendations, dealing with issues such as explosive fuel mixtures in fuel tanks and the fuel quantity indication system wiring. We expect to complete the investigation of this accident by the end of this year or early next year.

The most recent major aviation accident occurred June 2, 1999, at Little Rock, Arkansas, and involved American Airlines Flight 1420, an MD-80. The airplane crashed after landing in thunderstorms and killed 11 people, including the captain. This accident involves issues the Board has been looking into for several years—weather conditions and pilot fatigue. The Board is in the early stages of its investigation, and we will keep you advised of our findings.

The rapid growth of international aviation and projections for continued growth continue to place increased responsibilities on the Safety Board in the international arena. In calendar year 1998, the Board supported about 130 international accident investigations—both on scene and in our laboratories. Because of this increase in international activity, a coordinated effort was deemed necessary, and I named a senior Safety Board aviation manager as the Board's international liaison, responsible for coordinating all international activities. This has resulted in the formulation of an outreach program to our counterpart agencies and aviation organizations throughout the world, which enables the Board to promote U.S. aviation safety goals and objectives.

#### *Highway*

Airbag-induced injuries and child passenger safety are just two of the highway safety issues reviewed by the Board in recent years. As a result of safety recommendations and reports issued by the Board, there is improved public awareness with regard to problems that have been identified with airbags and current airbag technology and the need to place children in the back seat of a vehicle. Cut-off switch hardware has been developed, and the National Highway Traffic Safety Administration has issued a notice of proposed rulemaking to require advanced airbags.

The Board also conducted a special investigation into selective motorcoach issues. Driver fatigue and poorly maintained or out-of-adjustment brakes were identified in two accidents investigated, issues about which the Board has previously expressed concern. It was also noted that had the Federal Highway Administration had a more restrictive compliance review process in place for motorcoaches, these two accidents and others may not have occurred.

Mr. Chairman, the Safety Board is currently monitoring heavy truck and motorcoach safety operations, and in April we held the first of four public hearings to review the conditions and factors that relate to truck/bus-related crashes and evaluate the effectiveness of federal, state and industry oversight of truck and bus safety. In September, we will hold a hearing on technology applications to improve heavy vehicle safety in Nashville, Tennessee, and later this year we will hold a hearing on the safety ramifications of NAFTA. We will keep the Committee advised of Board activities regarding this important safety issue.

#### *Pipeline/Hazardous Materials*

Mr. Chairman, my testimony in 1996 mentioned the dangers of hazardous materials spills from ruptured railroad tank cars. I am pleased that the Federal Railroad Administration, the Association of American Railroads, and other industry organizations have taken a number of steps in response to safety recommendations on the testing and inspection standards for railroad tank cars. These organizations have:

- evaluated nondestructive testing techniques to determine how these techniques can best be applied to the periodic inspection and testing of tank cars transporting hazardous materials;
- initiated a longer-term project to implement inspection and testing programs and requirements that are based on damage-tolerance principles; and
- implemented a damage analysis on a limited basis that is continuing to move toward full damage tolerance assessment.

The Safety Board also released a special investigation report and 20 safety recommendations regarding brittle-like cracking in plastic pipe for gas service. The use of plastic pipe to transport natural gas has grown steadily over the years because of the material's economy, corrosion resistance, light weight and ease of installing and joining. However, our investigation showed that the procedure used to rate the strength of plastic pipe may have overrated the strength and resistance to brittle-like cracking of much of the plastic pipe used for gas service from the 1960s through the 1980s. Gas pipeline operators have had insufficient notification of this susceptibility to premature brittle-like cracking and, therefore, may not have implemented adequate pipeline surveillance and replacement programs for their older plastic piping. Safety recommendations to the Research and Special Programs Administration and the industry regarding this matter were issued.

The most recent major pipeline accident being investigated by the Safety Board occurred June 10, 1999, at Bellingham, Washington. A 16-inch diameter pipeline ruptured, resulting in an ignition and release of over 200,000 gallons of gasoline. This accident resulted in the death of an 18-year-old man and two 10-year-old boys. This investigation is in its very early stages, and we will keep the Committee advised of our investigation as information is gathered.

#### *Marine*

The Board issued urgent recommendations on the installation of locally sounding alarms for passenger and crew spaces as a result of the *Universe Explorer* and *Vista Fjord* accident investigations, and the cleaning of laundry ducts as a result of the fire on the cruise ship *Ecstasy*. Additional safety improvements were called for in other marine reports including reducing flammability of construction materials, requiring smoke detectors in living spaces, and requiring pre-departure fire safety briefings on small passenger vessels.

The Board also explored the need for a review of Coast Guard watchstanding and communications procedures at a recent public hearing related to an on-going accident investigation, as well as their procedures to release information to other government agencies and the public. This followed the tragic deaths of four recreational boaters on board the *Morning Dew* in Charleston Harbor. A Safety Board special investigation of these issues is underway.

One of the most recent major marine accidents being investigated by the Safety Board occurred in Hot Springs, Arkansas, on May 1, 1999, that resulted in the loss of 13 lives. This accident involved a vessel commonly known as a duck, one of at least 60 converted World War II amphibious craft that operate nationwide and was certificated and inspected by the Coast Guard.

*Railroad*

Along with its regular accident investigation duties, the Safety Board conducted two public hearings into safety problems at the Union Pacific Railroad Company. Prior to our first hearing in March 1998, Union Pacific had numerous accidents, including several collisions. The Board's hearing focused on much-needed safety changes at the Union Pacific Railroad, including: hiring 114 train dispatchers, with plans to hire 100 more in 1999; adding the position of Director of Safety and Quality Assurance to oversee the entire safety and dispatching program; instituting a napping policy throughout its system; hiring approximately 6,000 new employees; improving the accuracy of train line-ups; and simplifying the organization of the railroad by giving each region total autonomy to manage day-to-day operations.

## REAUTHORIZATION REQUEST

Mr. Chairman, the Board is requesting nine changes to its authorizing authority. Attached to our statement is a copy of our formal request, but a summary of each issue follows.

*Marine jurisdiction on the territorial seas*

This proposed amendment is a clarification of Safety Board marine investigation jurisdiction to 12 miles from the coast. On December 27, 1988, President Reagan by proclamation extended the territorial seas of the United States to 12 miles from the coast. Jurisdiction to the 12-mile limit is consistent with the limit exercised by many nations and is based on international law. National Transportation Safety Board marine jurisdiction is expressed as jurisdiction over accidents on the navigable waters or territorial seas of the United States. NTSB jurisdiction to 12 miles would, therefore, appear to have been established by the 1988 proclamation. The Independent Safety Board Act already references Federal Aviation Act definitions in the aviation area. In keeping with this approach, the proposed amendment would use a recently enacted Coast Guard definition to define jurisdiction at the 12-mile limit, and would clarify the Safety Board's jurisdiction.

*Accident scene priority*

Enforcement activity is often inherent in the post-accident investigations of the Department of Transportation (DOT) administrations, and many regulatory requirements are backed by criminal sanctions. The Safety Board and the DOT agreed in 1975 that DOT might undertake a separate enforcement investigation of an accident where participation in a Safety Board-led investigation could jeopardize DOT's enforcement work. Amendments to the Independent Safety Board Act in 1981 making NTSB priority explicit—with the exception of major marine investigations—had the effect of making any such enforcement investigation subordinate to the priorities of the safety investigation. We believe there is a significant need for a restatement of Congressional intention in this area because of the increasing likelihood that agencies other than those of DOT will be on-scene and in competition with the work of NTSB.

In almost all of the recent major aviation investigations conducted by NTSB, parallel criminal investigations were undertaken. Examples include the TWA Flight 800, the ValuJet Flight 592 crash near Miami, the FineAir cargo crash in Miami. The Amtrak collision with a flatbed truck in Bourbonnais, Illinois and the pipeline accident in Bellingham, Washington, are also under local criminal investigation. Similarly, many maritime accidents become the occasion for criminal investigation by the Environmental Protection Agency, while fires aboard vessels draw interest from the arson branch of the Bureau of Alcohol, Tobacco, and Firearms.

Interagency coordination between safety investigative agencies and criminal investigative agencies can be complicated. Although the Safety Board believes that Congress assigned priority to NTSB accident investigations, we readily acknowledge that the exigencies of criminal investigation require special care in the handling of evidence at the scene, in the manner of witness interviews, and in the release of information to the public. We typically accommodate such requirements within our investigative processes. However, without a clear statutory premise for NTSB priority, the ready negotiation of such compromises and accommodations will remain dependent on circumstances and personalities.

Although the existing statement of priority is sufficient for most purposes, NTSB seeks clarification on the matter of accidents that may have been the subject of intentional acts of destruction. Many of the criminal investigations that arise out of transport accidents are consequences of accidental behavior and Safety Board jurisdiction and primacy are never in doubt. There are circumstances, however, where the nature of the destructive act is initially unknown and may be intentional, as opposed to accidental, and here NTSB priority, while established through precedent

and international convention, could use explicit Congressional restatement. To ensure that NTSB will continue to be capable of exercising coordinated leadership in future transport tragedies, we seek an explicit statutory basis for the traditional exercise of NTSB jurisdiction in the wake of the destruction of the instrumentalities of transport, whether accidental or otherwise. Such a clarification would not affect the authorities of any other federal agency, nor be disruptive of the NTSB's long-standing policy of accommodating its processes to the special needs of criminal investigation when criminal behavior is suspected or demonstrated.

#### *Personnel management*

The Board is requesting four management revisions intended to provide the National Transportation Safety Board with flexibility in its personnel management policies necessary to enhance our ability to hire and retain the best qualified individuals. These changes are necessary to guarantee our continued ability to conduct high quality accident investigations in the face of increasingly sophisticated technologies and ever more complex systems. The changes are consistent with provisions permitted to other transport agencies and are in keeping with the need to modernize the federal workplace. A detailed justification of the requested changes is attached. Below is a list of the revisions requested:

- *Prescription of Reasonable Rates of Pay for Overtime*—this amendment would permit the Safety Board to prescribe reasonable rates of overtime pay, similar to that already afforded to the Coast Guard.
- *Excepted Service Appointment Authority*—this amendment would allow the Safety Board to recruit prospective employees using an excepted service authority, with the option of converting the individual after a probationary period to competitive service.
- *Discretionary Base Pay Supplement for Employees Engaged in Investigation Work*—this amendment would provide the Safety Board with the ability to compensate employees directly engaged in core mission accident investigation duties at rates commensurate with their specific achievements and private sector or government alternatives.
- *Retirement at Age 55 With 20 or More Years of Service*—this amendment would permit Safety Board employees to retire at age 55 with 20 or more years of service without penalty, and provide the agency with a powerful tool to convince experienced professionals to choose a career with the Board.

#### *Technical service agreements and collections*

Annex 8 to the Chicago Convention, *Airworthiness of Aircraft*, specifies that the States of design and manufacture monitor the continuing airworthiness of their aircraft wherever they are operated, so that corrective actions may be disseminated to operators of the aircraft worldwide. In order to fulfill those obligations, the United States, through the Safety Board, participates in the investigation and provides support to the foreign investigative authorities. In addition, States with smaller domestic airline structures often ask for our technical assistance. The Safety Board is willing and eager to provide whatever assistance is sought and, given the safety benefits possible, we do not insist on compensation in all cases.

In addition to on-scene investigative assistance, NTSB also provides classroom training in accident/incident investigation and prevention, both in the United States (at NTSB offices) and at foreign agencies. For many years, we have done so both with or without written agreements with the foreign safety agency or the foreign government.

As the independent investigative agency for the United States, the NTSB needs to enter into complementary agreements that focus on accident/incident investigation and prevention, and we seek a clarification regarding our authority to initiate and negotiate agreements on training and technical services.

The Department of State (DOS) does not believe we have the authority to enter such agreements. Although we believe we do, we have been unsuccessful in assuring DOS that Congress intends for the Safety Board to negotiate directly for the provision of our services, notwithstanding that we have done so previously. Therefore, we believe a clarification of existing authority is necessary. Even if this would be considered a new authority, we believe it is vital to our ability to maximize our impact on international aviation safety, and we see no downside to permitting NTSB, similar to the authority already given to the FAA, to deal directly with our foreign counterparts regarding training and technical services.

#### *Collection for production of dockets*

This amendment would enable the Board to recover its costs associated with reproduction and dissemination of its products. The Safety Board currently provides

free of charge copies of accident dockets to persons (or their survivors) and organizations involved in accidents. Others who request copies of dockets are referred to a clearinghouse contractor or to the Department of Commerce's National Technical Information Service for copies of Board publications.

Because the costs of reproducing and distributing its products come out of the Safety Board's operating budget, the clearinghouse contractor arrangement enables the Safety Board to control its costs, but results in poorer service to the American public because of timeliness issues and higher expenses for our products. The authority requested by the Board would permit reasonable fees to be charged for reproduction and distribution of its products, whether paper-based or on various electronically readable media, and to apply collected fees toward the reproduction expenses.

#### *Recorders*

This proposed amendment would provide for the withholding from public disclosure of voice and video recorder information comparable to the protections provided for cockpit voice recorders (CVR). The Safety Board has open recommendations that call for voice recorders on locomotives and marine voyage event recorders, which will include bridge audio information on vessels over 500 gross tons. In addition, the Safety Board's 1990 report on the accident involving USAir Flight 105 at Kansas City International Airport, Missouri, outlined the need for cockpit video recordings and pledged that the Safety Board would monitor and evaluate the progress of video recording.

There appears to be some reluctance on the part of the transportation industry and labor to endorse the use of audio recorders for accident and incident investigations, stemming from uncertainty regarding the ultimate use of the information. An inclusion of provisions in the Safety Board Act that would withhold audio recordings from public disclosure should facilitate acceptance of these devices.

The requirement for voyage event recorders on some ships appears to be generally accepted. NTSB proposes to treat the audio portion of these tapes in the same fashion as we handle CVR tapes, but absent explicit statutory language, we may not be able to do so.

Video technology has progressed to the point where it has become technically feasible to produce and crash-protect cockpit video recordings that meet the needs of accident investigators, and video recorders for all modes of transportation may become a reality in the not-too-distant future. It would be appropriate and timely to ensure that there are no legislatively-defined differences between the treatment of new video technology and existing voice recorders, as the lack of statutory protection for video technology would serve to limit its acceptance.

#### *Authorization of appropriations*

This proposed amendment provides the authority to appropriate funds for the National Transportation Safety Board for fiscal years 2000, 2001, and 2002.

The requested authorization levels are \$57.0 million and 402 full-time equivalent (FTE) positions for fiscal year 2000; \$73.0 million and 470 FTE positions for fiscal year 2001; and \$76.4 million and 470 FTE positions for fiscal year 2002. The requested authorization for fiscal year 2000 is consistent with the President's budget submission, while fiscal years 2001 and 2002 reflect the position level requested in our FY 2000 OMB submission. The request also includes funding for additional training, as well as computer, laboratory, and investigative equipment, items that are necessary to ensure the Board's continued efficiency and technical competence.

#### *Marine priority*

This amendment would give the Safety Board priority in marine accidents it investigates. The Safety Board currently maintains primacy in accident investigations of all other modes of transportation: aviation, railroad, highway, pipeline, and hazardous materials. We also maintain primacy in all marine accidents that do not meet the criteria for a major marine accident.

However, uncertainty as to our investigators' role in a Coast Guard investigation, minimal opportunity to interview witnesses, and lengthy Marine Boards that generate situations in which witnesses cannot recall what they had seen or heard, are just a few of the reasons why Safety Board priority in marine accident investigations is necessary. Safety Board priority has worked well for many years in other modes of transportation and those using marine transportation should be given the full benefit of a similar system.

#### *Public aircraft investigation clarification*

This amendment would clarify language in Public Law 103-411 regarding the investigation of public use aircraft. This public law gave the Board the authority to

investigate public use aircraft but did not provide the same guidelines as civil aviation investigations. We believe this amendment to be a clarification of Congress' original intent, and that the requested authorities are essential to an independent investigation.

Mr. Chairman, that completes my statement. I will be happy to respond to any questions you may have.

Senator STEVENS. Do any of the other members have comments, Mr. Chairman?

Mr. HALL. No, sir. I might comment, Mr. Chairman, that I have brought with me this morning some material that the Committee might be interested in seeing that is from the arrester bed at the end of Kennedy Airport up in New York. This arrester bed was successful in arresting the runway overrun of a Saab 340 with a number of souls aboard, and we will be looking as a part of our Little Rock investigation as to whether this type of arrester bed, which is now in place, which originated as an NTSB recommendation and was implemented by the FAA, might have had an effect in preventing the tragedy at Little Rock.

The CHAIRMAN. Thank you. I just want to talk generally about aviation, Mr. Chairman, and I know we are singing from the same page, but I am very concerned.

Obviously, I am in airports all the time. I can tell the difference in the increase in passengers. I can tell the increase in the strains on the air traffic control system. All of these statistics have been borne out by the commission that reported out about a year-and-a-half ago, stating that if we do not do something, every day in an airport in America is going to be like the day before Thanksgiving, and yet we cannot even get an agreement on an FAA reauthorization bill because people are worried about take-offs and landings at Reagan National Airport.

There are provisions of the FAA reauthorization bill which are critical if we are going to even begin to address some of these problems.

I guess I am just venting, but I would be interested in hearing if you have any additional views on this aviation problem that is obviously upon us.

I fly to New York a fair amount. Now, I always go to the shuttle at least an hour before I would otherwise do so because I know it is going to be an hour late, and we are going to sit on the runway on a perfectly clear day because the air traffic control system is saturated with other airplanes from other places. It has just now become almost a way of life.

I am one of those who loves to beat up on the airlines. It is a great pleasure to do so—they cannot fight back very well—and we reported out the passengers bill of rights, which I think was very much needed, that Senator Wyden and I worked on together, but also we have got other problems that we are not addressing, in the way that we should. This is not just the Congress, but also the Administration must act.

I think that your voice is respected. I think your views, when exposed throughout the nation in various forms, are very important, and I hope you will spend a lot more time and effort warning people that there is a certain inevitability associated with this trend that is going on, which you are showing in these charts.

I would be glad to hear your response and comments, or any other Board Members.

Mr. HALL. Mr. Chairman, the charts and statistics that I have brought with me outline the tremendous importance of transportation. They also show the tremendous transportation growth that we are going to see in the next 10 years in this country. I believe that many of the modal agencies now, and many of them are led by able and responsible public servants, but the Department of Transportation is going to have to be proactive in preparing and planning for this growth.

Runway incursions continue to get worse year after year, both in terms of the number of incidents and the frequency. We are averaging a runway incursion a month at the major New York airports, and so I have been very pleased—

The CHAIRMAN. Incursion means a plane being on the runway when another one is either taking off or landing?

Mr. HALL. Or some other type of ground interference on the concourse at the airport.

I think this current Administrator is doing an excellent job in trying to address the change in the culture. I think the Board needs to continue our oversight, and be sure that as these situations are brought to the attention of the administration and action is taken.

The CHAIRMAN. If you had to prioritize the major obstacles, how would you rank them? There's the air traffic control system modernization, there's a lack of increased capacity in the airports, there's the aging aircraft you point out. Would you give us some idea of your priorities as far as these challenges are concerned?

Mr. HALL. Clearly the ATC system is, I think, probably the most critical at this point. Aging aircraft can be appropriately addressed within the existing structure and framework.

I think the air traffic control system is going to have to be adjusted and adapted to the type of traffic we are talking about. I know there is a great deal of work going on in that area, but I would say that clearly is to me personally the greatest challenge that I see out there. If these numbers are going to be realized, then there is going to have to be great improvement in that area.

The CHAIRMAN. Would any of the members like to make any comments?

Mr. HALL. Let me get Dr. Loeb up here, our Director of Aviation Safety. I brought all of my office heads here, Mr. Chairman, so if we get into a specific area I would like to refer to them. Dr. Loeb is head of our Office of Aviation Safety.

The CHAIRMAN. Welcome, Dr. Loeb.

Dr. LOEB. Thank you. I think Chairman Hall covered it quite well. I think that certainly the air traffic control system represents one of the biggest challenges facing air transportation, but I think that also gets into the issue of runway incursions as well.

I think there is a need for adequate radar surveillance, and weather radar as well, to keep our air traffic moving safely. There were two recent incidents, one in Chicago and one at JFK New York, in which two large airplanes almost came together in some fashion similar to what happened at Tenerife.

The CHAIRMAN. I love your terminology, two aircraft almost came together. I like that.

[Laughter.]

Dr. LOEB. There was a near collision, or a miss that was fairly close, and it is worrisome and of great concern. I think certainly air traffic control is one of the main issues, as Chairman Hall indicated.

The CHAIRMAN. Maybe, Mr. Chairman, you could send us in writing for our guidance for our upcoming hearings, your priorities as far as the challenges that have to be addressed in this booming, clearly, crisis or gridlock situation, not to mention the safety aspects of it.

Mr. HALL. We will do that, Mr. Chairman. Let me say, with Senator Stevens sitting there looking at me, that aviation is the most essential and most important in the State of Alaska. We completed an Alaska safety study, and we are in the process of continuing to follow up to be sure that those recommendations are implemented.

Again, I brought this arrester bed material this morning. We need to be looking at whether weather radar technology should be at more than just the 40 largest airports in the United States.

As important as those 40 large airports are, I think local community airports should have flexibility to ensure that they have all the safety that might be available for their passengers and the citizens. That may require some action by this Committee, but that is another area that I think needs to be addressed.

The CHAIRMAN. Senator Stevens.

Senator STEVENS. Mr. Chairman, I am constrained to say that perhaps some of that travel money you were looking at was involved in following up on my suggestion that we wanted a study of general aviation safety in Alaska, and it has been a rather intense one. Our statistics—

The CHAIRMAN. Did they have to go to Paris?

[Laughter.]

Senator STEVENS. Well, I was in Paris.

But I would like to ask you, Mr. Hall, this relationship that you mentioned in your statement with the Coast Guard bothers me. The Coast Guard is subject to our jurisdiction, too. I think maybe we ought to undertake a role of trying to mediate that dispute. That certainly should not exist between two agencies which should have the same goal, and that is to improve safety of our vessels at ports of call in the United States, so I would be happy to follow that up with you.

Do you work with NIOSH at all, the National Institute on Occupational Safety and Health?

Mr. HALL. Yes, sir, and we follow up. We do not work directly with them, but we follow some of the occupational safety concerns, particularly in the area of fishing vessels. We do not really interface that much with them.

Senator STEVENS. They have done some interesting studies up our way, and I think they might dovetail with the ones you are doing, too.

Mr. HALL. I met with them on several occasions, sir, in Alaska at their office.

Senator STEVENS. I mentioned to you briefly before the hearing started the question I have about facilities. As we modernize more and more FAA nav aids and other facilities are remoted, it is leading to some difficulty in Alaska.

Have you ever studied the safety aspects of the changing navigation system of the FAA?

Mr. HALL. I would like to ask Dr. Loeb to comment on that if he could.

Dr. LOEB. Senator, we completed a couple of safety studies regarding aviation in Alaska. One was done in the early eighties, and a more recent report was completed in the nineties. We had a chance to look at the implications of the beginning of the automation and removal of human beings, especially in the weather forecasting, and providing weather services, and we believe that is an issue.

However, I think there is technology that can help until that technology is really implemented fully. It is going to be a problem, and the lack of human beings actually observing and forecasting and providing information to pilots in remote regions is a problem.

Senator STEVENS. As the Chairman mentioned, 77 percent of intercity travel in our State is by air, and I think that we will be very interested in your recommendations. Will we get recommendations concerning the outcome of your report?

Dr. LOEB. We have made some recommendations, and there are likely to be more, yes, sir.

Senator STEVENS. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Wyden.

Mr. HALL. Mr. Chairman, if I could, if the Senator would indulge me I would like to respond on the subject of the travel budget.

The CHAIRMAN. Sure.

Mr. HALL. Historically, Mr. Chairman, the travel budget of the NTSB has been left essentially to the individual Members. Because of the concerns of this Committee, I have put a budget in place. I will monitor that budget on a quarterly basis, and I will keep the Committee staff informed. If it appears that that budget is excessive, we will cut that budget back, Mr. Chairman.

The number one responsibility I have to the American people is the stewardship of the tax dollars that we are given to spend, and we try to do this wisely and effectively. An important part of our mission and the Board Members' missions, is to be advocates for safety. We can sometimes do that effectively through travel, but it needs to be travel that this Committee feels is important and feels is responsible.

The CHAIRMAN. My recommendation is to put in place the same kind of procedures that the FCC and other agencies use. That would probably be a good solution.

Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Hall, let me go again to the maritime accident we had near Coos Bay in my home State.

Now, most of the oil leaked into our waters and into our beaches after the initial accident, and this all took place at a time when the Coast Guard was supervising everything.

On the 22nd day, a salvage tug managed to tow the bow section of the boat off the beach. As the tug was towing the 420-foot bow out to sea, the tow line broke. The *New Carissa's* bow again ran aground and leaked more oil, causing a second marine accident 60 miles to the north, near the town of Walport in my home State.

Now, the Coast Guard maintains that the operational control of the response to marine casualty and the control of the investigation should not be divided. It is their view that they have extensive involvement and response, yet I can tell you we are certainly very upset that in our home State the most significant oil pollution from the *New Carissa* occurred after the initial accident, during the response to the marine casualty. How can the public be assured of an independent investigation of the actions of the Coast Guard during these response activities?

Mr. HALL. At present, Senator, they cannot. If I could just refer briefly to the *New Carissa*. We did not launch on that accident because the Coast Guard did not notify us of that accident. By the time we learned of it, which was through the television, the Coast Guard had made a unilateral decision to lead the investigation. They did not discuss that or consult with us regarding their decision.

Our safety mandate in regard to the other modal agencies, and to the limited extent that we do work in the marine area includes oversight, and we routinely evaluate the emergency response to accidents as part of our accident investigation. Only by permitting the Safety Board to conduct an independent investigation of accidents like the *New Carissa*, where the response is as important as the accident, can public confidence be assured in recommendations to prevent future occurrences.

We have found many times in our history, Senator, that there can be an accident within an accident. There have been times in the rail area, where a pipeline accident and explosion occurred as a result of the actual rescue and clean up effort. The whole process is something that is reviewed routinely as part of our accident investigation effort.

Senator WYDEN. I will tell you, I am very troubled about why the Coast Guard would be unwilling to work with you along the lines that you have described, and I guess the question that comes to mind, has the Coast Guard experienced any problems in the past when they worked with you on operational responsibilities?

I mean, there was the *Exxon Valdez* in 1989, the *Julianne* in 1996, and it would be one thing if the Coast Guard had experienced some problems in working with you, but my understanding is that they have not. You all have not prevented them from issuing safety alerts, commencing regulatory changes. Has there been any reason why the Coast Guard would be reluctant to work with you on these matters?

Mr. HALL. Senator, the only difference I can tell from the Coast Guard and the other modal administrations in the Department of Transportation is they wear a uniform. We have certainly worked together well in the past.

Senator WYDEN. Let me ask you just another couple of questions. I know Senator Hutchison wants to talk about matters important to her.

I mentioned as well we are very troubled about the delay associated with getting information about this tragedy. Essentially, every time I am home at town hall meetings, folks want to know when we are going to hear from the Coast Guard, what is taking so long, what is behind the delay, and why can we not get information about the anchorage area used by the *New Carissa* and actions we ought to be taking to prevent future groundings.

My question to you now would be, would giving NTSB priority position in a handful of these areas along the lines you are talking about produce faster results in cases like the *New Carissa*? As I say, we have been waiting for over 5 months. What is the typical timeframe that you all pursue, and how might we get information more quickly?

Mr. HALL. Senator, we make a recommendation as soon in our investigative process as we feel a safety issue needs to be addressed. Most people would be aware of our actions in TWA 800 and ValuJet where recommendations were made before we completed the investigations.

Let me say that we are not seeking priority over the Coast Guard. We are seeking to eliminate the veto they have over our conducting the few investigations that we do. As you know, Senator, from your involvement in the King 56 C130 accident where, on behalf of the nine widows in your State, you asked us to get involved with the Air Force. The Air Force resisted our presence, but it opened up the investigation and we have now some unbiased recommendations that have come out of that.

We have had the same experience in the *Morning Dew*, where Senator Hollings, Senator Warner, and other Members of Congress requested that we investigate an accident where the Coast Guard withheld information from the investigative authorities in the State of South Carolina.

I explained to the Admiral when I called on him last year that I was going to make this request again this year. I think it is in the best interests, not of just the Safety Board and the Coast Guard, but most importantly, it is in the interests of the American people.

Senator WYDEN. It seems to me the bottom line, though, is that you will not wait for a final report before making recommendations if you feel the public safety requires it.

We are concerned in Oregon we might have to wait for 2 years for a final report from the Coast Guard, and my understanding is, if you felt the recommendations were warranted a few months into it, you would essentially notify the relevant agencies and the Congress that is the case, is that not correct?

Mr. HALL. That is correct. One of the best examples is the *Ecstasy* accident in Fort Lauderdale. The minute we determined what had caused that fire we issued a recommendation to all of the cruise line companies. They took prompt action to address the problem that caused the fire on the *Ecstasy*.

Senator WYDEN. The other area it seems to me that would be important is you also look at the emergency response, as I understand it, not just the initial accident, which is very important for us in Oregon, because in the case of the *New Carissa* it was that emergency response that led to a second grounding when the tow line

used to haul the bow of the *New Carissa* broke, so in effect you all would add another dimension under your proposal, as I understand it.

Mr. HALL. That is correct. That is a routine part of our investigation. If there is an emergency response, it is evaluated. Many times, Senator, we see either additional environmental damage, as in the case of the *New Carissa*, or loss of life because of delayed or inappropriate response.

Senator WYDEN. Well, it seems to me that if we allow the status quo, in effect you will have the Coast Guard investigating themselves. The Coast Guard would in effect investigate the emergency response. That certainly raises important potential conflict of interest issues, and I think you all have made a very good case for your involvement in a handful of these areas.

This tragedy in Oregon has very, very much troubled my constituents, but we are now almost as troubled by the fact that we cannot seem to get any decent answers from our Government as to what went wrong, so I want you to know that I am going to follow up very vigorously on your recommendations, because I think you can strengthen our ability to prevent these kinds of tragedies, and we do not want to see in the future, in the beautiful Pacific Northwest, these enormous vessels backed up against one of our treasures.

So I thank you for your good work. As you noted, we have worked with you on a variety of issues in the transportation area, and we will be following up with you promptly on this matter.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hutchison.

Senator HUTCHISON. Thank you, Mr. Chairman. Just following up on Senator Wyden's line of questions and observations, Mr. Chairman, I would just say that I think this is an appropriate area for our Committee to address and have the Coast Guard as well as the NTSB come forward to talk about the issue of working together, or if there are conflicts I believe NTSB has been quite objective in its accident investigations where other agencies are part of the system, and the need for objectivity is the reason the NTSB was created.

I do not know the Coast Guard's views, and I think it is important that we have those, and I would certainly say that I would be happy to have a hearing, perhaps with Senator Snowe, who is the Chairman of the Subcommittee with jurisdiction over the Coast Guard, or whatever the Chairman would consider to be the best approach. Would that be something we could explore?

The CHAIRMAN. Absolutely.

Senator HUTCHISON. Thank you, Mr. Chairman.

I want to take another line of questioning as well. You have indicated NTSB is going to hold a hearing on safety ramifications of NAFTA later this year. I would like to know what the scope of that hearing is, because it is a very important issue for my State, and I am certainly concerned about the issue of trucks and safety coming in from Mexico, and I want to have the commerce eased, but I do not want unsafe trucks on our highways all over America, so could you tell us what your intentions are?

Mr. HALL. Yes. I have been joined at the table now by Mr. Claude Harris, who is the Deputy Director of our Office of Highway Safety.

Senator, I have had the privilege and honor of serving as chairman of this agency for 5 years and the highway area obviously disturbs me greatly because of the number of deaths. We kill more children on our highways and injure more children than any other particular one cause in our country.

We have killed more young people under the age of 21 on our highways in the 1990s than we lost young men and women in the Vietnam War.

The goods that were once on a warehouse floor are now daily moving in interstate commerce through our nation on 18-wheel vehicles. The hearing on NAFTA is one of four that we are conducting. We have had one regarding oversight. We are going to have one on technology, and we are going to have one that will look at driver's issues. We are also going to have the final one that will address the NAFTA issues, particularly what is being done to coordinate safety concerns between Mexico, the United States, and Canada. I did go to Brussels, Belgium, to visit the European Union, and I must admit to you I was a little concerned that the Union, where they have trucks that operate from Iraq all the way up to the ports in Rotterdam—they have the same concerns that we have here with the number of nations, except they have many more nations—that we have not gone over there to look at what they have done in Europe to coordinate between nations.

So we are going to try and focus that hearing in a constructive fashion to see what can we do to set some safety goals between our countries, between Mexico, the U.S., and Canada, and to ensure that we can have a free flow of commerce that everybody thinks is so important.

So any input or thoughts that you or your staff have into how we should construct that hearing, which will be held later this year, we would welcome.

Senator HUTCHISON. I appreciate very much the scope. Have you set the date?

Mr. HALL. No, ma'am, we have not.

Senator HUTCHISON. Well, we will work with you, and would like to be advised of the date; we might have some input.

The administration has again proposed that the NTSB undertake a fee system for services. What is your opinion of that?

Mr. HALL. I have told the folks at OMB over and over again I think that is a big mistake. The investigative function is a small part. This function ought to be paid by the taxpayers, and it should not be dependent on industry fees for its support, and that is mainly because of my concern on independence. It goes to the same area with the Office of Pipeline Safety, which is essentially funded by the pipeline operation.

Senator HUTCHISON. Let me just segue into the issue of the use of the party system. One of the reasons that you have been able to be somewhat efficient in your investigations is you have parties, and, by having all of the competing parties in an accident, I think the NTSB has been able to draw its conclusions independently.

RAND, however, is saying you should rely less on the parties to the accident and do more of the coordination in the NTSB. How do you feel about that, or do you feel that the present system is sufficient and that your control is such that you will have the credibility and the independence?

Mr. HALL. I think the system—and you are as familiar with it as I am—has worked very well in the past.

The amount, of course, has changed now. The main impact on the party system has been the litigious society we all live in and the 24-hour TV cameras everywhere. We had concerns expressed on both sides.

The industry feels we should eliminate probable cause, and that they should have more involvement in the analysis portion of our investigation. The family members feel like they ought to have a seat at the table, along with the other parties to an investigation. I thought the responsible thing to do was to get an outside group to come in and hear everyone out and give us an independent view on it.

The RAND Corporation, which seems to be an outstanding corporation, although they cannot seem to deliver a report on time—I was supposed to have the report last spring, and I am still waiting on it. Every time I call they give us a new excuse.

I want to see what they finally say, and then we are going to look at that with our managers in a management retreat and try to get their input. If there are recommendations or changes we think ought to be made in the party system, we will come back to the committees and the committee staffs and get opinions before we would make any proposals.

Senator HUTCHISON. Is it still the case that evidence that comes out of NTSB hearings on accidents is not admissible in court?

Mr. HALL. Yes, ma'am.

Senator HUTCHISON. Does that work?

Mr. HALL. Dan Campbell, who I just promoted to the Deputy Managing Director—he is going to be our Acting Managing Director, because Peter is leaving us—could comment on that, because he has most recently served the Board for what, 10, 20 years as our general counsel.

Mr. CAMPBELL. Senator Hutchison, as I am sure you are aware, because you are somewhat sophisticated in this, there are two divisions in NTSB evidence, the factual portion and the analytical portion. The analytical portion is not admissible in a court of evidence now, and there has not been any significant development in that area since you were on the Board.

Senator HUTCHISON. But the factual portion is?

Mr. CAMPBELL. The factual evidence is. They still depose our investigators at length, and it is actually an obligation of the NTSB to preserve the evidence and make available its factual observations so that outside liability investigations can go forward.

Senator HUTCHISON. Do you find more of your investigators' time taken with depositions and legal obligations?

Mr. CAMPBELL. I think I would say yes. I think there is more litigation throughout society that has spilled over into the way that they approach us.

Senator HUTCHISON. Is that a hardship?

Mr. HALL. That is a hardship, because many times we will end up with someone that is key to one of our major investigations being tied up at a crucial time with another matter they have worked on.

Senator HUTCHISON. Regarding the June 2 Little Rock American Airlines crash landing in the thunderstorm, do you have any initial findings on that regarding either weather conditions or pilot, especially pilot fatigue?

Mr. HALL. As you know, this is an ongoing investigation, and I would defer to Dr. Loeb to comment.

Dr. LOEB. Unfortunately, I am probably not going to add a whole lot more to it than what the Chairman just said, because it is an ongoing investigation. We are clearly looking at all aspects of the weather dissemination, what the crew knew, the air traffic controllers, what they provided in the way of weather information, what information they had in terms of the radars that were available. We are also looking at the crew involvement, including the role that fatigue may have played, procedures, training, all of those things. At this point it is way too early.

Senator HUTCHISON. OK. A last question—and I will be interested when you have any preliminary findings, and particularly, I know you always come out with an early recommendation if you feel that it is needed, and if pilot fatigue is one of the issues I would hope you would make a recommendation early, because that, of course, would affect so many other procedures.

A last question is the priorities on your budget request. I think we have been able to flush out some of the needs that you have, but if you had to say, OK, you are sitting on our side of the dais, and we have to have priorities, what are your biggest concerns, and where would you place your priorities?

Mr. HALL. As I expressed to you privately before the meeting started, I understand this is a large increase. I have had the honor, as I mentioned, to be the Chairman for 5 years.

I would like to believe, when this administration ends and I was to leave this Board, that I had done everything I could to be sure this Board was ready to serve the American people well in the 21st Century. That is what that budget request reflects.

Of course, it is difficult for me to place priorities with my five modal administrators sitting here in the audience. But to be honest with you, I think what we need is people and technology. Those are the two things that we need, and whatever we can get in additional assistance we will try to evaluate exactly what our responsibilities are, and try to apply those.

Senator HUTCHISON. Well, I understand that you are in a political position right now, but we really do need to have those priorities, especially if there are areas where you do not feel your competence level is what it needs to be, and obviously aviation has been a major focus of the agency, but I know that rail and surface are where the numbers are, so I do want to have your priorities when we are meeting with the Appropriations Committee and trying to get to the bottom line.

Thank you very much, and Mr. Chairman, thank you.

The CHAIRMAN. Thank you.

Chairman Hall, do you or other members want to make any final comments?

Mr. HALL. Mr. Chairman, other than we appreciate very much the opportunity to do these jobs, and those of us like Peter and I that are political appointees, it is a distinction and an honor for us to lead the career public servants, who I believe are some of the most dedicated and hardworking people in the Federal Government.

I would like to note the excellent working relationship, and the very important role that the Committee staff plays in interfacing with us. In terms of our work and activities, I think I consider all of them safety advocates as well as those of us who work at the Board.

We look forward to continuing to follow you on C-SPAN, Senator, and wish you very well in the future.

The CHAIRMAN. Thank you very much. We may have to convene a meeting up in New Hampshire soon.

[Laughter.]

I want to sincerely thank the people that work for you, who many times are unrecognized on C-SPAN or the national news at a time of national tragedies, but who do the day-to-day work which has made the NTSB an institution that is widely respected, well-regarded and, when there is a national tragedy, you are looked to by the American people.

I think that there is enormous credibility which you have earned, and also enormous confidence, which you have also earned, and I congratulate you for the fine job you are doing. We look forward to your reauthorization to be completed basically without controversy, and I thank you for the great job that all of you are doing.

Mr. HALL. Thank you, Mr. Chairman.

The CHAIRMAN. For the record, it will be noted that we passed out our Committee budget.

[Whereupon, at 11 a.m., the Committee adjourned.]



# A P P E N D I X

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## RESPONSES TO WRITTEN QUESTIONS SUBMITTED BY HON. SLADE GORTON TO HON. JAMES E. HALL

*Question 1.* The current accident investigation process assumes that the parties and the National Transportation Safety Board are in a somewhat adversarial role. This is primarily due to the statutory requirement that the Board determine “probable cause” of accidents. In fact, it is more accurate to assume that all parties have a common interest in preventing loss, that is, a common safety goal. Pilots, manufacturers and operators certainly share this goal.

Establishing fault should be more clearly, and properly, left to the courts to determine. If the Safety Board’s role were refocused to be one of determining the facts and recommending opportunities to improve safety, rather than implying that the Board is “determining fault,” wouldn’t this partitioning of roles enhance the NTSB’s ability to remain focused on fact finding and safety improvement recommendations?

Answer. It is important to discern the difference between probable cause and fault. The Board’s determination of probable cause is never intended to be equated with the finding of fault. We agree that the finding of fault is best left to the courts.

The Safety Board is aware of the concerns about the role of the “probable cause” requirement in our statute. We asked the RAND Corporation to review the importance and role of the probable cause determination in our investigative and report writing processes. Accordingly, they have interviewed a wide variety of Safety Board “stake holders.” We anticipate that their final report will include recommendations in this area.

*Question 2.* The NTSB develops and completes analysis and prepares a draft final report without involvement of the parties. The draft report is submitted to the Board at a “sunshine” meeting and the results are available to the public and the parties after this process. I understand ICAO allows for the parties to review the draft report before it is final. This approach allows the parties to submit productive comments and develops broader acceptance of the findings by allowing peer review of the analysis by the “best available” experts. Every country operating under ICAO rules follows this procedure except the United States. Could you please explain how the NTSB process accomplishes this validation of their analysis?

Answer. While it is correct to say that ICAO allows the sharing of analytical work with parties to an investigation, it does not require it—the requirement being limited only to a sharing of analytical work between participating States. Individual States working under ICAO vary in their approach to the solicitation of comments from interested parties.

Some States provide for such a review, in several instances under national law that requires an opportunity for such comment by all interested persons, which would include injured parties, plaintiffs, insurers and such. These kinds of rules often proceed from the assumption that the work of the accident board may determine rights and liabilities of affected persons. The United States model attempts to avoid this type of partisan interplay, and seeks to the degree possible to guarantee an independent safety appraisal which can stand apart from the liability-related determinations made in other forums.

The Safety Board does provide an opportunity for parties to our investigations to participate in a technical review of the factual information, and to submit their analytical interpretations on the agreed-upon set of factual circumstances. Those party submissions are then reviewed by the Board. In keeping with the Board’s mission to provide an independent safety appraisal, we do not solicit comments from the parties on NTSB analysis.

*Question 3.* Regarding the issue of training, we have seen presentations on aviation safety discussing the complex interactions between the airplane, airline operations, and the aviation infrastructure on both technical and human levels. Is a por-

tion of this additional training aimed at increasing the NTSB's ability to participate in the evolving aviation system or is this solely technical training?

Answer. The Safety Board anticipates that the advances in technology that it has witnessed in aviation will continue to increase. Further, it is likely that this increase will have a direct impact on not only the technology, but on the interrelationship of that technology with the pilots, air traffic controllers, maintenance technicians, dispatchers, flight attendants who are involved in the day-to-day operations in the national airspace system. Moreover, it will impact first level and senior level managers within the aviation system.

The NTSB has committed to increase its resources dedicated to training to assure that our investigators understand the technical advances that have been and will be implemented in all facets of aviation operations. Examples of necessary training include the need to send investigators to study the operations of airframe designers and manufacturers, as well as engine and component designers and manufacturers, both domestically and overseas. Moreover, the explosive growth of digital computer-driven components and computer software programs involved in aircraft systems operation dictates the need for enhanced training in these areas for NTSB investigators, as well as the need to acquire and learn new hardware and software as investigation tools.

Only through this commitment of resources to training can the NTSB retain its capabilities to investigate aviation accidents adequately in the near and long term, with the purpose of preventing future accidents.

*Question 4.* The greatest risk for an aviation accident is overseas in countries that don't meet the existing ICAO standards because they have not invested in their aviation system. Since American business travelers and tourists can be found in every city around the globe, it seems that the NTSB needs to broaden its scope if it is going to continue to protect the interests of the U.S. traveling public. What U.S. government action is needed to encourage other governments to work with the NTSB regarding accident investigation and coaching of their investigators?

Answer. The NTSB is closely monitoring the rapid growth of international civil aviation, including the potential for injury and death for U.S. citizens traveling abroad and on foreign airliners to and from the United States. The FAA has programs to ensure that foreign governments are upgrading their aviation safety infrastructure to comply with international standards set by the International Civil Aviation Organization (ICAO). The NTSB is currently evaluating the efficacy of these programs as a part of its investigation of the Korean Air Flight 801 accident in Guam.

The NTSB makes significant efforts to help foreign countries meet their ICAO accident investigation responsibilities by conducting periodic formal classroom and workshop training for overseas investigators. For example, 10 foreign investigators from 6 countries attended an NTSB investigation school in December 1998 and 10 foreign investigators from 8 countries attended the school in June 1999. Further, NTSB investigators conducted accident investigation workshops in Taiwan and Singapore in early 1999 at which investigators from many Asia/Pacific nations attended. The NTSB has been working closely with ICAO at regional accident/incident investigation and accident prevention seminars for improved training of overseas investigators. In addition, in September 1999, the NTSB lead the U.S. delegation to the two-week meeting at ICAO at which a significant percentage of the world's aviation accident investigation authorities will develop up-to-date standards for accident and incident investigation and accident prevention.

*Question 5.* During the course of an investigation, there comes a point when the Safety Board has to determine if they've collected the information needed to carry out their charter or if they need to continue with the costly investigations. The subject of user fees has been popular this year and I am concerned this subject may be carried over to the Safety Board's reauthorization. In the past there has been discussion of requiring the parties involved in the investigation to fund some of the investigation. This troubles me because I am concerned that this would create a perception about the independence of the Safety Board. Could you comment on this and share your views with the Committee?

Answer. As Chairman of the Safety Board, I do not believe that the American taxpayer would be well served by a transportation safety oversight function that was dependent on the collection of user fees. Although the transportation industry does benefit from our investigations, recommendations, and other safety programs, the ultimate beneficiary is the traveling, taxpaying public.

RESPONSES TO WRITTEN QUESTIONS SUBMITTED BY HON. ERNEST F. HOLLINGS TO  
HON. JAMES E. HALL

GENERAL

*Question 1.* The majority of the increases in staffing and funding are slated to address aviation concerns, while the rate of accidents is decreasing in the commercial aviation industry. How can you justify this increase in light of all of the other increasingly technical and complex issues facing the other modes—highway, pipeline, rail and maritime?

Answer. The Board's Congressional mandate for aviation differs from that in other modes of transportation. As you are aware, the Board by law must determine the probable cause of every civil aviation accident. Although requested increases for aviation staff and funding are higher than the request for other modes of transportation, the percentage increase is fairly equal across the modes, with pipeline and hazardous materials having the highest percentage increase.

COAST GUARD QUESTION/MORNING DEW

*Question 2.* As you know, on April 2 of last year I asked the NTSB to investigate the December 29, 1997 sinking of the sailboat, *Morning Dew*, in Charleston Harbor, South Carolina. This tragic accident resulted in the deaths of all four occupants, three of them young children. As a result, the NTSB team began interviewing witnesses in May 1998 and in January 1999 held public hearings on the accident in Charleston. I understand that the NTSB report will address the Coast Guard's capability to respond to search and rescue calls including the *Morning Dew* accident, among others. It is now July 1999—and your final report has not yet been issued.

—What is the status of the report?

Answer. The Board is tentatively scheduled to complete action on this accident in a Board meeting on October 5, 1999.

—What have your investigators found thus far about the adequacy of the Coast Guard's emergency response, and how we can ensure that this never happens again, anywhere?

Answer. The issues in this investigation include Coast Guard watch staffing, policy and procedures for watchstanding, watchstander training, release of accident investigation information, and policy and procedures for responding to vessel distress calls. Our investigators are exploring apparent deficiencies in these areas, and it is anticipated that the recommendations contained in the final report will address these issues to help prevent a recurrence of this tragic accident.

—When can we expect to hear NTSB's final word on what factors caused or contributed to this tragedy?

Answer. The Board is tentatively scheduled to complete action on this matter in a Board meeting to be held October 5, 1999.

MARITIME—COAST GUARD/NTSB JURISDICTION

*Question 3.* In your testimony you request a twelve-mile extension of NTSB jurisdiction from the coast. Would it be preferable to have concurrent jurisdiction with the Coast Guard (per the Coast Guard Authorization Act of 1992) on all vessels carrying U.S. passengers that embark and disembark in U.S. ports?

Answer. In its reauthorization proposals for 1990, the Safety Board proposed that the United States assert off-shore jurisdiction for accident investigation over cruise lines that use our ports as principal points of departure and return. The Coast Guard argued against what it termed unilateral action, preferring the processes established through the International Maritime Organization (IMO). Congress ultimately enacted a provision giving the Coast Guard authority to act on behalf of the United States outside of U.S. territorial waters, if it were determined that the IMO approach could not guarantee an adequate investigation in a particular case. The NTSB was not given any statutory right to participate in this process, and, to the extent we have been able to participate, we do so only with Coast Guard permission. This is entirely unsatisfactory from our point of view.

Any proposal that provides a more direct and independent role for the Safety Board would be welcome. However, these matters should not be viewed as an alternate to twelve-mile jurisdiction. The twelve-mile limit speaks to the entirety of NTSB's already existing jurisdiction. NTSB has always had major marine accident jurisdiction to the extent of the territorial waters of the United States. Our current proposal only seeks to make clear that, with the recent proclamation by the President of an assertion of territorial authority to twelve miles, that Congress intends NTSB authorities to move to that limit as well. Such a clarification would still leave

open the issue of jurisdiction with respect to cruise vessels when beyond that limit. NTSB has long believed that ships using our ports as their commercial home, and our people as their customer base, cannot reasonably object to U.S., and particularly NTSB, investigation of accidents and mishaps which threaten the safety of passengers who are, predominantly, American citizens.

#### AVIATION

*Question 4.* The FY 2000 Transportation Appropriations bill denies your request to collect \$10 million in user fees, asserting that it could undermine industry confidence in the independence of the Board. What is your reaction to that claim, and how would you use such fees, if authorized?

Answer. The Office of Management and Budget foresees a fee for service that will offset, on an annual basis, the costs of Safety Board investigative activities. As you are aware, the Board currently does not have the authority to collect user fees, and I personally do not believe that the American taxpayer would be well served by a transportation safety oversight function that was dependent on the collection of user fees. Although the transportation industry does benefit from our investigations, recommendations, and other safety programs, the ultimate beneficiary is the traveling, taxpaying public.

*Question 5.* You have contracted with the RAND Institute to look at the needs of the NTSB. They apparently are focusing on the aviation functions—training needs, staffing, and the party process. We also know that given the growth of aviation, and without a reduction in accident rates, projections indicate that we may have one major aviation accident per week. This will place enormous pressure on you and Congress, and the industry, to make improvements. Recommendations will need to be made quickly. When do you anticipate that a final report will be available so that we can take a look at the recommendations and how they may benefit the NTSB?

Answer. The RAND Corporation anticipates submitting the report and recommendations at the end of September.

#### RAIL

*Question 6.* There have been some concerns about maintaining the integrity of accident scenes prior to the arrival of the NTSB Go Teams. Can you comment on efforts to secure accident scenes, especially at railroad accidents?

Answer. There have been several instances that the integrity of a railroad accident scene has been compromised prior to the arrival of an NTSB Go Team. For example, in the December 1998, derailment of an Amtrak passenger train on Union Pacific track in Arlington, Texas, the carrier began wreckage clearing operations and removed portions of the track structure in the area of the derailment prior to our team's arrival.

The Board's Office of Railroad Safety typically advises the carrier that we will be investigating the accident as soon as a decision to launch a major team has been made. At that time, the carrier is advised not to disturb the wreckage unless it is necessary to address issues of safety. Timely accident notification to the NTSB is necessary for this policy to be effective.

#### HIGHWAY

*Question 7.* In your testimony you refer to the Federal Highway Administration's review process for motorcoaches and two accidents that the Board has investigated. You state that if the Federal Highway Administration had a more restrictive compliance review process in place that these accidents and others may not have occurred.

As you know, the DOT is making highway safety a number one priority this year and there are many proposals to change the way the Office of Motor Carriers is organized. Could you please comment on how they might implement a more restrictive compliance review process?

Answer. The Safety Board recently adopted a special investigation of selective motorcoach issues, which discussed the accidents that occurred October 13, 1995, near Indianapolis, Indiana, and July 29, 1997, at Stony Creek, Virginia. As a result of that special investigation, the Board determined that although the FHWA has established a performance-based system of evaluating the safety fitness of motor carriers, it is important to give more weight to the driver and vehicle factors in passenger carrier compliance reviews. Deficiencies in these factors have been shown to be directly related to accident causation. The carriers involved in the above accidents received above average attention from the OMC and the States of Indiana and Michigan. Yet the OMC's rating methodology enabled these carriers, who had repeatedly received conditional or unsatisfactory ratings in either the vehicle or driver

factor of the compliance review, to operate, potentially placing school children and other passengers at risk. The Indiana carrier had received conditional and unsatisfactory ratings for 3 years, yet still was allowed to operate.

Because motorcoaches carry passengers for pay, the public rightfully expects the vehicles to be safe. Accidents investigated by the Board demonstrate that greater Federal oversight of passenger carrier operations is needed. The Safety Board, therefore, believes that the safety fitness rating system should be revised to give more weight to the vehicle and driver factors in passenger carrier compliance reviews.

*Question 8.* Would you please furnish me with recommendations to tighten the Commercial Driver's License (CDL) program? In particular, I would be interested in any recommendations that would help eliminate the ability to mask CDL infractions.

*Answer.* Uniformity in the CDL process between the States does not exist. Several States may have programs which mask convictions, and individuals who attend prescribed educational programs have their records cleared of traffic violations. Further, non-CDL convictions and accidents do not appear on the driver's record, and many local law enforcement officials do not have access to CDL data. In addition, the limited CDL data that is transferred from the States to the FHWA national database is not timely.

We believe that the national CDL database should reflect all traffic convictions received for a CDL holder; States should adopt uniform criteria for serious traffic violations; all law enforcement officials should have access to CDL data; and the CDL information should be transferred to the national database in a timely manner.

The Safety Board is planning to hold a public hearing to address concerns with the CDL process that have been raised in recent heavy truck and bus accident investigations some time in January 2000.

*Question 9.* New trucking company entrants are only required to attest that they are familiar with Commercial Driver Safety Regulations. Would you support a requirement that required a Class I audit of new trucking entrants within a reasonable date certain to ensure that they have a program set up to comply with these safety regulations.

*Answer.* We have made a number of safety recommendations regarding motor carrier safety fitness ratings. Although these recommendations do not specifically address new entrants, we have recommended that the Department of Transportation significantly improve the frequency and effectiveness of their compliance reviews.

#### HAZARDOUS MATERIALS IN THE U.S. MAIL

*Question 10.* Following the ValuJet accident, you made several safety recommendations to the U.S. Postal Service. It is my understanding that the U.S. Postal Service has initiated several programs targeted at improving the safety of transporting hazardous materials via the U.S. mail. However the NTSB also expressed concern about the DOT hazardous materials inspectors lack of authority to inspect U.S. mail. Could you please elaborate on this issue?

*Answer.* As a result of the accident investigation involving ValuJet Flight 592, several safety issues relating to hazardous materials shipments in the U.S. mail were uncovered. Those issues included:

- The FAA inspectors, who have civil enforcement authority, are not permitted to open mail bags or packages in the U.S. mail that are placed on aircraft unless a postal inspector is present. Indeed, Public Law 101-615 (November 16, 1990) specifically excludes DOT from regulating hazardous materials in the U.S. mail.
- If a package in the U.S. mail is found to be leaking hazardous materials, the FAA is unable to make an enforcement case.
- When the U.S. Postal Service contracts with a carrier to ship hazardous materials, the Postal Service becomes a shipper.
- The U.S. Postal Service has only criminal enforcement authority to address willful violations, and does not have civil enforcement authority.

The Postal Service has initiated several programs aimed at education of its employees as well as the American public on the dangers of shipping hazardous materials. They have instituted various hazardous materials awareness training programs that are provided to employees nationwide. Additionally, they have issued hazardous materials handling instructions to all Postal Service airport mail facilities that tender mail for air transportation. The Postal Service has contracted with the Volpe Center to tailor hazardous materials training modules which address awareness, acceptance, handling and processing procedures, to fit current postal regulations. They expect over 2,000 employees who are assigned to handle hazardous materials at airports will be trained by the end of calendar year 1999. Fi-

nally, they have distributed informational awareness brochures on things that cannot be shipped via mail to over 39,000 post offices nationwide.

It is our understanding that the Postal Service is seeking civil enforcement authority to regulate undeclared hazardous materials shipments identified in transportation.

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RESPONSES TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO  
HON. JAMES E. HALL

GENERAL QUESTIONS

*Question 1.* The Safety Board is seeking a significant hike (15 percent) in funding and staff as part of its reauthorization request. Your testimony discusses the difficulties your current staff is having just meeting its existing responsibilities and you indicate that the RAND study which has yet to be released, will report on the severe strains on staff in fulfilling your existing statutory responsibilities. Yet, you are requesting statutory priority in marine investigations.

(a) When the Congress increased NTSB staff by 20 in 1996, and added an additional 32 through the appropriations process after the ValuJet and TWA accidents, we were informed that the additional resources would ease overburdened investigators. Why didn't the 52 new positions you received in the past three years ease staff burdens or contribute to an increase in the timeliness of Safety Board accident investigations?

Answer. The 52 positions have assisted in resolving our staff burden. Because of your support, we have been able to hire:

1. A Family Affairs staff that has:
  - developed (along with the major airlines) family assistance plans for use in the event of a major accident
  - launched on several major accidents in all modes of transportation to ensure proper treatment of victims' families.
2. Technical experts in the areas of:
  - Aviation Safety
    - aircraft performance
    - aircraft structures
    - aircraft powerplants
    - air carrier operations
    - air traffic control
    - radar data
    - meteorology
    - human performance
  - Research and Engineering
    - materials engineering
    - information management (web master)
    - medical
    - fire and explosions
    - mechanical engineering
  - Railroad
    - mechanical engineering
    - railroad freight car systems, structures, and performance
    - human performance
  - Highway
    - motor carriers
    - forensics
    - human performance
  - Marine
    - marine engineering
    - human performance
  - Pipeline/Hazardous Materials
    - hazardous materials engineering
    - human performance

The additional positions have provided the Board with the technical capability needed to analyze complex issues arising in recent accident investigations, including those involving USAir Flight 427 and TWA Flight 800. These investigations have

led to Safety Board suggested modifications to Boeing aircraft, which we believe will increase safety for the flying public.

(b) If 52 people didn't ease the burden, what assurance can you give the Committee that 70 more people will be the magic fix?

Answer. Without knowing the actual growth in numbers or complexity of each mode of transportation during the next decade, it is not possible to provide the Committee with an assurance that 70 more people will be the "magic fix" for the Board. Available industry estimates indicate that accidents will increase and investigations will become more complex. At the Board's current staffing level, we will most likely not be able to provide, in a timely manner, the needed independent review for future investigations.

(c) How many of the requested 70 new FTEs would be dedicated to marine priority investigations if your request is approved?

Answer. The requested FTEs include eight marine investigators with expertise in the following specialty areas:

- Marine—Foreign-flag Vessels
- Marine—Fire Science
- Marine—Structural Fire Protection
- Marine—Search and Rescue

These positions are necessary to establish the current marine program at a full performance level. "Priority," whether received or not, will not appreciably affect the need to enhance our abilities. The NTSB does not anticipate a significant change in the numbers of major marine investigations as a result of its request to amend Section 1182. The purpose of those amendments is to avoid duplication and provide full independence in investigations that will, in most cases, be undertaken with or without new law.

*Question 2.* In your written testimony, you discuss the March 1999 completion of the Safety Board's investigation of USAir Flight 427. Has the four-month old report been printed yet, and if not, what has caused the delay in releasing the full report to the public?

Answer. The Board adopted the report of the accident involving USAir Flight 427 on March 24, 1999. In an effort to speed the publication of major reports (both printed copies and those posted on the Internet), new computer technology is being tested for report publications. The first application of this technology was used on the report of USAir Flight 427. New procedures typically reveal implementation problems that slow the first application, and that was the experience with the USAir Flight 427 report. We believe, however, that the time invested in the process now will result in a more timely and less expensive product.

The final report of the accident involving USAir Flight 427 was placed on the Board's web site on July 20, 1999. We expect to receive the printed report in September.

#### BOARD MEMBER TRAVEL

*Question 1.* As you know, there have been a number of press reports concerning Board Member travel particularly citing extensive international travel expenditures. In addition, I contacted the Board and obtained detailed information concerning Board travel during the past five years.

(a) As Chairman of the Board, you have explicit control over the Safety Board's budget, including travel expenditures, is that correct?

Answer. Yes, that is correct.

(b) What procedures exist at the Board governing member travel, both domestic and international?

Answer. Within budgetary guidelines, each Board Member has latitude in developing their own plan for promoting the mission of the Board. Their speeches and presentations to industry groups, educational entities, and others are an important aspect of the Board's ability to discuss important safety issues that have been developed as a result of our investigations.

(c) What specific procedures, if any, regarding Board Member non-accident related travel have you implemented during your 5 years as Chairman prior to the July 14th announcement? Did you attempt at any time prior to the July 14th announcement to implement Board Member travel guidelines?

Answer. Prior to the July 14, 1999, implementation of travel guidelines, I implemented no new procedures regarding Board Member non-accident travel.

*Question 2.* While I have complete admiration for the work of the Safety Board and its staff for your critical work in promoting transportation safety worldwide, I have serious concerns over Board Member travel expenditures. Of the total budget for Board Member travel during the past five years, a mere 15 percent covered acci-

dent related travel, while 85 percent was spent on extensive non-accident related domestic and foreign travel—34 percent foreign travel and 51 percent domestic. I understand that the Safety Board even covered the expenses of a member to travel to universities to lecture and speak. I cannot understand how this is the best use of taxpayers' dollars. At the same time, your reauthorization submission is seeking substantial funding increases for staff and operations, including funding for staff travel. Perhaps shifting some of your travel priorities could lessen the need for increased funding authorizations.

(a) How do you defend the members travel expenditures and do you have any plans to implement any other procedures to reign in excessive Board Member travel expenditures?

Answer. Although it appears from the figures cited that Board Member travel expenses may be excessive, it is important to note that the non-accident travel taken by Board Members covers a variety of purposes that are essential to furthering the Board's transportation safety mandate. For example, Board Members travel to give speeches, participate in technical panels, and provide testimony at government and industry events, both domestically and internationally, that focus attention on transportation safety issues about which the Board has made recommendations for corrective action.

As you know, the Safety Board has no regulatory authority to ensure implementation of its safety recommendations. It relies on its reputation for realistic and feasible safety recommendations grounded in accurate determinations of the causes of accidents, thoroughly developed safety studies and special investigations. The Board Members' advocacy efforts are critical to "getting the message out" to those individuals and groups, representing Federal, state, and local government agencies and the international transportation industry, who have a role in seeing that needed action is taken to improve safety throughout the transportation system.

As you have indicated, the Safety Board "covered the expenses of a member to travel to universities \* \* \* to lecture and speak." Member Goglia has served as a lecturer at the University of Southern California's Aviation Safety Institute, which was founded in 1952. This is an example of the type of travel where the potential safety payback is likely to be many times the cost incurred. Approximately 900 national and international aviation safety professionals attend the Institute's courses each year, including the safety staffs of most U.S. air carriers. Many of these individuals hold safety oversight positions created at airlines as a result of Safety Board recommendations.

Mr. Goglia is an internationally recognized expert on aviation accident investigation processes, procedures, training, fact-finding, and techniques. Because of his unique knowledge, he was asked to serve as a lecturer at the Institute and has served in this position, without compensation, since 1997. Mr. Goglia lectures four times each year and has scheduled a majority of his lectures to coincide with other important Safety Board business in the southern California area.

(b) As you probably know, other federal agencies follow procedures governing travel. What are your thoughts on implementing procedures similar to other agencies?

Answer. The Board follows the procedures for travel established by the GSA Federal Travel Regulations and issues its own caveats to these regulations.

*Question 3.* I understand that Vice Chairman Bob Francis has informed the President that he will not be seeking reappointment to the Safety Board. I also understand that the Vice Chairman is the Board Member on duty and is currently in Nevada to lead the NTSB's investigation of the accident that claimed the life of former NTSB member, FAA Administrator, Admiral Donald Engen.

(a) Mr. Francis, I understand, may seek employment in the aviation field. Does the Safety Board have any procedures that require Members to recuse themselves from acting on matters where there could appear to be a conflict of interest? If not, should there be?

Answer. Because the Office of Government Ethics has exclusive jurisdiction over these procedures, the Safety Board does not have any specific written procedures that require Members to recuse themselves from certain matters while seeking future employment.

The Office of Government Ethics rules are set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635. Subpart F specifically deals with seeking other employment, and it addresses the requirement of 18 U.S.C. 208(a) that requires an employee to disqualify himself from participation in any particular matter that will have a direct and predictable effect on the financial interests of a person "with whom he is negotiating or has any arrangement concerning prospective employment."

On June 29, 1999, Vice Chairman Robert T. Francis notified the White House that he would not seek nomination to another term as a Member of the National

Transportation Safety Board. That afternoon he contacted the Safety Board's designated ethics officer to discuss the procedures and advice given to those who are leaving the Safety Board. The ethics officer provided oral advice on the afternoon of June 29, 1999, and written advice on July 1, 1999. According to the Vice Chairman, he is adhering to that advice and following the procedures contained in the document. While the Vice Chairman may seek employment in the aviation field or elsewhere that would begin after his term expires, there is no current need for recusal from any matter before the Safety Board. In addition, the Vice Chairman has stated he does not anticipate that it will become necessary to recuse himself from matters that may come before the Board before his term expires. The Vice Chairman has also stated that if such a situation does arise, he will, without hesitation, abide by the advice of the designated ethics officer, the procedures of the Safety Board, and the regulations of the Office of Government Ethics regarding recusal from particular matters, post-employment restrictions, and testimony in civil litigation.

(b) Does the Safety Board have any procedures limiting Board-paid non-accident related travel when a Member has announced an intent to leave?

Answer. No, the Safety Board does not have procedures limiting Board-paid non-accident related travel when a Member has announced an intent to leave, nor do I anticipate implementing such procedures. Until his departure, the Board Member continues to carry out the duties of Member. As mentioned above, however, Board Members routinely seek advice regarding appropriate procedures from the Board's ethics officer.

*Question 4.* In your written testimony, you discuss the increasing Safety Board international aviation involvement. I strongly suspect that the Board Member travel could well be duplicative of FAA travels and authority over international aviation.

(a) In order for the Committee to thoroughly assess the budget impact of the Board's increasing international involvement, please provide for the record a listing of all foreign staff travel, segregating the amount that is accident investigation related and that which is more aviation safety promotion. Please provide the information for 1996, 1997, 1998, and 1999.

Answer. The Safety Board investigative staff traveled in support on the following aviation accident investigations:

#### 1996 FOREIGN INVESTIGATIONS

| Accident Site                          | Airline/aircraft             |
|--|------------------------------|
| Ensenada, Mexico .....                 | Cessna 550                   |
| Turin, Italy .....                     | Alitalia/MD-80               |
| Douale, Cameroon .....                 | Cameroon Airlines/Boeing 737 |
| Cali, Colombia .....                   | American Airlines/Boeing 757 |
| Toulouse, France .....                 | Euralair/Boeing 737          |
| Asuncion, Paraguay .....               | Lineas Aereas/DC-8           |
| Puerta Plata, Dominican Republic ..... | Birgen Air/Boeing 757        |
| Arequipa, Peru .....                   | Faucet Peru/Boeing 737       |
| Florida Straits, Cuba .....            | Brothers/Cessna 337          |
| Dubrovnik, Croatia .....               | USAF/Boeing 737 (CT-43A)     |
| Fukuoka, Japan .....                   | Garuda/DC-10                 |
| Ouagadougou, Africa .....              | Air France/Boeing 747        |

The travel costs to support these investigations was about \$95,210.00. Travel costs for aviation safety promotion were \$10,000.

#### 1997 FOREIGN INVESTIGATIONS

| Accident site                | Airline/aircraft               |
|------------------------------|--------------------------------|
| Lima, Peru .....             | AeroPeru/Boeing 757            |
| Sao Paulo, Brazil .....      | TAM/Fokker FK-100              |
| St. Johns, Antigua .....     | American Airlines/Airbus A-300 |
| Nagoya, Japan .....          | JAL/MD-11                      |
| Andros Island, Bahamas ..... | Bell 407                       |
| Eel Ricer Cress .....        | Piper PA-31                    |
| Manta .....                  | Boeing 707                     |
| Moran .....                  | Bell 407                       |
| Santa Catarina, Mexico ..... | Beech 23                       |
| Lofssjon .....               | Bell 205                       |
| Mariquita .....              | Bell UH-1                      |

*1997 FOREIGN INVESTIGATIONS—CONTINUED*

| Accident site              | Airline/aircraft         |
|----------------------------|--------------------------|
| La Cardonera, Mexico ..... | Rockwell Commander 112   |
| Roque .....                | Bell UH-1                |
| Nejran, Saudi Arabia ..... | Saudi Arabian/Boeing 737 |

The travel costs to support these investigations was about \$57,800. Travel costs for aviation safety promotion were \$7,000.

*1998 FOREIGN INVESTIGATIONS*

| Accident site                             | Airline/aircraft  |
|---|---|
| Nuevo Berlin, Argentina .....             | Austral Airlines DC-9   |
| Neiva .....                               | Ayers S2R   |
| Comox Lake, Colombia .....                | Colombian Helicopters (Drug Enforcement Administration)<br>Boeing 234 |
| La Palma, Panama .....                    | SAN UH-1H (DEA)   |
| La Vertiente, Mexico .....                | Gonzalo Vargas Campero SA226 TC                                       |
| New Brunswick, Canada .....               | Air Canada Bombardier CL-600  |
| Palainbang, Indonesia .....               | Silkair Boeing 737-300  |
| Tampico, Mexico .....                     | Private Lear 24   |
| London, United Kingdom .....              | United Airlines Boeing 767-300ER                                      |
| Islaof, Philippines .....                 | Cebu Air DC-9   |
| Taipai, Taiwan .....                      | Formosa Airlines Saab 340   |
| Bogota, Colombia .....                    | Tame Airlines (Air France) Boeing 727                                 |
| Montreal, Canada .....                    | Prop Air Swearingen METRO II  |
| San Jose, Costa Rica .....                | Dyncorp Aerospace Tech. Ayres S2R-T34                                 |
| Lorient, France (Midair) .....            | Protheus Airline/Private Beech 1900/C-177                             |
| Mellville, Dominica .....                 | Air Anguilla Cessna 402   |
| Nova Scotia, Canada .....                 | Swiss Air MD-11   |
| Shanghai, Peoples Republic of China ..... | China Eastern MD-11   |
| Mt. Cook, New Zealand .....               | Air Safaris Cessna 177  |
| Guadalajara, Mexico .....                 | Continental Airlines Boeing 737-500                                   |

The travel costs to support these investigations was about \$130,000. Travel costs for aviation safety promotion were \$34,000.

*1999 TRAVEL COSTS FOR FOREIGN INVESTIGATIONS*

| Accident Site                       | Airline/aircraft              |
|-------------------------------------|-------------------------------|
| Mozambique .....                    | Linhas Aereas/Boeing 747SP    |
| Pointe a Pitre, French Indies ..... | Miami Air/Boeing 727          |
| Jumla, Nepal .....                  | Necoo Air/Cessna 208          |
| Madras, India .....                 | Air France/Boeing 747         |
| Adana, Turkey .....                 | Turkish Airlines/Boeing 737   |
| Redhill, UK .....                   | Robinson R-22                 |
| Shanghai, China .....               | Korean Air/MD-11              |
| Mas Mesitas .....                   | Piper PA-31                   |
| Hong Kong .....                     | China Airlines/MD-11          |
| Taiwan .....                        | UNI Airlines, MD-90           |
| Argentina .....                     | LAPA Airlines, Boeing 737-200 |
| Tanzania .....                      | Cessna 404                    |

The travel cost to support these investigations was about \$226,600. However, the travel vouchers for the last four investigations have not been received, but are estimated to add from \$150,000 to \$175,000 to the 1999 foreign travel costs. Travel costs for aviation safety promotion were \$37,000.

## NTSB'S PROPOSED STATUTORY AUTHORITY REVISIONS

*Question 1.* Your written testimony outlines the Board's requested nine changes in statutory authority. Does this outline reflect the Board's order of preference for these proposed statutory changes? If not, please indicate what provisions you consider most important to the Board for meeting its responsibilities.

*Answer.* The order of presentation follows the ordinal arrangement of the statute and does not indicate a preference. Each request speaks to a specific problem area, some of which do not appear to be at all controversial. None are considered less than critical for the area they address.

For example, new authority to treat surface and video recorders with appropriate confidentiality will be essential to establishing wide-spread use of this type of tech-

nology. Likewise, 12-mile jurisdiction in marine investigations appears to be without controversy, but could become crucial to our program, were an accident within that range to occur. The authority to enter into agreements with foreign safety authorities, again not controversial, is terribly important to our increasingly busy international investigative activity. The two provisions which would reaffirm our leadership role in transport accidents and establish a practical right of independent investigation for our marine program are fundamental to our ability to do the job assigned by Congress. And fair overtime pay for our personnel at the scene of an accident is a very pressing matter.

Choosing between any of these requests would be most difficult, and it is not obvious to us why such a choice would be required.

*Question 2.* In regard to the Board's request for several Federal civil service personnel exemptions, you indicated the changes are "consistent with provisions permitted to other transport agencies."

(a) Please discuss how each of the requested changes are consistent with those provided to other transport agencies, identifying which agencies already have been granted the specific statutory changes, how the changes have been implemented, and the impact on attracting qualified new hires.

Answer. Below is information on each of the four requested administrative revisions.

*Overtime (accident investigation only).* The Coast Guard pays a "true" or actual 1½ times hourly pay for its ship safety inspectors. These individuals perform work at odd hours but do not face working conditions as arduous, hazardous or demanding as an accident investigator with NTSB. The Federal Aviation Administration (FAA), with which the Board's mission most closely relates, has been freed by Congress from virtually all constraints imposed by civil service law. Coast Guard has implemented its authority with regulations while the FAA is in the process of bargaining with its unions to implement the changes. The Board is asking for an exemption from negotiating both its overtime and pay provisions with the union. The payment of true overtime to accident investigators is an obvious recruiting retention tool.

*Special Excepted Service Hiring Authority (accident investigators only).* This requested authority is not employed in other agencies. However, all Federal attorney positions, except political appointments, are filled using the excepted service authority. We are seeking to speed up the currently cumbersome process. Most agencies hire new employees at an entry level or through processes internal to the Federal government. With regard to accident investigators, the Board seeks to hire mid-career, experienced and skilled professionals. The competitive civil service system was not constructed to accommodate such a need. We believe we can speed up our hiring by an average of three months with this authority and get as good or better new employees as in the old system. Currently, in the recruiting process, when we find a likely candidate we must steer them into the system. Frequently, by the time we are able to make a job offer they have secured other employment.

*Pay Setting Authority (accident investigators only).* FAA has this authority for its entire work force based on 1996 legislation. The Board is seeking this authority for the sole purpose of assuring the ability to stay competitive with the FAA and private sector employers.

*No Penalty Retirement (accident investigators only).* Since we hire most of our investigators in mid-career and from outside government, we tend to hire individuals who are about age 35. We found that at 55 years of age, some of our investigators are no longer able to easily meet the arduous physical demands of the job. We believe it would both aid recruiting and provide equity with similar government jobs, i.e., law enforcement investigators, if our investigators could retire at 55 with 20 years of service without a serious penalty. Retirement from law enforcement activities requires age 50 and 20 years of service to gain eligibility, a lower standard than we are requesting. This would not be a mandatory retirement, but merely an option.

(b) Also, which transport agencies are you referring to and are the exemptions identical to those at other transport agencies?

Answer. The transport agencies are primarily the FAA (all pay provisions) and the Coast Guard (overtime), although the Saint Lawrence Seaway and the Maritime Administration (at the Merchant Marine Academy) have considerable flexibility in pay setting and hiring practices. The flexibilities we are requesting are not identical to those at other agencies. We are seeking only those authorities that we believe will meet the Board's specific and unique needs.

*Question 3.* The NTSB's reauthorization proposal includes a provision that would reaffirm the Board's priority over other federal departments and agencies during accident investigations. I understand that this provision arose out of problems encountered during the investigation of the TWA Flight 800 tragedy.

(a) Could you provide us with a brief outline of the concerns that you feel the requested priority reaffirmation would address?

Answer. The request to reaffirm NTSB authority in the event of parallel federal investigations arises out of several issues, perhaps the most important being an ambiguity introduced into the statute by the Family Assistance Act. The Act included a provision stating that its terms were effective in any aircraft "accident" regardless of its suspected cause. (The FBI has cited this provision in correspondence with the Senate as a basis to question the intentions of Congress with respect to NTSB jurisdiction at disaster scenes where criminal activity cannot be ruled out.)

The investigations surrounding TWA 800 pointed out the immense difficulty of assuring full coordination in the context of an extremely high profile major disaster, where expectations for aggressive action by all agencies are great. However, because there appeared to be little doubt about the ultimate jurisdiction of NTSB to supervise the assemblage of wreckage, at least to the point of reliable evidence of an intentional criminal act, accommodations were reached that permitted all concerned to proceed. In order to assure that there is no setback in future investigations and that matters do not become even more controverted than they might have been in TWA Flight 800, NTSB has requested that Congress reaffirm its continued desire for NTSB to perform its functions in all major transportation disasters, consistent with its decades-long practice. NTSB feels certain that Congress did not intend, through enactment of the Family Assistance Act, to change this arrangement.

(b) Would this language in anyway increase the burden that the NTSB must shoulder during an investigation that might have criminal implications?

Answer. No. NTSB has traditionally accommodated its practices to the legitimate demands of criminal investigators, consistent with our concern for the preservation of evidence in a fashion suitable to all involved. The NTSB has an undisputed track record for ceding leadership to criminal investigators in cases where intentional acts of destruction are reasonably indicated. These matters would not change.

(c) How would the TWA Flight 800 investigation have been different if this provision had already been enacted into law?

Answer. NTSB's request is not focused on the changes that might have occurred within the context of TWA Flight 800, but on assuring that there is no erosion of our ability to perform our responsibilities should another such accident occur. NTSB is vastly out staffed in terms of assets and personnel by other departments of government. In the absence of clear statutory authority, our negotiating position is decidedly poor.

(d) If the NTSB has priority during the investigation of an incident, does that mean that law enforcement investigations cannot take place unless the NTSB has analyzed the scene first?

Answer. No. It cannot be said often enough that NTSB has long experience with coordinating and cooperating with criminal investigators, and that the possibility of disturbing evidence of a crime is something we always take into account and are willing to take any necessary steps to avoid. Such accommodations were made for TWA Flight 800, and in a host of recent accidents in all modes of transportation.

(e) What is the risk that NTSB investigators, who may not have training in criminal investigation practices, may inadvertently contaminate or compromise evidence in a situation where a crime may have occurred?

Answer. There is little risk that our investigators would contaminate a crime scene. As a practical matter, we are not the first agency on scene, so scene security will not be primarily an NTSB function. Immediate coordination with all affected agencies is a hallmark of our operating procedures, and this permits every necessary opportunity to structure investigative tasks to accommodate all legitimate necessities of criminal investigation.

#### REQUEST FOR PRIORITY OVER MARINE INVESTIGATIONS

*Question 1.* The Board is currently seeking priority in investigations of all marine accidents. Currently, such investigations are conducted by either the Coast Guard or the NTSB, depending on the circumstances as laid out in a memorandum of understanding (MOU) between the two agencies.

(a) Please explain what procedures are currently followed when a marine accident occurs and the NTSB wishes to be the lead investigative party?

Answer. Upon accident notification, discussions commence between NTSB and Coast Guard (USCG) headquarters in Washington, DC. When notified of a major marine accident by the Coast Guard, a Safety Board senior marine staff manager notifies the USCG of our intentions. If the NTSB decides to launch a major team from headquarters, we would prefer to conduct the investigation under NTSB rules. However, the joint regulations require both agencies to agree. The USCG then de-

cides whether to agree or not and notifies the Board. If the Board believes the issues may involve USCG responsibilities or safety issues with national impact, negotiations will commence. In the meantime, given the Board's intention to investigate we launch a team to the site. Negotiations, either verbal or written, will continue throughout the launch, and up to and including arrival of the team on scene.

(b) Have the current procedures resulted in impediments to marine safety investigations and if so, please explain how?

Answer. The current procedures have impeded NTSB investigations and, therefore, marine safety. If the Coast Guard elects to conduct its own investigation, it may refuse to participate in the NTSB investigation. While conducting its investigation, witnesses have been made unavailable to NTSB, access to evidence has been refused, and local law enforcement and other officials are confused as to who is in charge. Compounding these impediments, in many accidents, the Coast Guard investigates the application and enforcement of its own regulations and its own personnel. All of this results in delaying safety recommendations that could prevent future accidents, and an erosion in public confidence in marine safety.

(c) Have there been discussions between the NTSB and Coast Guard regarding the Board's primacy proposal? If not, please explain why and if so, please highlight those discussions and the status of any pending agreement.

Answer. Chairman Jim Hall visited Admiral Loy, the Coast Guard Commandant, in October 1998 to discuss issues of mutual interest including the Chairman's intent to pursue full independence. Independence of action, rather than primacy, is the real issue at stake. Even under new law, the NTSB will only investigate a handful of the most significant marine accidents. Admiral Loy indicated at that time that he would continue, as had his predecessors, to oppose this change. No proposals or agreements are being discussed with the Coast Guard at this time.

(d) Apart from your views of primacy for all major marine cases, what other issues in the MOU or joint regulations need to be addressed?

Answer. More than 70 percent of our accident investigations include foreign flag vessels, yet NTSB has no official voice internationally on how these accident investigations will be conducted under international rules. In aviation, NTSB has official representation at the International Civil Aviation Organization (ICAO) with regard to accident investigation issues. In marine, USCG and the International Council of Cruise Lines have representation at International Maritime Organization (IMO); NTSB does not. Other issues, such as accident notification and accident site security, may also benefit from further discussion, but they are in the realm of fine tuning rather than policy change.

*Question 2.* Please briefly describe the background, experience, and location of the marine investigative personnel at the NTSB.

Answer. All NTSB marine investigative personnel are located at our Washington, DC headquarters. Individual information follows:

*Senior investigator:* BE State University of New York Maritime College; licensed marine engineer; 25 years experience in marine industry, including seagoing experience and investigative experience with U.S. Navy (MSC), U.S. Coast Guard and NTSB.

*Senior investigator:* BS USCG Academy; MS M.I.T. in Naval Architecture, MS M.I.T. in Mechanical Engineering; MBA NYIT; 22 years USCG (Commander retired), 5 years investigative experience at NTSB.

*Senior investigator:* BS in Marine Transportation State University of New York Maritime College; Licensed Mate; 19 years investigative experience at NTSB.

*Senior investigator:* BS, USCG Academy; MA Webster University in Human Relations; 23 years Coast Guard experience; 14 years investigative experience at NTSB.

*Senior investigator:* BS, US Merchant Marine Academy in Marine Transportation; 20 years US Navy experience; 2 years sea service cargo and tank ships; 18 years investigative experience at NTSB.

*Senior investigator:* BS, Massachusetts Maritime Academy in Marine Transportation; MBA, Suffolk University; Licensed Inland Master, any gross tons, licensed ocean Master, 1,600 gross tons; 9 years sea service; 10 years investigative experience with NTSB.

*Senior investigator:* BS in Naval Architecture and Marine Engineering; MSE, University of Michigan in Naval Architecture and Marine Engineering; 9 years marine industry experience; 4 years at USCG in safety regulations development; 8 years investigative experience at NTSB.

*Marine investigator:* BS in Oceanography and Meteorology, State University of New York Maritime College; Master Oceans, any gross tons, First Class Pilot, any gross tons; 24 years sea experience; 27 years US Navy Reserve; 3 years investigative experience at NTSB.

*Marine investigator:* BS, US Merchant Marine Academy in Marine Engineering; JD, George Mason University Law School; Licensed Master, 12 years sea experience.

*Marine investigator:* BS in Marine Engineering; Licensed Chief Engineer, Steam & Motor, USCG; 10 years sea experience.

*Marine investigator:* BS, SUNY Maritime College in Marine Transportation; Licensed Master Mariner; 10 years sea experience; 2 years MSC environmental policy experience; 1 year NTSB investigative experience.

*Senior human performance investigator:* BS in Psychology; MA in Experimental Psychology; 9 years investigative experience at NTSB.

*Senior survival factors investigator:* 15 years NTSB investigative experience.

*Human performance investigator:* BS, MS Florida Institute of Technology in Psychology; PhD, Virginia Polytechnic Institute in Industrial Engineering; human performance researcher USCG Research and Development Center.

*Question 3.* If the NTSB were given priority in marine investigations, what effect would that have on your current workload and budget?

*Answer.* The most significant effect would be a major improvement in the collection of safety-related information and evidence during the on-scene phase of the investigation and the timely issuance of safety recommendations. The workload would be somewhat alleviated by reducing the time used in negotiation with the USCG and in the time spent trying to recapture factual information lost during the on-scene investigation. The Board's marine budget should not be affected.

*Question 4.* In May 1997, the vessel Evergrade collided with the Coast Guard vessel Cowslip near Astoria, Oregon. Since the accident involved the Coast Guard, NTSB investigated the incident but has yet to release its report. What is the cause of the delay and when do you expect to release the report?

*Answer.* Because of a heavy workload, the investigation of this accident took longer than we anticipated. However, the report is currently under review by the Board, and is expected to be released in the near future.

*Question 5.* Your legislative submission indicates that marine accidents are most similar to aviation accidents. However, the Coast Guard contends that marine accidents are, in fact, quite different from other transportation accidents. According to the Coast Guard, a marine accident can last for weeks, beginning with high-risk search and rescue operations, firefighting, or waterway closures and later shifting to marine traffic control problems, salvage efforts and pollution response.

(a) Please briefly describe the differences between conducting an aviation accident investigation and a marine accident investigation.

*Answer.* The TWA Flight 800 accident is an example of an on-scene aviation investigation that lasted many months and involved substantial emergency response, fire-fighting, and salvage efforts. For both aviation and marine accidents, we launch technical experts with extensive modal and accident investigation experience to document and collect factual material regarding operations, engineering, damage, fatalities/injuries, human performance and survival factors including emergency response. The major difference between aviation and marine accidents is in the emergency response phase. Local emergency response agencies generally respond in aviation accidents, and in marine accidents much of the emergency response, such as search and rescue and pollution abatement, is conducted by the Coast Guard. This aspect of the on-scene accident investigation responsibilities, once again, is better suited to an NTSB-led investigation. NTSB simply documents and observes, rather than enter into the decisionmaking that may or may not extend the damage from the accident.

#### RAND REVIEW

*Question 1.* Your testimony highlighted the RAND Corporation's review of the Board and some of its anticipated findings. While, as you mentioned, Committee staff has received two briefings from the Board and RAND some time ago, when can we expect this review finally to be completed? Given the preliminary findings, are you satisfied with the work conducted by RAND, and, has it been timely in your view?

*Answer.* The RAND report is in final editing and we expect the report to be issued by the end of September. We are disappointed in RAND's lack of timeliness. We report was originally due in the Spring.

*Question 2.* In testimony at the House Aviation Subcommittee NTSB reauthorization hearing, an individual from RAND Corporation testified. In her testimony, she stated that further analysis was needed in order to define the dimensions the salary disparity between mid-career NTSB staff and engineering salaries in the industry. This individual further testified that the NTSB should look at such factors as the benefits of federal employment in comparison to compensation packages in the pri-

vate sector. Is the NTSB planning such an analysis and if so, are the personnel reforms you are seeking premature?

Answer. I think the report will clearly demonstrate a lag in NTSB salaries at the critical mid-level engineering specialties. Further analysis on this issue, in the face of a continued competitive market, will simply postpone the point in time when the NTSB can optimally staff.

#### AVIATION QUESTIONS

*Question 1.* The NTSB's list of its Most Wanted Transportation Safety Improvements includes three aviation-related issues. The NTSB believes that the Federal Aviation Administration (FAA) should take steps (1) to reduce the risk of airport runway incursions; (2) to address the problem of airframe structural icing; and (3) to preclude explosive fuel-air mixtures in the tanks of transport aircraft.

(a) What does the FAA need to do to get each of these items taken off the Most Wanted list? Have the FAA's responses to these recommendations been satisfactory?

Answer. These issues remain on the "Most Wanted" list because Safety Board analyses show that FAA has more work to do to reach the higher level of aviation safety the Board believes is necessary. Once FAA fully implements recommendations in these three areas or shows substantial progress in implementing them, the Board will make a decision on whether or not to remove them from the list. NTSB staff is in continual contact with FAA staff on these issues and FAA staff is aware of actions NTSB desires before removing items from the list. The Board discusses and reviews the list annually at a public meeting during which items may be added and deleted. Below is a synopsis of the status of the three issues:

*Runway incursions:* Since 1972, the NTSB has investigated dozens of runway incursion accidents and incidents, released a special report in 1986, and issued more than 30 recommendations relating to the dangers of runway incursions. Because FAA has not been doing enough, nine years ago the NTSB added runway incursions to its "Most Wanted" list. Recommendation A-91-29, issued in 1991, urges FAA to expedite efforts to implement an operational system to automatically alert controllers to pending runway incursions. There has been a continuing increase in the number and rate of incursions over the past five years, and this issue remains a serious concern. Several independent studies have labeled FAA's efforts "ineffective."

*Explosive mixtures in fuel tanks:* The TWA Flight 800 accident focused attention on the dangers of fuel tank explosions. Two recommendations on the list are currently classified as "unacceptable." Recommendation A-96-175 urges FAA to modify procedures to reduce the potential for explosive mixtures in aircraft fuel tanks. In Boeing 747s, consideration should be given to refueling the center wing fuel tank from cooler ground fuel tanks, proper monitoring and management of fuel tank temperature, and maintaining appropriate minimum fuel quantities in tanks. Recommendation A-96-176 asks FAA to require flight handbooks of Boeing 747s, and other aircraft in which fuel tank temperature cannot be determined by flight crews, be immediately revised to reflect increases in fuel temperatures found in flight tests, including procedures to reduce exceeding tank temperature limitations.

*Airframe icing:* Two major aviation accidents in 1994 and 1997 prompted six recommendations to improve the safety of aircraft flying in icing conditions. All six are listed as "acceptable" action, but are still open because FAA has not yet met the final goals of the recommendations. Recommendation A-96-54, urges FAA to revise regulations to reflect recent research into aircraft ice accretion, drop size, and temperature, and recent developments in the design and use of aircraft, and to expand certification procedures to include freezing drizzle/freezing rain and mixed water/ice crystal conditions. A-96-55 asks FAA to revise icing certification requirements and advisory material to specify volume and liquid water content during certification tests. A-96-56 urges FAA to ensure that airplanes are properly tested for all conditions in which they are authorized to operate, or impose operational limits to prohibit flight in such conditions. Flight crews should be provided with the means to positively determine when they are in icing conditions that exceed aircraft certification limits. A-96-69 asks FAA to research and develop on-board aircraft ice protection and detection systems to alert flight crews when the airplane is encounters freezing drizzle and rain. A-98-99 asks FAA to expedite the research, development, and implementation of revisions to the aircraft icing certification testing regulations. A-98-100 asks FAA to review the icing certification of all turbopropeller-driven airplanes.

*Question 2.* Overall, how is the working relationship between the FAA and the NTSB? Does the FAA do a good job of responding to NTSB recommendations?

Answer. The NTSB and the FAA continue to enjoy an atmosphere of professional tension that is necessary when an independent agency provides oversight of another agency. Public perceptions that there were major disagreements and difficulties between our agencies are not borne out by the reality of our relationship.

Regarding the FAA's responsiveness to NTSB safety recommendations, I recently stated I am generally pleased with the FAA's responsiveness. However, some issues on the NTSB's Most Wanted list continue to cause concern. Runway incursions continue to grow and the FAA has been quite slow in implementing changes to reduce this serious hazard. Pilot fatigue has been on the Most Wanted list since its inception. Despite a Notice of Proposed Rulemaking issued several years ago, nothing has been done to address the current regulations governing the flight and duty times for pilots. The FAA has stated it will likely issue a supplemental NPRM. We believe this will only further delay any resolution to this important safety issue. Any further delays on this issue is an unacceptable risk to the traveling public. Further, the FAA has not acted quickly on fuel tank flammability and wiring issues. Although some progress has been made, aircraft icing certification also remains on the Most Wanted list.

*Question 3.* Are there other important aviation safety issues that the Board has considered placing on the Most Wanted list?

Answer. The Board reviews the Most Wanted list annually to determine if any additional items should be added to the list. While the Board considers all of its recommendations to be important, it reserves the Most Wanted list for those items that the Board believes will have the greatest impact on transportation. During this year's review, there were several additions made to support existing topics, but no additional topics were identified for inclusion on the list.

*Question 4.* Has the NTSB worked with the FAA in the development of a strategic plan for aviation safety as recommended by the National Civil Aviation Review Commission?

Answer. The Safety Board has reviewed the NCAR report and recommendations. Safety Board and FAA staff meet periodically to discuss the various safety issues of concern and to discuss the application of resources to the areas with the most potential payoff. However, the Board's Most Wanted safety recommendations reflect the topics the Board has identified as major areas for strategic action by the FAA.

*Question 5.* Chairman Hall, the NTSB allows groups such as airlines, manufacturers, pilots unions and others to participate in the fact-finding phase of a probe or investigation, which has been referred to as the "party system." I would like your views on the "party system."

(a) Do you see a conflict of interest by involving these types of groups that often have a financial interest in the outcome of the investigation.

Answer. There is unquestionably some tension within these organizations as to their participation in our fact-finding process. Our processes recognize this, and it is the basis for our exclusion of such parties from our analytical and recommendation processes. To move further toward independence is, perhaps, a preference, but cannot be achieved without a significant change in funding available for independent testing and investigation.

(b) After the American Airlines accident in Little Rock, Arkansas, you expressed your disappointment on how Mr. Bob Baker, President of American Airlines, interacted with the media following the tragic accident. Is there any type of policy relating to media interaction by employees of a company that was involved in an accident, or do you foresee the need for such policy in order to manage the flow of information following a tragedy.

Answer. The Board is working with the Air Transport Association on a new policy outlining media relations following major aviation accidents. This is under final review by both organizations. We anticipate this process will help forestall future difficulties, and we will be happy to provide your staff with a copy of the policy as soon as it is completed.

(c) Staff has been informed that the RAND study may recommend revisions to the party system "pledge" agreement which was developed in 1967 and has continued unchanged since that time. What is the Board's reaction to this idea and does the Board believe that three decade-old pledge needs to be updated?

Answer. The NTSB will review RAND's proposals fully during the next quarter. However, there is little doubt that some alteration in our organizational processes may be necessary.

*Question 6.* In 1997, Congress approved legislation that requires foreign airlines operating to and from the United States to submit a plan to DOT for dealing with the needs of victims and their families following airline accidents in the U.S. I know you have urged ICAO to develop a guidance program to support victims of aviation

accidents and their family members. What action has ICAO taken relating to this issue?

Answer. On January 29, 1999, ICAO issued a letter to all 188 member states soliciting their views on the need for ICAO guidance or Annex provisions. ICAO also requested that all states with family assistance information forward the material to ICAO for use in developing standardized guidance to member states. ICAO received the requested information from the states in April 1999, and is currently working on a draft document for review by the States. We have offered our assistance and experience to ICAO in developing family assistance guidance.

*Question 7.* Some observers believe that accident investigations are taking too long and increasingly result in no remedial action. Is there any validity to such views?

Answer. Investigations have become increasingly complex and quite lengthy. A number of our staffing priorities are aimed at permitting the Board to build an organization with the depth and abilities to address this issue. We disagree that there is lack of action following a Board investigation. FAA's acceptance rate for Board safety recommendations is over 80 percent. Some of those recommendations dealt with flight safety in Alaska, fuel tank explosions, and aviation wiring, all issues that have made it safer for the flying public.

*Question 8.* A few weeks ago, the NTSB launched an inquiry into a near collision on a Kennedy Airport runway between an Air France Boeing 747 cargo jet and a departing Icelandair Boeing 757 that carried 185 passengers. Given that the NTSB is primarily responsible for accident investigations, what actions does the NTSB plan to take with regard to near collision incidents?

Answer. Certainly, the near collision at JFK airport between the Icelandair Boeing 757 and the Air France Boeing 747 had high potential for a catastrophe. That incident is still under investigation. The NTSB is also investigating a serious incident involving a near collision between an Air China Boeing 747 and Korean Airlines Boeing 747 that occurred a month earlier at O'Hare Airport. Although the subject of runway incursion prevention is already on the Safety Board's Most Wanted list, these incidents suggest that the problem is far from being resolved. We are now evaluating the need for additional safety recommendations.

*Question 9.* In the past, what recommendations, if any, has the NTSB made relating to near collision incidents?

Answer. Nine years ago, the NTSB added runway incursion prevention to its Most Wanted list of safety improvements because we believed that the FAA was not acting aggressively enough. The Most Wanted list contains a 1991 safety recommendation that urges the FAA to expedite efforts to fund the development and implementation of an operational system analogous to the airborne conflict alert system to alert controllers to pending runway incursions at all terminal facilities that are scheduled to receive airport surface detection equipment (ASDE-111).

In mid-1998, the FAA made a public commitment to renew its efforts to tackle the runway incursion problem. The FAA has made some progress in the installation of the Airport Surface Detection Equipment (ASDE-3) radar systems which will go far to improving runway safety. The latest figures from the FAA indicate that 40 ASDE-3 systems have been commissioned. Except for the installation and current testing of Airport Movement Area Safety Systems (AMASS) at the San Francisco, St. Louis, Detroit, and Atlanta airports, we have seen little progress in the development and installation of AMASS that is designed to alert controllers to an impending surface incident. We remain concerned that technical problems with this much-needed system continue.

Of further concern is the fact that AMASS will only be installed at 39 large airports, which leaves scores of other air carrier airports without redundant systems to prevent ground collisions. Currently, there are several low-cost runway incursion systems under development that could enhance safety at many airports.

During a May 1999 public meeting, the NTSB kept runway incursions on the Most Wanted list and again urged the FAA to implement an effective plan. Over the past five years, both the number and rate of runway incursions have increased. Because of this, the Safety Board remains concerned.

*Question 10.* Your prepared testimony states that in 1998, the Board supported 130 international accident investigations, both on scene and in your laboratories. Can you give me a rough estimate of the costs the NTSB has incurred as a result of these 130 international accident investigations?

Answer. The cost to support international accident investigations in 1998 (excluding salaries and overtime) was approximately \$180,000. The full cost, including the salaries, benefits, and peripheral activities necessary to support our foreign presence easily exceeds \$750,000.

*Question 11.* A recent newspaper article reported that about half of the world's passenger jets contain types of electrical wire insulation that experts said were prone to chafing or cracking under certain conditions. Of course, such damaged wire may increase the risk of fires or electrical failures.

(a) Does the NTSB have a sense of the scope of the problem?

Answer. The Board is aware of claims that this is not a problem and counter-claims that the problem is substantial. Consequently, the Safety Board currently has work in progress to examine this issue. We have contracted with three laboratories to examine the physical aspects of aged wiring and the arcing phenomenon, and we are also collecting data to examine the mixture of wiring that is installed in the world's fleet of commercial transport airplanes. Although this work is on going and we are unable at this time to provide additional specific recommendations, our concerns regarding aging aircraft wiring safety include: ensuring that low voltage fuel system wiring is separated from high voltage wiring from other systems; ensuring that no wiring is routed in proximity to flammable oxygen, fuel, and hydraulic lines or critical flight control cables; and preventing the contamination of wiring by fluids, flammable lint, metal shavings, or other debris.

(b) Do aging wires and electrical systems pose a significant safety hazard?

Answer. The Safety Board is concerned about wiring maintenance, particularly as airplanes age. Industry and regulatory efforts have been relatively ineffective in preventing the types of wiring hazards seen during the TWA Flight 800 investigation. Our wire examinations have shown that it is virtually impossible to eliminate all potential ignition sources, and underscores our belief that the flammability of fuel vapors be reduced as much as possible. A Safety Board recommendation issued to the FAA on this issue is still open.

(c) In the NTSB's opinion, is the FAA doing enough to address this issue? If not, what more can be done?

Answer. The FAA has participated in the Safety Board's examinations of air carrier airplanes and examined other airplanes based upon Safety Board findings. The FAA subsequently initiated their own "Aging Transport Non-Structural Systems Plan." As a result of their plan, the FAA has convened an Aviation Rulemaking Advisory Committee and has taken other actions. While we are concerned about the level of industry input, the Safety Board will continue to monitor the FAA actions and outcome.

*Question 12.* Chairman Hall, the new electrical-based systems such as video gambling, video entertainment equipment, advanced internet and phone capabilities, and similar technologies are rapidly being installed on passenger aircraft.

(a) Does the NTSB believe such passenger electronic systems pose a safety risk?

Answer. This issue is currently being explored as part of the Swissair Flight 111 investigation conducted by the TSB of Canada.

(b) Have the safety implementations of the electronic systems been investigated enough or do they warrant more careful examination prior to installation on passenger aircraft?

Answer. As part of the Canadian investigation of Swissair Flight 111, the Safety Board agreed that the FAA should conduct further study of the issue. In the fall of 1998, the FAA formed a Special Certification Review Team to look at the Swissair MD-11 airplane in-flight entertainment system. While the NTSB is still reviewing the findings of the certification review team's report, issued on June 14, 1999, the report identified concerns with the installation of the system.

*Question 13.* I recognize that the Little Rock, Arkansas aviation accident is still under investigation and I'm not asking you to comment on that specific case. But that accident incident has highlighted longstanding issues associated with crash survivability and aircraft evacuation procedures.

(a) What significant recommendations has the NTSB made with respect to these issues?

Answer. Crash survivability and aircraft evacuation are a long-standing concerns of the Safety Board. The NTSB has testified before the Congress and issued numerous safety recommendations since the Board's inception related to the crash-worthiness of seats and cabin furnishings, the flammability of interior materials, and evacuation equipment and procedures. This issue has also been the subject of Board safety studies and special investigations over the years. We will review these issues once again in our investigation of the Little Rock accident.

(b) Is the FAA placing enough emphasis on addressing survivability and evacuation concerns?

Answer. As part of its investigation of the accident at Little Rock, Arkansas, the Safety Board will thoroughly evaluate the issues associated with occupant survivability and evacuation. Also, the Safety Board is conducting a safety study on Emergency Evacuation. The Board has collected information on 46 evacuations and is

conducting a detailed investigation of 30 of those evacuations. The Safety Board will assess the current FAA emphasis on survivability and evacuation as part of its investigation of the accident at Little Rock, and the evacuation safety study.

(c) Is the industry moving fast enough to install items such as stronger seats and more fire-retardant materials for the interiors of aircraft?

Answer. The Safety Board supported the 1988 FAA rulemaking to require 16G seats in newly certificated aircraft and continues to monitor the FAA's proposed rulemaking on 16G seat retrofit. The Board issued safety recommendations related to the replacement of interior materials (A-96-86 and -87) to the FAA in 1996. Those recommendations were classified "Closed Unacceptable Action" on June 8, 1999, because the Board did not believe that the replacement schedule for interior materials was adequate.

(d) It is my understanding that the FAA allowed three jet models to be certified without going through live evacuation tests. Do you think that was appropriate under the circumstances and what jet models were certified without live evacuation testing?

Answer. The Safety Board recently commented on an FAA Proposed Advisory Circular on "Emergency Evacuation Demonstrations." In its comments, the Board stated, "Although the FAA contends that sufficient data exist from previous evacuation demonstrations and tests to pen-nit analytical proof of regulatory compliance, the Board believes that full-scale demonstrations provide critical information that is unobtainable from analysis and subsystem tests alone. For example, in past demonstrations, escape slide design and lighting problems have been identified. Also, flight attendant procedures to optimize passenger management have been modified because of demonstrations that failed to meet the 90-second certification requirement."

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RESPONSES TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO HON. JAMES E. HALL

*Question 1.* This week, the State of Florida brought 110 counts of third-degree murder against SabreTech—the Miami company that you found to have improperly loaded hazardous oxygen tanks on board ValuJet Flight 592, which crashed into the Florida Everglades in May 1996, tragically killing 110 people. A federal grand jury then immediately indicted SabreTech, two of its mechanics and a maintenance director on charges of conspiring to cover up the problems that lead to the accident and failing to train personnel in handling hazardous materials. What is your view of this highly unusual action? Do you think it will impact the Board's investigative abilities? If so, how?

Answer. As you know, the NTSB is responsible for determining the probable cause of major transportation accidents and for issuing safety recommendations aimed at preventing future accidents. Separate criminal investigations are not uncommon, although a homicide prosecution in a high profile air carrier accident has heightened attention on this issue. We appreciate the respect that both Federal and Florida authorities demonstrated for the work of the NTSB in the SabreTech matter. Our investigation of the ValuJet accident was permitted to proceed, and we issued our final report on the investigation in August 1997. We believe that this case demonstrates that when mutually mindful of each others' needs both the NTSB and law enforcement authorities can fulfill their responsibilities without hindering the work of the other.

It is too soon to assess what impact this prosecution may have on NTSB investigations. Obviously, criminal prosecutions, or even the threat of such prosecutions, can result in some witnesses refusing to be interviewed or to testify. It is worth noting that at the heart of the criminal charges in the SabreTech prosecutions is the intentional falsification of records pertaining to the shipment of regulated hazardous material, and not alleged accidental or negligent behavior. Whether or not the charges are sustained, we cannot count on individuals who may have falsified records to be forthcoming witnesses in an NTSB investigation.

*Question 2.* The NTSB announced its decision in the USAirways Flight 427 Pittsburgh crash in April, I believe. The report has not yet been released. When do you anticipate releasing the report?

Answer. The Board adopted the report of the accident involving USAir Flight 427 on March 24, 1999, and the final report of the accident was placed on the Board's web site on July 20, 1999. The final copy is with the Government Printing Office, and we expect to receive the printed report shortly.

*Question 3.* The NTSB is renting a facility in Calverton, NY to house the wreckage of TWA Flight 800, which crashed in July 1996. I know that putting the pieces

of this plane together, and understanding what brought it down, was a long, and difficult task. The Appropriators apparently do not want you to continue using the Calverton site. How much would it cost you to move the aircraft, and where would you anticipate locating it? How would the move impact any ongoing work you are doing?

Answer. In response to the second question, the investigation is still on-going with many tests yet to be completed. When tests are performed, the results are compared to the 90-foot reconstruction. The reconstruction has been invaluable to the investigation, and we believe will become a unique training aid for accident investigators. It would cost approximately \$1 million to relocate this wreckage to the Washington Metropolitan area. The NTSB is currently working with the General Services Administration to identify space for the wreckage, the reconstruction, and training facilities. It is anticipated that the GSA will issue a prospectus in the Washington Post seeking open competition within a one-hour commute of the NTSB headquarters. The Safety Board recently moved the reconstruction and wreckage to a smaller hangar at the Calverton facility, at a savings of \$4 million per year.

*Question 4.* This past Tuesday night, Jim Kallstrom, former head of the FBI's New York office, and the lead FBI investigator on the TWA 800 crash, was interviewed on MSNBC about that investigation. He talked about the difficulties of the investigation and the pressure on the FBI. In your proposed reauthorization bill, you are asking for authority to make clear that you have primary jurisdiction over an accident scene (primary over even the FBI). Can you explain to us some of the issues you confronted in the TWA 800 investigation and why we should consider making that clarification?

Answer. The request to reaffirm NTSB authority in the event of parallel Federal investigations arises out of several issues, perhaps the most important being an ambiguity introduced into the statute by the Family Assistance Act. The Act included a provision stating that its terms were effective in any aircraft "accident" regardless of its suspected cause. (The FBI has cited this provision in correspondence with the Senate as a basis to question the intentions of Congress with respect to NTSB jurisdiction at disaster scenes where criminal activity cannot be ruled out.)

The investigations surrounding TWA Flight 800 pointed out the immense difficulty of assuring full coordination in the context of an extremely high profile major disaster, where expectations for aggressive action by all agencies are great. However, because there appeared to be little doubt about the ultimate jurisdiction of NTSB to supervise the assemblage of wreckage, at least to the point of reliable evidence of an intentional criminal act, accommodations were reached that permitted all concerned to proceed. In order to assure that there is no setback in future investigations and that matters do not become even more controverted than they might have been in TWA Flight 800, NTSB has requested that Congress reaffirm its continued desire for NTSB to perform its functions in all major transportation disasters, consistent with its decades-long practice. NTSB feels certain that Congress did not intend, through enactment of the Family Assistance Act, to change this arrangement.

*Question 5.* Under existing law, the NTSB is primarily responsible for the accident scene and for providing information to the press and the public about an accident. That process has generally worked well in the past. However, with today's real-time media and access to information through the Internet and round-the-clock television, it has become increasingly difficult to "control" the flow of information, and in the recent American Airlines accident in Little Rock which created some conflicts between the Board and the airline. While the integrity of an investigation is obviously a paramount concern, we need to ensure that the public has access to as much information as quickly as possible, and often the public can be reassured by interim reports and by hearing directly from the airline about what it knows and doesn't know and what it's doing. Going forward, how do we appropriately balance these somewhat competing needs?

Answer. The NTSB is cognizant of the changing nature of our news media and of an airline's need to provide a public presence after a major accident. Board staff have been working with the airlines, through their representative, the Air Transport Association, to clarify the guidelines about what constitutes an appropriate response by an airline involved in an accident and what is best left for the investigative team to discuss. On September 7, 1999, an agreement was signed by the Air Transport Association and National Transportation Safety Board Chairman Jim Hall regarding this matter, a copy of which is attached. In addition, the Safety Board, itself, intends to provide more frequent information updates for the news media at accident sites to help them better inform the public about the progress of an investigation.

PRINCIPLES OF UNDERSTANDING BETWEEN ATA CARRIERS AND THE NTSB  
REGARDING CERTAIN AVIATION EXPENDITURES RELATED TO THE RECOVERY AND  
IDENTIFICATION OF AVIATION ACCIDENT VICTIMS

With respect to aviation accidents occurring on or after the date hereof, the Air Transport Association (ATA) on behalf of its member airlines and the National Transportation Safety Board (NTSB) agree to abide in good faith and to the extent feasible under the circumstances by the following Principles of Understanding relating to certain expenditures arising out of or connected with major aviation accidents over which the NTSB has primary jurisdiction or control.

As a result of such major accidents, there are various expenses relating to logistical support and transportation for families of victims, victim recovery, victim identification, and burial arrangements that are incurred. In addition, the ATA carriers need to ensure that they retain their normal legal rights and remedies, and that some dispute resolution mechanism and continuing consultation process are agreed. The foregoing items thus form the basis for the following "Principles of Understanding":

1. *Logistical and Transportation Expenses for Families.* For a reasonable period of time after an aviation accident, the operating carrier will pay or cause to be paid the various reasonable logistical and transportation expenses (including food, lodging, local transportation, and travel to/from their home or other starting point) of the families of victims to, at and from the accident site or nearest appropriate location.

2. *Victim Recovery.* The ATA carriers and NTSB agree (a) that the operating carrier in a disaster has an interest in determining the proper identities of deceased victims, (b) that local coroners or medical examiners have responsibilities as well under state or federal law, or common law, to identify victims and to issue death certificates, and (c) that the NTSB is responsible under federal law for facilitating such activities. Given the factual variety in potential locations and consequences of aviation disasters, the ATA carriers and NTSB agree that no single set of principles can be applied in all situations relative to efforts to recover victims. When the operating carrier or NTSB believes in good faith that the commencement or continuation of the victim recovery effort in a particular accident is not reasonably practicable, the parties agree to consult forthwith in good faith to determine how, whether or to what extent to proceed, and to communicate their decision(s) jointly to the families when practical. The respective governmental agency/ies involved in recovery efforts will in any event continue to be responsible for the usual and customary costs of salaries, wages and benefits of their employees, contractors and volunteers, and of the normal costs of such operations (*eg.*, heat, light, power, supplies, etc.), pursuant to applicable law. The ATA carriers agree to consider in good faith paying or contributing to the payment of overtime wages of such persons when (a) the scope and proximity of the aviation disaster places a clearly excessive burden on the resources of the local medical authority and local fire and rescue personnel, and (b) procedures are agreed in advance for the documentation and reasonable control and scheduling of such overtime. However, the ATA carriers agree, in general, that the operating carrier should pay or cause to be paid the reasonable out of pocket operating expenses incurred for the recovery of victims and remains (as distinct from wreckage) when the recovery effort or its continuation is reasonably practicable, and consistent with both the purpose of the recovery or salvage effort described immediately below and of the identification hierarchy described in Paragraph 3 below. If the recovery or salvage equipment is recovering both wreckage (pursuant to an ongoing accident investigation) and human remains, the operating carrier is not financially or operationally responsible for any such salvage costs; however, if the salvage equipment is intended and is used solely to recover remains, then the operating carrier is responsible subject to the provisions of these Principles of Understanding.

3. *Victim Identification.* For the sole purpose of identifying deceased victims, not unassociated or individual tissue or remains, the operating carrier will pay or cause to be paid the usual and customary out of pocket expenses incurred as a result of the aviation accident by the local medical authority (*i.e.*, local coroner or medical examiner) for identification of victims through traditional means (*eg.*, visual, dental records, medical records, etc.). To the extent unidentified deceased victims remain thereafter, the operating carrier will pay or cause to be paid the reasonable out of pocket expenses incurred for reasonable alternative technological identification methods, such as DNA testing, solely to complete the victim identification process. Local governmental authorities will continue to be responsible for the salaries and wages of their employees or contractors, and the normal costs of operations, pursuant to applicable law. It is further agreed that the NTSB will itself use its good offices to support strongly the foregoing identification hierarchy processes with local

coroners, medical examiners, other governmental agencies (federal, state and local), family or victim assistance groups, etc., in an effort to reduce the cost of such identification processes to the maximum extent feasible. The ATA carriers agree in good faith to consider paying or contributing to the payment for (1) the transportation of the federal Disaster Mortuary Team ("DMT") and its mobile morgue to and from the site, (2) the DMT's extraordinary, but reasonable, out of pocket operating and resupply costs, subject to Paragraph 6, and (3) the DMT's reasonable daily salary costs, while on site, determined pursuant to the relevant federal employee pay scale; provided, however, that the local medical authority independently requests the DMT's assistance to facilitate and expedite the identification and release of victims' remains.

4. *Burial Arrangements.* The ATA carriers agree that the operating carrier should pay for reasonable and customary funeral expenses (including shipment of remains) for identified victims once the local medical examiner or coroner has released the remains.

5. *Airline Remedies.* Nothing in these Principles of Understanding is intended or is to be construed to limit, modify or waive any of the legal rights and available remedies of the ATA carriers (or their insurers through subrogation) for any airline expenses paid pursuant to these Principles of Understanding as against any third party, including without limitation any party who is or may be wholly or partially responsible for such accident, including but not limited to airframe, engine or component manufacturers, airport authorities, air traffic or other flight controllers, maintenance service or fuel providers, etc.

6. *Dispute Resolution and Consultations Regarding Victim Recovery and Identification.*

A. The ATA carriers and the NTSB agree that throughout the duration of an aviation disaster, including the on-site period as well as the subsequent response duration, representatives of the operating carrier and the NTSB will confer and consult with each other on an on-going basis, especially as it pertains to victim recovery and identification, but not to include the investigative process or its results. The NTSB agrees that any expenses for which the operating carrier is or may be responsible under these Principles of Understanding shall be reviewed with and approved by such carrier in advance to the maximum extent practicable, but in any event no major or material expenses of the operating carrier hereunder shall be committed by the NTSB without the operating carrier's prior consent. The ATA carriers and NTSB agree that every effort will be made to implement reasonable procedures for expeditious review and approval that are appropriate to the circumstances of the disaster in question.

B. The ATA carriers and NTSB agree further that (a) if any disputes arise under these Principles of Understanding, (b) if situations arise when their application is not certain, or (c) if either the operating carrier or NTSB disagrees with the application or prospective application of these Principles in a particular accident (which application has or may have a material adverse financial effect on the operating carrier or its insurers), the parties will act expeditiously and in good faith to resolve the dispute or uncertainty through direct discussions. The operating carrier may invite its aviation insurance broker and representatives of its insurers to participate in such resolution, in addition to legal counsel and other relevant advisors or representatives of the foregoing. The NTSB may invite such other assistance or representatives as it believes are relevant to resolve the dispute or uncertainty in question. The parties agree, however, to work in good faith and to make every attempt to conduct such dispute or uncertainty resolution on a confidential basis and without recourse to the media or other communications channels. Further, the ATA carriers, the ATA and the NTSB agree to hold periodic consultations in the future regarding their respective experiences under these Principles and other matters, and to work together in good faith to avoid or mitigate identified problem areas.

Agreed and Effective this 7th day of September, 1999.

CAROL HALLETT, PRESIDENT AND CEO,  
*Air Transport Association of  
America.*

JAMES E. HALL, CHAIRMAN,  
*National Transportation Safety  
Board.*

RESPONSES TO WRITTEN QUESTIONS SUBMITTED BY HON. TED STEVENS TO  
HON. JAMES E. HALL

*Question 1.* How would portable NAVAIDS (both enroute and approach) benefit general aviation safety in the bush and enhance safety overall for hunter and guide operations in Alaska?

Answer. In its 1995 study of aviation safety in Alaska, the Safety Board identified the need for an enhanced low altitude instrument flight rules (IFR) system in that State. Technological developments in satellite-based navigation using the Global Positioning System (GPS), can provide navigational coverage throughout Alaska for IFR enroute operations and non-precision approaches (which will be at least as accurate as the coverage provided by the military's portable ground-based navigational aids). Further, GPS will shortly provide the navigational guidance required for precision approaches. Because of the precision, widespread coverage, and efficiency of GPS, the Safety Board does not see advantages in the use of portable ground-based navigational aids.

However, the Safety Board is monitoring the development of precision approach capability using GPS to identify the extent of requirements for regional, ground-based local area augmentation of the GPS signals.

*Question 2.* As of today, what is the disposition of the outstanding safety recommendations your Board made in its 1995 study, "Aviation Safety in Alaska?"

Answer. With three exceptions (listed below), these safety recommendations have been "closed—acceptable" or are in an "open—acceptable" status. For those in an "open acceptable" status, the Safety Board is following several programs currently underway in response to the recommendations, including the Federal Aviation Administration's (FAA) Project Capstone, the National Weather Service's (NWS) test of remote color video cameras, and the U.S. Postal Service's new distribution procedures for bypass mail.

On December 20, 1996, the Safety Board closed its recommendation to the FAA on the augmentation of automated surface observation system (ASOS) weather observations in an unacceptable classification because the FAA did not plan to take action. However, the Board is pursuing augmentation of ASOS weather observations through an open safety recommendation to the NWS.

On March 20, 1997, the Safety Board closed its recommendation urging the NWS to provide near-real time "mike-in-hand" weather updates to pilots in an unacceptable status, after the NWS reaffirmed its national policy prohibiting this service.

On June 1, 1999, the Safety Board classified its safety recommendation on pilot flight time limitations and rest time requirements in an open—unacceptable status. Despite a Notice of Proposed rulemaking issued several years ago, nothing has been done to address the current regulations governing the flight and duty times for pilots. The FAA has stated it will likely issue a supplemental NPRM. We believe this will only further delay any resolution to this important safety issue. Any further delays on this issue is an unacceptable risk to the traveling public.

*Question 3.* Would your organization participate in a NIOSH interagency initiative on safety in Alaska? And if so, what Congressional support would you need?

Answer. The Safety Board has reviewed the National Institute on Occupational Safety and Health (NIOSH) proposal, and we concur in general with NIOSH's outline of the safety problems in Alaska and the goals of its research project. As proposed by NIOSH, the project is primarily a collaboration between that agency and the FAA's Alaskan Region Flight Standards Service. NIOSH does not propose the use of Safety Board resources in the project. Nevertheless, the Board will support this effort through participation of its Office of Research and Engineering, Safety Studies Division and Office of Aviation Safety, Northwest Regional Office staff. Based on the NIOSH proposal, no additional Congressional support would be required for the Safety Board's participation in this activity.

The Safety Board is concerned, however, that the retrospective review of accident data proposed by NIOSH may be insufficient to thoroughly evaluate some of the issues suggested in the NIOSH proposal. If the NIOSH/FAA study team should turn to a prospective study of accidents, the Safety Board would cooperate with the resulting special accident investigation requirements, and would require additional investigative and analytical resources.