

uses a civilian aircraft and crew to transport troops, application of (A) would produce a conclusion that the aircraft was a civil aircraft, not "operated by" the Armed Forces, but consideration under (B) would lead to the conclusion that, because the Army "caused" the operation, it involved aircraft operated by the Armed Forces and not subject to our investigation jurisdiction. Again, we would resolve the question by analyzing the circumstances with special reference to our statutory responsibility: With a civilian aircraft and crew, there are such implications for civilian air safety that the exception should not apply. This result is consistent with our discussion in the NPR to assert jurisdiction in the event that such an aircraft was involved in an accident.³

We received no comment on the other issues we raised. Therefore, we adopt our proposal to consider the National Guard, and the Coast Guard within the definition of Armed Forces and to construe the term "intelligence agency" only to apply to those Federal agencies that are so named or categorized (for example, in their enabling statutes).

We remind all those now required to report accidents and incidents to us immediately that the scope of reportable events is quite broad and that all personnel involved in aviation matters should be familiar with Title 49 of the Code of Federal Regulations, part 800, which identifies all the instances we investigate and sets forth rules (at part 830) for notifying us of what are termed "accidents or incidents."

This amendment of our interpretation does not translate into any change in the rules we proposed. Those rules will be adopted, with one minor editorial change.⁴ Accordingly, 49 CFR parts 800, 830, and 831 are amended as set forth below.⁵

³We are confident that, with experience, we will develop a mutually agreeable understanding with the Armed Forces and Federal intelligence agencies regarding investigatory roles. We note in this context that, in the past, interagency agreements and other more informal processes have led to our participation, despite any argument that we lacked jurisdiction, in Armed Forces aircraft investigations, whether because the Armed Forces sought our assistance in an aspect of the investigation or because we believed our participation would contribute to furthering our statutory role. We expect this spirit of cooperation will continue and that jurisdictional disputes will be rare.

⁴In § 831.2(a)(1), the phrase "where the accident involves civil aircraft and certain public aircraft" is, for clarity, changed to read "where the accident involves any civil aircraft or certain public aircraft."

⁵As we noted in the NPR, various rules in these parts require changes to reflect current organization at the Safety Board or recent legislative change. Other rulemakings will shortly be conducted to update these provisions. This proceeding proposes

List of Subjects

49 CFR part 800

Authority delegations—Government agencies, Organization and functions—Government agencies.

49 CFR Part 830

Aviation safety, Reporting and recordkeeping requirements.

49 CFR Part 831

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

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

1. The authority citation for part 800 is revised to read as follows:

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

2. Section 800.3 is amended by revising paragraph (a) to read as follows:

§ 800.3 Functions.

(a) The primary function of the Safety Board is to promote safety in transportation. The Safety Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause or causes of: all accidents involving civil aircraft, and certain public aircraft; highway accidents including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train; pipeline accidents in which there is a fatality or substantial property damage; and major marine casualties and marine accidents involving a public and non-public vessel or involving Coast Guard functions. The Safety Board makes transportation safety recommendations to Federal, State, and local agencies and private organizations to reduce the likelihood of recurrence of transportation accidents. It initiates and conducts safety studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy in preventing accidents of other Government agencies, and evaluates the adequacy of safeguards and procedures concerning the transportation of hazardous materials.

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only the changes needed to implement Pub. L. No. 103-411.

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

3. The authority citation for part 830 is revised to read as follows:

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

4. Section 830.1 is revised to read as follows:

§ 830.1 Applicability.

This part contains rules pertaining to:

(a) Initial notification and later reporting of aircraft incidents and accidents and certain other occurrences in the operation of aircraft, wherever they occur, when they involve civil aircraft of the United States; when they involve certain public aircraft, as specified in this part, wherever they occur; and when they involve foreign civil aircraft where the events occur in the United States, its territories, or its possessions.

(b) Preservation of aircraft wreckage, mail, cargo, and records involving all civil and certain public aircraft accidents, as specified in this Part, in the United States and its territories or possessions.

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5. Section 830.2 is amended by revising the definition of "public aircraft" to read as follows:

§ 830.2 Definitions.

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Public aircraft means an aircraft used only for the United States Government, or an aircraft owned and operated (except for commercial purposes) or exclusively leased for at least 90 continuous days by a government other than the United States Government, including a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of that government. "Public aircraft" does not include a government-owned aircraft transporting property for commercial purposes and does not include a government-owned aircraft transporting passengers other than: transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as