eral share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

(8) PAYMENT OF NON-FEDERAL SHARE.—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

(e) FITNESS.—

(1) GENERAL RULE.—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service to an eligible point and from providing service to a point designated under subsection (d), unless the Secretary determines that such air carrier—

(A) is fit, willing, and able to perform such service; and

(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

(2) LIMITATION ON COMPENSATION.—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

(f) GUIDELINES FOR COMPENSATION.—The Secretary shall establish guidelines to be used in determining the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include the expenses elements based upon the costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for pro-\text{a}\text{v}ision of air service shall be a special, segregated element of the required compensation.

(g) DEADLINE FOR PAYMENT OF COMPENSATION.—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the Federal share of such claim and notify the carrier of such denial and the reasons therefor.

(h) INSURANCE.—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

(i) CARRIER OBLIGATIONS.—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designa-
for each class of traffic taking into account seasonal demands for such service;

(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of
60 consecutive operating days at any time since October 31, 1978; and

(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

ENHANCED ESSENTIAL AIR SERVICE.—The term "enhanced essential air service" means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

3 HUB AIRPORT.—The term "hub airport" means an airport that annually has 0.25 percent or more of the total annual enplanements in the United States.

3 NON-HUB AIRPORT.—The term "nonhub airport" means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

5 SMALL HUB AIRPORT.—The term "small hub airport" means an airport that annually has 0.05 percent or more, but less than 0.25 percent, of the total annual enplanements in the United States.

FUNDING.—

1 CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States.”

AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $28,800,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.

DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998.

TITLE V—NATIONALITY AND OWNERSHIP OF AIRCRAFT
REGISTRATION OF AIRCRAFT NATIONALITY
REGISTRATION REQUIRED
SEC. 501. (a) It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1196 of this Act) to operate or navigate within the United States any aircraft not eligible for registration: Provided, That aircraft of the national-defense forces of the United States may be operated and navigated without being so registered if such aircraft are identified, by the agency having jurisdiction over them, in a manner satisfactory to the Administrator. The Administrator may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as the Administrator may prescribe.

ELIGIBILITY FOR REGISTRATION
(b) An aircraft shall be eligible for registration if, but only if—

1 (1) it is—

(i) owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

1 (2) it is not registered under the laws of any foreign country;

2 (3) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term "based and primarily used in the United States".

ISSUANCE OF CERTIFICATE
(c) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Administrator and the Administrator shall issue to the owner thereof a certificate of registration.

APPLICATIONS
(d) Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Administrator may require.

SUSPENSION OR REVOCATION
(e) (1) Any such certificate may be suspended or revoked by the Administrator for any cause which renders the aircraft ineligible for registration.

2 (2) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate or registration held by such owner under this section, if the Administrator determines that—

(i) such aircraft has been used to carry out an activity, or to facilitate an activity, that is punishable by death or imprison-

ment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simply possession of a controlled substance); and

(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for an activity described in clause (i) of this subparagraph.
For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have permitted the use of an aircraft with knowledge that it was intended to be used for an activity described in clause (i) of this subparagraph only if a majority of the individuals who control such owner or who are involved in forming the major policies of such owner permitted the use of the aircraft with knowledge of such intended use. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under subparagraph (B) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

(B) Prior to revoking any certificate of registration under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon in the Administrator’s proposed action and shall provide the holder of the certificate of registration an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate of registration is revoked by the Administrator under this subsection may appeal the Administrator’s order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator’s order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator’s order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board’s order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

(C) For purposes of this paragraph, the term “controlled substance” has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(D) Except as provided in subparagraphs (E) and (F), the Administrator shall not issue a certificate of registration to any person who has had a certificate revoked under subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

(E) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

(F) In any case in which the Administrator has revoked the certificate of registration as a result of any activity and such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity, the Administrator shall issue a certificate of registration to such person if such person is otherwise qualified for such a certificate under this section.

**EFFECT OF REGISTRATION**

Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue.

**INSPECTION BY LAW ENFORCEMENT OFFICERS**

(g) The operator of an aircraft shall make available for inspection an aircraft’s certificate of registration upon request by a Federal, State, or local law enforcement officer.

**MODIFICATION OF SYSTEM**

(h) The Administrator is authorized and directed to make such modifications in the system established under this title for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the registration and recordation of controlled substances (as defined in section 102 of the Act), and other users of such system. Such modifications may include a system of titling aircraft or of registering all aircraft whether or not operated, shall assure positive, verifiable, timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

1. The registration of aircraft to fictitious persons.
2. The use of false or nonexistent addresses by persons registering aircraft.
3. The use by a person registering an aircraft of a post office box or “mail drop” as a return address for the purpose of evading identification of such person’s address.
4. The registration of aircraft to corporations and other entities established to facilitate unlawful activities.
5. The submission of names of individuals on applications for registration of aircraft which are not identifiable.
6. The ability to make frequent legal changes in the registration markings which are assigned to aircraft.
7. The use of false registration markings on aircraft.
8. The illegal use of “reserved” registration markings on aircraft.
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(9) The large number of aircraft which are classified as being in "self-reported status".

(10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.

(11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section.

49 U.S.C. App. 1401

REGISTRATION OF ENGINES, PROPELLERS, AND APPLIANCES

Sec. 502. The Administrator may establish reasonable rules and regulations for registration and identification of aircraft engines, propellers, and appliances, in the interest of safety, and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation.

49 U.S.C. App. 1402

RECORDATION OF AIRCRAFT OWNERSHIP

ESTABLISHMENT OF RECORDING SYSTEM

Sec. 503. (a) The Administrator shall establish and maintain a system for the recording of each and all of the following:

(1) Any conveyance which affects the title to, or any interest in, any civil aircraft of the United States;

(2) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated takeoff horsepower for each such engine or the equivalent of such horsepower, or any specifically identified aircraft propeller, supported or absorbed seven hundred and fifty or more rated takeoff shaft horsepower, and also any assignment or amendment thereof or supplement thereto;

(3) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 604(b) of this Act for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations thereof, and also, any assignment or amendment thereof or supplement thereto.

RECORDING OF RELEASES

(b) The Administrator shall also record under the system provided for in subsection (a) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

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CONVEYNES TO BE RECORDEH

(c) No conveyance or instrument the recording of which is provided for by section 503(a) shall be valid in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts against any person other than the person by whom the conveyance or other instrument is made or given, his heir or devisee, or any person having actual notice thereof, until such conveyance or other instrument is filed for recordation in the office of the Administrator: Provided, That previous recording of any conveyance or instrument with the Administrator of the Civil Aeronautics Administration under the provisions of the Civil Aeronautics Act of 1938 shall have the same force and effect as though recorded as provided herein; and conveyances, the recording of which is provided for by section 503(a)(1) made on or before August 21, 1938, and instruments, the recording of which is provided for by sections 503(a)(2) and 503(a)(3) made on or before June 19, 1948, shall not be subject to the provisions of this subsection.

EFFECT OF RECORDING

(d) Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of this section shall from the time of its filing for recordation be valid as to all persons without further or other recordation, except that an instrument recorded pursuant to section 503(a)(3) shall be effective only with respect to those of such items which may from time to time be situated at the designated location or locations and only while so situated: Provided, That an instrument recorded under section 503(a)(2) shall not be affected as to the engine or engines, or propeller or propellers, specifically identified therein, by any instrument therefor or thereafter recorded pursuant to section 503(a)(3).

FORM OF CONVEYNES]

(e) Except as the Administrator may by regulation prescribe, no conveyance or other instrument shall be recorded unless it shall have been acknowledged before a notary public or other officer authorized by the law of the United States, or of a State, territory, or possession thereof, or the District of Columbia, to take acknowledgment of deeds.

INDEX OF CONVEYNES]

(f) The Administrator shall keep a record of the time and date of the filing of conveyances and other instruments with him of and the time and date of recordation thereof. He shall record conveyances and other instruments filed with him in the order of their reception, in files to be kept for that purpose, and indexed according to—

(1) the identifying description of the aircraft, aircraft engine, or propeller, or in the case of an instrument referred to

1 Subsection heading not restated by amendment of subsection.
in section 503(a)(3), the location or locations specified therein; and
(2) the names of the parties to the conveyance or other instrument.

REGULATIONS

(g) The Administrator is authorized to provide for regulation for the endorsement upon certificates of registration, or aircraft certificates, of information with respect to the ownership of the aircraft title to or interest in aircraft, aircraft engines, propellers, appliances, or parts, and for such other records, proceedings, and details as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft of the United States, aircraft engines, propellers, appliances, or parts.

PREVIOUSLY UNRECORDED OWNERSHIP

(b) The person applying for the issuance or renewal of an airworthiness certificate for an aircraft with respect to which there has been no recordation of ownership as provided in this section shall present with his application such information with respect to the ownership of the aircraft as the Administrator shall deem necessary to show the person who is holder of property interests in such aircraft and the nature and extent of such interests.

LIMITATION OF SECURITY OWNERS LIABILITY

SEC. 504. No person having a security interest in, or security title to, any civil aircraft, aircraft engine, or propeller under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, and no lessor of any such aircraft, aircraft engine, or propeller under a bona fide lease of thirty days or more, shall be liable by reason of such interest or title, or by reason of his interest as lessee or owner of the aircraft, aircraft engine, or propeller so leased, for any injury to or death of persons, or damage to or loss of property, on the surface of the earth (whether on land or water) caused by such aircraft, aircraft engine, or by the ascent, descent, or flight of such aircraft, aircraft engine, or propeller or by the dropping or falling of an object therefrom, unless such aircraft, aircraft engine, or propeller is in the actual possession or control of such person at the time of such injury, death, damage, or loss.

DEALERS’ AIRCRAFT REGISTRATION CERTIFICATES

SEC. 505. The Administrator may, by such reasonable regulations as he may find to be in the public interest, provide for the issuance, and for the suspension or revocation, of dealers’ aircraft registration certificates, and for the use in connection with aircraft eligible for registration under this Act by persons engaged in the business of manufacturing, distributing, or selling aircraft.
administration may find necessary to provide adequately for national security and safety in air commerce.

NEEDS OF SERVICE TO BE CONSIDERED; CLASSIFICATION OF STANDARDS, ETC.

(b) In prescribing standards, rules, and regulations, and in issuing certificates under this title, the Administrator shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest and to any differences between air transportation and other air commerce; and he shall make classifications of such standards, rules, regulations, and certificates appropriate to the differences between air transportation and other air commerce. The Administrator may authorize any aircraft, aircraft engine, propeller, or appliance, for which an aircraft certificate authorizing use thereof in air transportation has been issued, to be used in other air commerce without the issuance of a further certificate. The Administrator shall exercise and perform his powers and duties under this Act in such manner as will best tend to reduce or eliminate the possibility of, or recurrence of, accidents in air transportation, but shall not deem himself required to give preference to either air transportation or other air commerce in the administration and enforcement of this title.

EXCEPTIONS

(c) The Administrator from time to time may grant exceptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

EMERGENCY LOCATOR TRANSMITTERS

(d) (1) Except with respect to aircraft described in paragraph (2) of this subsection and except as provided in paragraph (3) of this subsection, minimum standards prescribed under this Act shall include a requirement that emergency locator transmitters shall be installed—

(A) on any fixed-wing, powered civil aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection; and

(B) on any fixed-wing, powered civil aircraft used in air commerce after three years and six months following such date.

(2) The provisions of this subsection shall not apply to:

(A) Turboprop-powered aircraft;

(B) Aircraft while engaged in scheduled flights by scheduled air carriers certified by the Board;

(C) Aircraft while engaged in training operations conducted entirely within twenty-five mile radius of the airport from which such local flight operations began;

AVIATION FUEL STANDARDS

(e) The Administrator shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 231 of the Clean Air Act) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards.

COLLISION AVOIDANCE SYSTEMS

(f) (1) DEVELOPMENT AND CERTIFICATION.—

(A) STANDARDS.—The Administrator shall complete development of the collision avoidance system known as TCAS--II so that such system will be operable under visual and instrument flight rules and will be upgradable to the performance standards applicable to the collision avoidance system known as TCAS--III.

(B) SCHEDULE.—The Administrator shall develop and implement a schedule for development and certification of the collision avoidance system known as TCAS--II which will result in completion of such certification not later than 18 months after the date of the enactment of this subsection.

(C) MONTHLY REPORTS.—The Administrator shall transmit to Congress monthly reports on the progress being made in development and certification of the collision avoidance system known as TCAS--II.

(2) INSTALLATION.—The Administrator shall require by regulation that, not later than 30 months after the date of certification of the collision avoidance system known as TCAS--II, such system be installed and operated on each civil aircraft which has a maximum passenger capacity of more than 30
seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers.

(3) OPERATIONAL EVALUATION.—The Administrator shall institute, for a 1-year period beginning not later than December 30, 1990, a program for the operational evaluation of the collision avoidance system known as TCAS-II, in order to collect and assess safety and operational data from the civil aircraft equipped with such system. In conducting the program, the Administrator shall encourage the participation of foreign air carriers which operate civil aircraft equipped with such system.

(4) EXTENSION OF TIME.—If the Administrator determines that extending the deadline contained in paragraph (2) is necessary—

(a) to promote a safe and orderly transition to operation of a fleet of civil aircraft described in paragraph (2) which is equipped with the collision avoidance system known as TCAS-II, or

(b) to promote other safety objectives,

the Administrator may extend such deadline for a period not to exceed 2 years.

(5) COMPATIBILITY OF WINDSHEAR EQUIPMENT INSTALLATION SCHEDULE.—The Administrator shall consider the feasibility and desirability of amending the schedule for the installation of airborne low-altitude windshear equipment in order to make such schedule compatible with the schedule for the installation of the collision avoidance system known as TCAS-II.

(6) TRANSPONDERS.—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. For such terminal airspace, other than Terminal Control Areas and Airport Radar Service Areas, the Administrator may provide for access to such airspace by nonequipped aircraft if the Administrator determines that such access will not interfere with the normal traffic flow. Such final rule shall require the installation and use of such transponders not later than 36 months after the date of the enactment of this subsection.\(^1\)

\(^1\) Section 326 of the Department of Transportation and Related Agencies Appropriations, 1988 (Pub. L. 100-202, 101 Stat. 1329–1332) reads as follows: Sec. 326. Within 12 months of enactment, the Federal Aviation Administration shall adopt regulations requiring the installation and carriage of operating automatic altitude reporting equipment for all aircraft operating in terminal airspace where air traffic control radar service is provided, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

\(^{49}\) U.S.C. App. 14211

AIRMAN CERTIFICATES

POWER TO ISSUE CERTIFICATE

SEC. 602. (a) The Administrator is empowered to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft.

ISSUANCE OF CERTIFICATE

(b)(1) Any person may file with the Administrator an application for an airman certificate. If the Administrator finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform duties pertaining to, the position for which the airman certificate is sought, he shall issue such certificate, containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters as the Administrator may determine to be necessary to assure safety in air commerce. Except in the case of persons whose certificates are, at the time of denial, under order of suspension or whose certificates have been revoked within one year of the date of such denial, any person whose application for the issuance or renewal of an airman certificate is denied may file with the Board a petition for review of the Administrator’s action. The Board shall thereupon assign such petition for hearing at a place convenient to the applicant’s place of residence or employment. In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards, the Board shall not be bound by findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. At the conclusion of such hearing, the Board shall issue its decision as to whether the airman meets the pertinent rules, regulations, and standards and the Administrator shall be bound by such decision: Provided, That the Administrator may, in his discretion, prohibit or restrict the issuance of airman certificates to aliens, or may make such issuance dependent on the terms of reciprocal agreements entered into with foreign governments.

(2) LIMITATION ON REISSUANCE OF REVOKED CERTIFICATES.—

(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 609(c).

(B) SPECIAL RULE FOR LAW ENFORCEMENT PURPOSES.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 609(c) if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.

(C) In any case in which the Administrator has revoked an airman certificate of a person under section 609(c) (1) or (2) as a result of any activity and—
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(i) such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity; or
(ii) in the case of a revocation under section 609(c)(1), the judgment of conviction on which the revocation is based is reversed on appeal; the Administrator shall issue an airman certificate to such person if such person is otherwise qualified to serve as an airman under this section.

FORM AND RECORDING OF CERTIFICATE

(c) Each certificate shall be numbered and recorded by the Administrator, shall state the name and address of, and contain a description of, the person to whom the certificate is issued; and shall be entailed with the designation of the class covered thereby. Certificates issued to all pilots serving in scheduled air transportation shall be designated "airline transport pilot" of the proper class.

(d) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

(1) The use of fictitious names and addresses by applicants for such certificates.
(2) The use of stolen or fraudulent identification in applying for such certificates.
(3) The use by a person applying for such a certificate of a post office box or "mail drop" as a return address for the purpose of evading identification of such person's address.
(4) The use of counterfeit and stolen airman's certificates by pilots.
(5) The absence of information concerning physical characteristics of holders of such certificates.

[49 U.S.C. App. 1422]

AIRCRAFT CERTIFICATES

TYPE CERTIFICATES

Sec. 603. (a)(1) The Administrator is empowered to issue type certificates for aircraft, aircraft engines, and propellers; to specify in regulations the appliances for which the issuance of type certificates is reasonably required in the interest of safety; and to issue such certificates for appliances so specified.

(2) Any interested person may apply to the Administrator an application for a type certificate for an aircraft, aircraft engine, propeller, or appliance specified in regulations under paragraph (1) of this subsection. Upon receipt of an application, the Administrator shall make an investigation thereof and may hold hearings thereon. The Administrator shall make, or require the applicant to make, such tests during manufacture and upon completion as the Administrator deems reasonably necessary in the interest of safety, including flight tests and tests of raw materials or any part or appurtenance of such aircraft, aircraft engine, propeller, or appliance. If the Administrator finds that such aircraft, aircraft engine, propeller, or appliance is of proper design, material, specification, construction, and performance for safe operation, and meets the minimum standards, rules, and regulations prescribed by the Administrator, he shall issue a type certificate therefor. The Administrator may prescribe in any such certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety. The Administrator may require or modification thereof. The Administrator may prescribe in any such production certificate the duration thereof and such other terms, conditions, and limitations as are required in the interest of safety.

AIRWORTHINESS CERTIFICATE

(c) The registered owner of any aircraft may file with the Administrator an application for an airworthiness certificate for such aircraft. If the Administrator finds that the aircraft conforms to the type certificate therefor, and, after inspection, that the aircraft is in condition for safe operation, he shall issue an airworthiness certificate. The Administrator may prescribe in such certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, and limitations as are required in the interest of safety. Such certificate shall be registered by the Administrator and shall set forth such information as the Administrator may deem advisable. The certificate number, or such other individual designation as may be required by the Administrator, shall be displayed upon each aircraft in accordance with regulations prescribed by the Administrator.

[49 U.S.C. App. 1423]
AIR CARRIER OPERATING CERTIFICATES

POWER TO ISSUE

SEC. 604. (a) The Administrator is empowered to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued.

ISSUANCE

(b) Any person desiring to operate as an air carrier may file with the Administrator an application for an air carrier operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this act and the rules, regulations, and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. Each air carrier operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation, and shall specify the point or points from which, and the Federal airways over which, such person is authorized to operate as an air carrier under an air carrier operating certificate.

[49 U.S.C. App. 1424]

MAINTENANCE OF EQUIPMENT IN AIR TRANSPORTATION

DUTY OF CARRIERS AND AIRMEN

SEC. 605. (a) It shall be the duty of each air carrier to make, or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this Act, or the orders, rules, and regulations of the Administrator issued thereunder. And it shall be the duty of every person engaged in operating, inspecting, maintaining, or overhauling equipment to observe and comply with the requirements of this Act relating thereto, and the orders, rules, and regulations issued thereunder.

INSPECTION

(b) The Administrator shall employ inspectors who shall be charged with the duty (1) of making such inspections of aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture, and while used by an air carrier in air transportation, as may be necessary to enable the Administrator to determine that such aircraft, aircraft engines, propellers, and appliances are in safe condition and are properly maintained for operation in air transportation; (2) of advising and cooperating with each air carrier in the inspection and maintenance thereof by the air carrier. Whenever any inspector shall, in the performance of his duty, find that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any air carrier in air transportation, is not in condition for safe operation, he shall so notify the carrier in such form and manner as the Admin-

istrator may prescribe; and, for a period of five days thereafter, such aircraft, aircraft engines, propeller, or appliance shall not be used in air transportation, or in such manner as to endanger air transportation, unless found by the Administrator or his inspector to be in condition for safe operation.

(c) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for processing forms for major repairs or alterations of fuel tanks and fuel systems of aircraft as may be necessary to make the system more effective in serving the needs of users of such system, including officials responsible for enforcement of laws regulating the manufacture of aircraft or those relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

(1) The lack of a special identification feature to permit such forms to be easily distinguished from other major repair and alteration forms.

(2) The excessive amount of time required for receiving such forms at the Airmen and Aircraft Registry of the Federal Aviation Administration.

(3) The backlog of such forms which are awaiting processing at the Airmen and Aircraft Registry.

(4) The lack of ready access by law enforcement officials to information contained on such forms.

[49 U.S.C. App. 1425]

AIR NAVIGATION FACILITY RATING

SEC. 606. The Administrator is empowered to inspect, classify, and rate any air navigation facility available for the use of civil aircraft, as to its suitability for such use. The Administrator is empowered to issue a certificate for any such air navigation facility.

[49 U.S.C. App. 1426]

AIR AGENCY RATING

SEC. 607. The Administrator is empowered to provide for the examination and rating of (1) civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; (2) repair stations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, or appliances, as to the adequacy and suitability of the equipment, facilities, and materials for and methods of repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, and the competency of those engaged in the work or giving any instruction therein; and (3) such other air agencies as may, in his opinion, be necessary in the interest of the public. The Administrator is empowered to issue certificates for such schools, repair stations, and other agencies.

[49 U.S.C. App. 1427]
FEDERAL AVIATION ACT

FORM OF APPLICATIONS

Sec. 608. Applications for certificates under this title shall be in such form, contain such information, and be filed and served in such manner as the Administrator may prescribe; and shall be under oath whenever the Administrator so requires.

[49 U.S.C. App. 1428]

AMENDMENT, SUSPENSION, AND REVOCATION OF CERTIFICATES

PROCEDURE

Sec. 609. (a) The Administrator may, from time to time, reinspect any civil aircraft, aircraft, engine, propeller, appliance, air navigation facility, or air agency, or may reexamine any civil airman. If, as a result of any such reinspection or reexamination, or if, as a result of any other investigation made by the Administrator, he determines that safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airman certificate, air worthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate. Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked. Any person whose certificate is affected by such an order of the Administrator under this section may appeal the Administrator's order to the Board and the Board may, after notice and hearing, amend, modify, or reverse the Administrator's order if it finds that the safety in air commerce or air transportation and the public interest do not require affirmation of the Administrator's order. In the conduct of its hearings under this subsection, the Board shall stay the effectiveness of the Administrator's order unless the Board finds that such an interpretation is arbitrary, capricious, or otherwise not in accordance with law. The Board may, consistent with this subsection, modify the type of sanction to be applied, or suspend or revoke a certificate to assess a civil penalty. The filing of an appeal with the Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall dispose of the appeal within sixty days after being so advised by the Administrator. A person substantially affected by an order of the Board under this subsection, or the Administrator in any case in which the Administrator deter-

mines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this subsection. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.

VIOLATION OF CERTAIN LAWS

(b) The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 13 of the Fish and Wildlife Act of 1956, regarding the use or operation of an aircraft.

TRANSPORTATION, DISTRIBUTION, AND OTHER ACTIVITIES RELATED TO CONTROLLED SUBSTANCES

(c)(1) The Administrator shall issue an order revoking the airman certificates of any person upon conviction of such person of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance), if the Administrator determines that (A) an aircraft was used in the commission of the offense or to facilitate the commission of the offense, and (B) such person served as an airman, or was on board such aircraft, in connection with the committing of the offense or the facilitation of the commission of the offense. The Administrator shall have no authority under this paragraph to review the issue of whether an airman violated a State or Federal law relating to simple possession of a controlled substance. (2) The Administrator shall issue an order revoking the airman certificates of any person if the Administrator determines that (A) such person knowingly engaged in an activity that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance), (B) an aircraft was used to carry out such activity or to facilitate such activity, and (C) such person served as an airman, or was on board such aircraft, in connection with such activity or the facilitation of such activity. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under paragraph (3) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relates to controlled substances and which arise from such activity.

(3) Prior to revoking an airman certificate under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked by the Administrator under this subsection may appeal the Administrator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record,
firm or reverse the Administrator's order. In the conduct of its hearings under this paragraph, the Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administra-
ted by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in ac-
cordance with law. The filing of an appeal with the National Trans-
portation Safety Board shall stay the effectiveness of the Adminis-
trator's order unless the Administrator advises the Board that safety
in air commerce or air transportation requires the immediate ef-
ficacious of his order, in which event the order shall remain ef-
factive and the Board shall finally dispose of the appeal within
sixty days after being so advised by the Administrator. A person
substantially affected by an order of the Board under this para-
graph, or the Administrator in any case in which the Administrator
determines that such an order will have a significant adverse im-
 pact on the implementation of this Act, may obtain judicial review
of such order under the provisions of section 1006 of this Act. The
Administrator shall be a party to all proceedings for judicial review
under this paragraph. In any such proceeding, the findings of fact
of the Board shall be conclusive if supported by substantial evi-
dence.

(4) For purposes of this subsection, the term "controlled sub-
stance" has the meaning given such term by section 102(6) of the
Controlled Substances Act (21 U.S.C. 802(6)).

(5) WAIVER OF REVOCATION REQUIREMENT.—Upon request of a
Federal or State law enforcement official, the Administrator may
waive the requirements of paragraphs (1) and (2) that an airman
certificate of any person be revoked if the Administrator deter-
mines that such waiver will facilitate law enforcement efforts.
[49 U.S.C. App. 1429]

PROHIBITIONS
VIOLATIONS OF TITLE

SEC. 610. (a) It shall be unlawful—

1) For any person to operate in air commerce any civil aircraft
for which there is not currently in effect an airworthiness certifi-
cate, or in violation of the terms of any such certificate;

2) For any person to serve in any capacity as an airman in
connection with any civil aircraft, aircraft engine, or app-
pliance used or intended for use in air commerce without an air-
man certificate authorizing him to serve in such capacity, or in vi-
olation of any term, condition, or limitation thereof, or in violation
of any order, rule, or regulation issued under this paragraph;

3) For any person to employ for service in connection with any
civil aircraft used in air commerce an airman who does not have
an airman certificate authorizing him to serve in the capacity for
which he is employed;

4) For any person to operate as an air carrier without an air
carrier operating certificate, or in violation of the terms of any such
certificate;

5) For any person to operate aircraft in air commerce in viola-
tion of any other rule, regulation, or certificate of the Adminis-
trator under this title; and

6) For any person to operate a seaplane or other aircraft of
United States registry upon the high seas in contravention of the
regulations proclaimed by the President pursuant to section 1 of
the Act entitled "An Act to authorize the President to proclaim reg-
ulations for preventing collisions at sea", approved October 11,
1951 (Public Law 172, Eighty-second Congress, 65 Stat. 406);

7) For any person holding an air agency or production cer-
certificate, to violate any term, condition, or limitation thereof, or
to violate any order, rule, or regulation under this title relating to
the holder of such certificate;

8) For any person to operate an airport without an airport op-
erating certificate required by the Administrator pursuant to sec-
612, or in violation of the terms of any such certificate; and

9) For any person to manufacture, deliver, sell, or offer for
sale, any aviation fuel or fuel additive in violation of any regulation
prescribed under section 601(e).

EXEMPTION OF FOREIGN AIRCRAFT AND AIRMEN

(b) Foreign aircraft and airmen serving in connection therewith
may, except with respect to the observance by such airmen of the
air traffic rules, be exempted from the provisions of subsection (a)
of this section, to the extent, and upon such terms and conditions,
as may be prescribed by the Administrator as being in the interest
of the public.
[49 U.S.C. App. 1430]

CONTROL AND ABATEMENT OF AIRCRAFT NOISE AND SONIC BOOM

SEC. 611. (a) For purposes of this section:

1) The term "FAA" means Administrator of the Federal
Aviation Administration.

2) The term "EPA" means the Administrator of the Envi-
ronmental Protection Agency.

(b)(1) In order to afford present and future relief and protection
to the public health and welfare from aircraft noise and sonic
boom, the FAA, after consultation with the Secretary of Transpor-
tation and with EPA, shall prescribe and amend standards for the
measurement of aircraft noise and sonic boom and shall prescribe
and amend such regulations as the FAA may find necessary to pro-
vide for the control and abatement of aircraft noise and sonic boom,
including the application of such standards and regulations in the
issuance, amendment, modification, suspension, or revocation of
any certificate authorized by this title. No exemption with respect
to any standard or regulation under this section may be granted
under any provision of this Act unless the FAA shall have con-
sulted with EPA before such exemption is granted, except that if
the FAA determines that such safety in air commerce or air transpor-
tation requires that such an exemption be granted before EPA can
be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

(2) The issue of an original type certificate under section 603(a) of this Act for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section, shall be made with the consultation of the FAA, and which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d) of this section, to the extent necessary to protect public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentation of data, views, and arguments. Within ninety days after the conclusion of such hearing and after consultation with EPA, the FAA shall—

(1) issue regulations in accordance with subsection (A) in accordance with subsection (A), prescribe regulations substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or, after publication in the Federal Register a notice that it is not prescribing any regulation in response to EPA’s submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations, a detailed explanation of the reasons for not publishing the proposed regulations, or other information submitted by the Environmental Protection Agency with such proposed regulations:

(2) if EPA has reason to believe that the FAA’s action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations listed in subsection (d) of this section, the FAA shall consult with the FAA and may request the FAA to review, report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA’s report shall be accompanied by a detailed statement of the FAA’s findings and the reasons for the FAA’s conclusions. The FAA shall identify any statement filed pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether and where such statements are available for public inspection. The FAA’s report shall be published in the Federal Register, except in a case in which EPA’s request proposed specific action to be taken by the FAA, and the FAA’s report indicates such action will be taken.

(3) If, in the case of a matter described in paragraph (2) of this section with respect to which no statement is required to be filed under such section 102(2)(C), the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA’s proposed regulations, and (B) EPA’s proposed regulations.

(d) In prescribing and amending standards and regulations under this section, the FAA shall—

(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act and the Department of Transportation Act;

(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 609, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that in control or abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation.

[49 U.S.C. App. 1431]
AIRPORT OPERATING CERTIFICATES

POWER TO ISSUE

SEC. 612. (a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.

ISSUANCE

(b) Any person desiring to operate an airport which is described in subsection (a) and which is required by the Administrator by rule, to be certificated may file with the Administrator an application for an airport operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed thereunder, he shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation. Unless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to (1) the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary.

EXEMPTION

(c) The Administrator may exempt any operator of an airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1) from the requirements imposed by subsection (b) of this section relating to firefighting and rescue equipment if he finds that such requirements are, or would be, unreasonably costly, burdensome, or impractical.

(d) AIRPORT CONSTRUCTION GUIDELINES.—The Administrator, in consultation with airport authorities, air carriers, and such other as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.

SEC. 613. SAFETY REGULATION.

(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section, the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a legitimate scientific purpose.

(c) STATUS OF STUDIES.—Not later than the 90th day following the date of the enactment of this section, the Administrator shall report to Congress on the status of the studies and reports required by the Act entitled "An Act to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national airport system units," approved Aug. 18, 1967 (101 Stat. 674-678; 16 U.S.C. 1a-1 note).

SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

(a) TESTING PROGRAM.—

(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program requiring each air carrier and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing for aircrew members, air traffic controllers, air traffic controllers, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(3) SUSPENSION; REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

(b) PROHIBITION ON SERVICE.—
functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

(1) promulgate, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual’s confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 90 days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for
the orderly imposition of appropriate sanctions under this section; and
(8) ensure that employees are selected for tests by non-discriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

d) EFFECT ON OTHER LAWS AND REGULATIONS.—
(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any laws, rules, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to prevent provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier or to the general public.

(2) OTHER REGULATIONS IssUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member nations of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

d) DEFINITION.—For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.

[49 U.S.C. App. 1434]

TITLE VII—AIRCRAFT ACCIDENT INVESTIGATION

ACCIDENTS INVOLVING CIVIL AIRCRAFT

GENERAL DUTIES

SEC. 701. (a) It shall be the duty of the Board to—
(1) Make rules and regulations governing notification and report of accidents involving civil aircraft;
(2) Investigate such accidents and report the facts, conditions, and circumstances relating to each accident and the probable cause thereof;
(3) Make such recommendations to the Administrator as, in its opinion, will tend to prevent similar accidents in the future;
(4) Make such reports public in such form and manner as may be deemed by it to be in the public interest; and
(5) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents.

TEMPORARY PERSONNEL

(b) The Board may, without regard to the civil-service laws, engage, for temporary service in the investigation of any accident involving aircraft, persons other than officers or employees of the United States and may fix their compensation without regard to the Classification Act of 1949, as amended; and may, with consent of the head of the executive department or independent establishment under whose jurisdiction the officer or employee is serving, secure for such service any officer or employee of the United States.

CONDUCT OF INVESTIGATIONS

(c) In conducting any hearing or investigation, any member of the Board or any officer or employee of the Board or any person engaged or secured under subsection (b) shall have the same powers as the Board has with respect to hearings or investigations conducted by it.

In carrying out its duties under this title, the Board is authorized to examine and test to the extent necessary any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce. In the case of any fatal accident, the Board is authorized to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident, and to conduct autopsy or such other tests thereof as may be necessary to the investigation of the accident: Provided, That to the extent consistent with the needs of the accident investigation, provisions of local law protecting religious beliefs with respect to autopsies shall be observed.

AIRCRAFT

(d) Any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce, shall be preserved in accordance with, and shall not be moved except in accordance with, regulations prescribed by the Board.

USE OF RECORDS AND REPORTS AS EVIDENCE

(e) No part of any report or reports of the Board relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.

USE OF AGENCY IN ACCIDENT INVESTIGATIONS

(f) Upon the request of the Board, the Administrator is authorized to make investigations with regard to aircraft accidents and to report to the Board the facts, conditions, circumstances thereof, and the Board is authorized to utilize such reports in making its determinations of probable cause under this title.

PARTICIPATION BY AGENCY

(g) In order to assure the proper discharge by the Administrator of his duties and responsibilities, the Board shall provide for the appropriate participation of duly authorized representatives in any investigations conducted by the Board under this title: Provided, That the Administrator or his representatives shall not participate in the determination of probable cause by the Board under this title.

[49 U.S.C. App. 1441]

ACCIDENTS INVOLVING MILITARY AIRCRAFT

SEC. 702. (a) In the case of accidents involving both civil and military aircraft, the Board shall provide for participation in the investigation by appropriate military authorities.

(b) In the case of accidents involving solely military aircraft and in which a function of the Administrator is or may be involved, the military authorities shall provide for participation in the investigation by the Administrator.

(c) With respect to other accidents involving solely military aircraft, the military authorities shall provide the Administrator and the Board with any information with respect thereto which, in the judgment of the military authorities, would contribute to the promotion of air safety.

[49 U.S.C. App. 1442]

SPECIAL BOARDS OF INQUIRY

SEC. 703. (a) In any accident which involves substantial questions of public safety in air transportation the Board may establish a special Board of Inquiry consisting of three members, one member of the Civil Aeronautics Board who shall act as Chairman of the Special Board of Inquiry, and two members representing the public who shall be appointed by the President upon notification of the creation of such Special Board of Inquiry by the Civil Aeronautics Board.

(b) Such public members of the Special Board of Inquiry shall be duly qualified by training and experience to participate in such inquiry and shall have no pecuniary interest in any aviation enterprise involved in the accident to be investigated.

(c) The Special Board of Inquiry when convened to investigate an accident certified to it by the Civil Aeronautics Board shall have all authority of the Civil Aeronautics Board as described in this title.

[49 U.S.C. App. 1443]

TITLE VIII—OTHER ADMINISTRATIVE AGENCIES

THE PRESIDENT OF THE UNITED STATES

SEC. 801. (a) The issuance, denial, transfer, amendment, cancellation, suspension, or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing an air carrier to engage in foreign air transportation, or any permit issuable to any foreign air carrier under section 402 of this Act, shall be presented to the President for review. The President shall have the right to disapprove any such Board action concerning such certificates or permits solely upon the basis of foreign relations or national defense considerations which are within the President's jurisdiction, but not upon the basis of economic or carrier selection considerations. Any such disapproval shall be issued in a public document, setting forth the reasons for the disapproval to the extent national security permits, within sixty days after submission of the Board's action to the President. Any such Board action so disapproved shall be null and void. Any such Board action not disapproved within the foregoing time limits shall take effect as action of the Board, not the President, and as such shall be subject to judicial review as provided in section 1006 of this Act.

(b) Any order of the Board pursuant to section 1002(j) of this Act suspending, rejecting, or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order, shall be submitted to the President before public announcement thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of any such order to the President.

[49 U.S.C. App. 1461]

THE DEPARTMENT OF STATE

SEC. 802. The Secretary of State shall advise the Administrator, the Board, and the Secretary of Commerce, and consult with the Administrator, Board, or Secretary, as appropriate, concerning the negotiations of any agreement with foreign governments for the establishment or development of air navigation, including air routes and services.

[49 U.S.C. App. 1462]

WEATHER BUREAU

SEC. 803. In order to promote safety and efficiency in air navigation to the highest possible degree, the Chief of the Weather Bu-
TITLE IX—PENALTIES

CIVIL PENALTIES

SAFETY, ECONOMIC, AND POSTAL OFFENSES

Sec. 901. (a)(1) Any person who violates (A) any provision of title III, IV, V, VI, VII, or XII, or of section 1101 or 1114 or 1115(e)(2)(B), of this Act, or any rule, regulation, or order issued thereunder, or under authority, or limitation of any permit or certificate issued under title IV, or (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty of not exceeding $1,000 for each such violation, except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than
an airman serving in the capacity of an airman) shall be subject to a civil penalty not to exceed $10,000 for each violation of title III, IV, or VI of this Act, or any rule, regulation, or order issued thereunder, occurring after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, and except that the amount of such civil penalty shall not exceed $10,000 for each such violation which relates to the transportation of hazardous materials and for each such violation which relates to registration or recordation of an aircraft under title V. If such violation is a continuing one, day or each day such violation, or each flight with respect to which such violation is committed, if applicable, shall constitute a separate offense. The amount of any such civil penalty which relates to the transportation of hazardous materials shall be assessed by the Secretary or his delegate, upon written notice upon a finding of violation by the Secretary, after notice and an opportunity for a hearing. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on the ability to continue to do business, and other such matters as justice may require. The amount of any such civil penalty for any violation of any provision of title IV of this Act, or any rule, regulation, or order issued thereunder, or under section 1092(g) of this Act, or any term, condition, or limitation of any permit or certificate issued under title IV shall be assessed by the Board only after notice and an opportunity for a hearing and after written notice upon a finding of violation by the Board. Judicial review of any order of the Board assessing such a penalty may be obtained only pursuant to section 1096 of this Act. This subsection shall not apply to members of the Armed Forces of the United States, or to the civilian employees of the Department of Defense who are subject to the provisions of the Uniform Code of Military Justice, while engaged in the performance of their official duties; and the appropriate military authorities shall be responsible for taking any necessary disciplinary action with respect thereto and for making to the Administrator or Board, as appropriate, a timely report of any such action taken.

(2) Any civil penalty may be compromised by the Secretary of Transportation in the case of penalties provided for in subsections (c) and (d) of this section or violations of title III, V, VI, or XII, or of section 1101, 1114, or 1115(e)(2)(B), of this Act, or any rule, regulation, or order issued thereunder, or under authority, or limitation of any permit or certificate issued under title IV, or (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty of not exceeding $1,000 for each such violation, except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than

1The Office of Chief of the Weather Bureau was abolished and its functions transferred to the Secretary of Commerce by Reorg. Plan No. 2 of 1965, 79 Stat. 1318.

2Section 246a of Public Law 83-403, 71 Stat. 1319, amended section 907(a)(1). The amendment as written cannot be executed.
civil penalty for a violation of title III, V, VI, or XII or section 901(c), 901(d), 1101 or 1115eX2(B) or any rule, regulation, or order issued thereunder.

(B) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

(C) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subparagraph (A) or the United States district courts shall have exclusive jurisdiction of any civil penalty initiated by the Administrator—

(i) which involves an amount in controversy in excess of $50,000;

(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

(iii) regarding which an aircraft subject to lien has been seized by the United States; and

(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

(D) PROCEDURES WITH RESPECT TO VIOLATIONS BY PILOTS, FLIGHT ENGINEERS, MECHANICS, AND REPAIRMEN.—

(i) NOTICE OF CHARGES.—Before issuing an order assessing a civil penalty under this paragraph against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman, the Administrator shall advise such person of the charges or any reasons relied upon by the Administrator for the proposed action and shall provide such person an opportunity to answer any charges and be heard as to why such order should not be issued.

(ii) APPEAL TO NTSB.—Any person acting in the capacity of a pilot, flight engineer, mechanic, or repairman against whom an order assessing a civil penalty is issued by the Administrator under this paragraph may appeal the order to the National Transportation Safety Board, and the Board shall, after notice and a hearing on the record in accordance with section 554 of title 5, United States Code, affirm, modify, or reverse the order of the Administrator.

(iii) WEIGHT AFFORDED TO FINDINGS AND INTERPRETATIONS OF FAA.—In the conduct of its hearings under this subparagraph, the National Transportation Safety Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. The Board may, consistent with this subsection, modify the type of sanctions to be imposed from assessment of a civil penalty to suspension or revocation of a certificate.

(iv) EFFECT OF FILING OF APPEAL.—The filing of an appeal of an order of the Administrator with the National Transportation Safety Board under this subparagraph shall stay the effectiveness of the order.

(v) JUDICIAL REVIEW.—A person substantially affected by an order of the National Transportation Safety Board under this subparagraph or the Administrator, in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this clause. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.

(E) PROCEDURES WITH RESPECT TO VIOLATIONS BY OTHER PERSONS.—

(i) GENERAL PROCEDURES.—A civil penalty may be assessed against any person (other than a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman) by the Administrator under this paragraph only after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

(ii) STANDARD OF REVIEW.—In any appeal from a decision of an administrative law judge, the Administrator shall consider only the following issues:

(I) Whether each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence.

(II) Whether each conclusion of law is made in accordance with applicable law, precedent, and public policy.

(III) Whether the administrative law judge committed any prejudicial errors that support the appeal.

(iii) TIME FOR COMMENCING PROCEEDING.—Except where good cause exists, a civil penalty action shall not be initiated under this subparagraph after 2 years from the date the violation occurred.

(F) LIMITATION ON APPLICABILITY.—This paragraph only applies to violations occurring on or after the date of the enactment of the FAA Civil Penalty Administrative Assessment Act of 1992.

(G) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed by the Administrator or the National Transportation Safety Board under this paragraph may not exceed $50,000.

(H) DEFINITIONS.—In this paragraph, the following definitions apply:
(i) FLIGHT ENGINEER.—The term "flight engineer" means a person who holds a flight engineer certificate issued under part 63 of title 14 of the Code of Federal Regulations.

(ii) MECHANIC.—The term "mechanic" means a person who holds a mechanic certificate issued under part 65 of title 14 of the Code of Federal Regulations.

(iii) PILOT.—The term "pilot" means a person who holds a pilot certificate issued under part 61 of title 14 of the Code of Federal Regulations.

(iv) REPAIRMAN.—The term "repairman" means a person who holds a repairman certificate issued under part 65 of title 14 of the Code of Federal Regulations.

LIENS

(b) In case an aircraft is involved in such violation and the violation is by the owner or person in command of the aircraft, such aircraft shall be subject to lien for the penalty. Provided. That this subsection shall not apply to a violation of a rule or regulation of the Postmaster General.

(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (j) of section 1002 of this Act, shall be subject to a civil penalty of not more than $10,000 which shall be recoverable in a civil action brought in the name of the United States.

(d) Except for law enforcement officers of any municipal or State government or officers or employees of the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than $10,000 which shall be recoverable in a civil action brought in the name of the United States.

CRIMINAL PENALTIES

GENERAL

SEC. 902. (a) Any person who knowingly and willfully violates any provision of this Act (except titles III, V, VI, VII, and XII), or any order, rule, or regulation issued by the Administrator or by the Board under any such provision or any term condition, or limitation of any certificate or permit issued under title IV, for which no penalty is otherwise provided in this section or in section 904, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than $500, and for any subsequent offense to a fine of not more than $2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

(b) FRAUD OF CERTIFICATES, FALSE MARKING OF AIRCRAFT, AND OTHER AIRCRAFT REGISTRATION VIOLATIONS.—

(1) DESCRIPTION OF VIOLATIONS.—It shall be unlawful for any person—

(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this Act, or to knowingly sell, use, attempt to use, or possess the intent to use any such fraudulent certificate;

(B) to obtain any certificate authorized to be issued under this Act by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

(C) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 501 or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or
misleading as to the nationality or registration of the aircraft.

(2) PENALTIES.—Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—
(A) a fine of not more than $15,000 or imprisonment for a term of not more than 3 years, or both; or
(B) a fine of not more than $25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under the State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

(3) SEIZURE OF AIRCRAFT.—
(A) BY DEA OR CUSTOMS.—An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.
(B) PRESCRIPTIONS.—For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—
(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;
(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;
(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;
(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 501;
(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;
(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and
(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the

Administrator for such installation or modification is not carried aboard the aircraft.

(4) MEMORANDUM OF UNDERSTANDING.—The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

(4) CONTROLLED SUBSTANCE DEFINED.—For purposes of this section, the term “controlled substance” has the meaning that such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5) EFFECT ON STATE LAW.—Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who—
(A) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;
(B) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;
(C) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or
(D) obtains an aircraft registration certificate from the Administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.

INTERFERENCE WITH AIR NAVIGATION

(c) A person shall be subject to a fine of not exceeding $5,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment, who—
(1) with intent to interfere with air navigation, within the United States, exhibits within the United States any light or signal at such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to this Act, or for a true light or signal in connection with an airport or other air navigation facility; or
(2) after due warning by the Administrator, continues to maintain any misleading light or signal; or
(3) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

GRANTING OR RECEIVING REBATES

(d)(1) Any air carrier, foreign air carrier, or ticket agent, or any officer, owner, employee, or representative thereof, who shall, knowingly and willfully, offer, grant, or give, or cause to be offered, granted, or given, any rebate or other concession in violation of the
provisions of this Act, or who, by any device or means, shall, knowingly and willfully, assist, or shall willingly suffer or permit, any person to obtain transportation or services subject to this Act at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject for each offense to a fine of not less than $100 and not more than $5,000.

(2) Any person who, in any manner or by any device, knowingly and willfully solicits, accepts, or receives a refund or remittance of any portion of the rates, fares, or charges lawfully in effect for the air transportation of property, or for any service in connection therewith, or knowingly solicits, accepts, or receives any privilege, favor, or facility, with respect to matters required by the Board to be specified in currently effective tariffs applicable to the air transportation of property, shall be fined not less than $100, nor more than $5,000, for each offense.

FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

(e)(1) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—
(A) fails to make a report or to keep an account, record, or memorandum;
(B) falsifies, mutilates, or alters a report, account, record, or memorandum; or
(C) files a false report, account, record, or memorandum under this Act, shall be fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual.

(2) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—
(A) falsifies or conceals a material fact; or
(B) invites reliance on a false statement or representation concerning a material fact;

in a report, account, record, or memorandum under title VI of this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

DIVULGING INFORMATION

(1) If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1104, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than $5,000 or imprisonment for not more than 2 years, or both. Provided, That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

(g) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Board or Administrator, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than $100 nor more than $5,000, or imprisonment for not more than one year, or both.

HAZARDOUS MATERIALS

(h)(1) In carrying out his responsibilities under this Act, the Secretary of Transportation may exercise the authority vested in him by section 105 of the Hazardous Materials Transportation Act to provide by regulation for the safe transportation of hazardous materials by air.

(2) A person is guilty of an offense if he willfully delivers or causes to be delivered to an air carrier or to the operator of a civil aircraft for transportation in air commerce, or if he recklessly causes the transportation in air commerce of, any shipment, baggage, or other property which contains a hazardous material, in violation of any rule, regulation, or requirement with respect to the transportation of hazardous materials issued by the Secretary of Transportation under this Act. Upon conviction, such person shall be subject, for each offense, to a fine of not more than $25,000, imprisonment for a term not to exceed 5 years, or both.

(3) Nothing in this subsection shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph (4) of section 232 of title 18, United States Code) or any ammunition therefor.

AIRCRAFT PIRACY

(i)(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—
(A) by imprisonment for not less than 20 years; or
(B) notwithstanding the provisions of 18 U.S.C. 3559(b), if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) As used in this subsection, the term “aircraft piracy” means any seizure or exercise of control, by force or violence or threat of force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the United States.

(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.

1Public Law 91-449, section 103 (incidentally inserted an additional period in subsections (i)(2), (j)(1), and (k)(2) which is omitted here.)
INTERFERENCE WITH FLIGHT CREW MEMBERS OR FLIGHT ATTENDANTS

(i) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, assaults, intimidates, or threatens any flight crew member or flight attendant (including any steward or stewardess of an aircraft, so as to interfere with the performance by such member or attendant of his duties or lessen the ability of such member or attendant to perform his duties, shall be fined not more than $10,000 or imprisoned not more than twenty years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be imprisoned for any term of years or for life.

CERTAIN CRIMES ABOARD AIRCRAFT IN FLIGHT

(k)(1) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, would be in violation of section 1111, 1112, 1113, chapter 109A, or 2111 of such title 18 shall be punished as provided therein.

(2) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act which, if committed in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of the public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22-1112), shall be punished as provided therein.

CARRYING WEAPONS OR EXPLOSIVES ABOARD AIRCRAFT

(X)(A) With respect to any aircraft, or intended for operation in air transportation or intrastate air transportation, or operated under rules or regulations issued by the Administrator if:

(w) While aboard, or while attempting to board such aircraft has on or about his person or his property a concealed deadly or dangerous weapon which is, or could be, accessible to such person in flight;

(y) Has placed, attempted to place, or attempted to have placed a loaded firearm aboard such aircraft in baggage or other property which is not accessible to passengers in flight; or

(z) Has on or about his person, or who placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device, shall be fined not more than $10,000 or imprisoned not more than one year, or both.

[49 U.S.C. App. 1472]

(2) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by paragraph (4) of this subsection, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

FALSE INFORMATION AND THREATS

(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section with an apparent determination and will to carry the threat into execution shall be fined not more than $25,000 or imprisoned not more than five years, or both.

AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits an offense, as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

(A) by imprisonment for not less than 20 years; or

(B) notwithstanding the provisions of 18 U.S.C. 3559(b), if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

(2) A person commits an offense, as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

1 See footnote 1 on preceding page.
(B) is an accomplice of a person who performs or attempts to perform any such act.
(3) This subsection shall only be applicable if the place of take-off or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.
(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.

INVESTIGATIONS BY FEDERAL BUREAU OF INVESTIGATION

(o) Violations of subsections (i) through (n) inclusive, and subsection (r) of this section shall be investigated by the Federal Bureau of Investigation of the Department of Justice.

INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATION

(p) Any person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.

(q) LIGHTING VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES.—

(1) DESCRIPTION OF VIOLATION.—It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights.

(2) RELATION TO CONTROLLED SUBSTANCE OFFENSES.—

The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

(3) PENALTY.—A person violating this subsection shall be subject to a fine not exceeding $50,000, or imprisonment not exceeding 5 years, or both.

(r) SECURED AREAS OF AIRPORTS.—

(1) VIOLATION.—It shall be unlawful for any person to knowingly and willfully enter an aircraft or an airport area that serves air carriers or foreign air carriers contrary to security requirements established pursuant to section 315 or 316 of this Act.

(2) GENERAL PENALTY.—Upon conviction of a violation of paragraph (1), a person shall be subject to imprisonment for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(3) PENALTY FOR VIOLATIONS IN CONNECTION WITH FELONIES.—If any person violates paragraph (1) of this subsection with the intent to commit in the aircraft or secured area an act punishable as a felony under Federal or State law, such person shall be subject to imprisonment for a term not to exceed 10 years or a fine not to exceed $10,000, or both.

[49 U.S.C. App. 1472]

VENUE AND PROSECUTION OF OFFENSES

SEC. 903. (a) The trial of any offense under this Act shall be in the district in which such offense is committed; or, if the offense is committed out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender, or any one of two or more joint offenders, is arrested or is first brought. If such offender or offenders are not so arrested or brought into any district, an indictment or information may be filed in the district of the last known residence of the offender or of any one of two or more joint offenders, or if no such residence is known, the indictment or information may be filed in the District of Columbia. Whenever the offense is begun in one jurisdiction and completed in another, or committed in more than one jurisdiction, it may be dealt with, inquired of, tried, determined, and punished in any jurisdiction in which such offense was begun, continued, or completed, in the same manner as if the offense had been actually and wholly committed therein.

PROCEDURE IN RESPECT OF CIVIL PENALTIES

(b)(1) Any civil penalty imposed or assessed under this Act may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. Such proceedings shall conform as nearly as may be to civil suits in admiralty, except that with respect to proceedings involving penalties other than those assessed by the Board, either party may demand trial by jury of any issue of fact, if the value in controversy exceeds $20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

(2) Any aircraft subject to such lien may be summarily seized by and placed in the custody of such persons as the Board or Administrator may by regulation prescribe, and a report of the cause shall thereupon be transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Board or Administrator of his failure to so act.
(3) The aircraft shall be released from such custody upon payment of the penalty or the amount agreed upon in compromise; or on seizure in pursuance of process of any court in proceeding for enforcement of the lien, or on motion of the United States attorney for such proceedings; or deposit of a bond in such amount and with such sureties as the Board or Administrator may prescribe, conditioned upon the payment of the penalty or the amount agreed upon in compromise.

(4) The Supreme Court of the United States, and under its direction other courts of the United States, may prescribe rules regulating such proceedings in any particular not provided by law.

PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

A person shall be subjected to the penalty of death for any offense prohibited by section 902(1) or 902(n) of this Act only if a hearing is held in accordance with the provisions of section 902(i) or 902(n) of this Act.

(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(1) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted:

(A) before the jury which determined the defendant's guilt;

(B) before a jury impaneled for the purpose of the hearing;

if—

(i) the defendant was convicted upon a plea of guilty;

(ii) the defendant was convicted after a trial before the

court sitting without a jury; or

(iii) the jury which determined the defendant's guilt

has been discharged by the court for good cause; or

(C) before the court alone, upon the motion of the defendant

and with the approval of the court and of the Government.

(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence re-

port, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to the sentencing hearing and the court shall be admitted into evidence at criminal trials.

(4) The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair oppor-

tunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in para-

graphs (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

(4) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or non-

existence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

(5) If the jury or, if there is no jury, the court finds by a pre-

ponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

(A) he was under the age of eighteen;

(B) his capacity to appreciate the wrongfulness of his con-

duct or to conform his conduct to the requirements of law was

significantly impaired, but not so impaired as to constitute a

defense to prosecution;

(C) he was under unusual and substantial duress, al-

though not such duress as to constitute a defense to prosecu-

tion;

(D) he was a principal (as defined in section 2(a) of title

18 of the United States Code) in the offense, which was com-

mitted by another, but his participation was relatively minor,

although not so minor as to constitute a defense to prosecution;

or

(E) he could not reasonably have foreseen that his conduct

in the course of the commission of the offense for which he was

convicted would cause, or would create a grave risk of causing

dearth to another person.

(7) If no factor set forth in paragraph (6) is present, the court

shall impose the sentence of death on the defendant if the jury or,

if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

(A) the death of another person resulted from the commis-

sion of the offense but after the defendant had seized or exer-

cised control of the aircraft; or

(B) the death of another person resulted from the commis-

sion or attempted commission of the offense, and—

(i) the defendant has been convicted of another Fed-

eral or State offense (committed either before or at the
time of the commission or attempted commission of the of-
fense) for which a sentence of life imprisonment or death was imposable;
(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;
(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or
(iv) the defendant committed or attempted to commit the offense in an especially heinous cruel, or depraved manner.

[49 U.S.C. App. 1473]

VIOLATIONS OF SECTION 1109

Sec. 904. (a) Any person who (1) violates any entry or clearance regulation made under section 1109(c) of this Act, or (2) any immigration regulations made under such section, shall be subject to a civil penalty of $5,000 which may be remitted or mitigated by the Secretary of the Treasury, the Attorney General, respectively, in accordance with such proceedings as the Secretary or Attorney General shall by regulation prescribe. Any person violating any customs regulation made under section 1108(b) of this Act, or any controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on board of, or to have been unladen from, an aircraft subject to section 1109 (b) and (c) of this Act, the owner or person in charge of such aircraft shall be subject to the penalties provided for in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584), unless such owner or person is able to demonstrate, by a preponderance of the evidence,1 that such owner or person did not know, and could not, by the exercise of the highest degree of care and diligence, have known, that any such controlled substance was on board. In the case the violation is by the owner, operator, or person in command of the aircraft, any penalty imposed by this section shall be a lien against the aircraft. Any person violating any provision of the laws and regulations relating to animal and plant quarantine made applicable to civil air navigation by regulation in accordance with section 1108(d) of this Act shall be subject to the same penalties as those provided by the said laws for violations thereof. Any civil penalty imposed under this section may be collected by proceedings in personam against the person subject to the penalty and/or in case the penalty is a lien, by proceedings in rem against the aircraft. Such proceedings shall conform as nearly as may be to civil suits in admiralty, except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds $20, and facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States, shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings in any particular not provided by law. The determination under this section as to the remission or mitigation of a civil penalty imposed under this section shall be final. In case libel proceedings are pending at any time during the pendency of remission or mitigation proceedings, the Secretary or Attorney General shall give notice thereof to the United States attorney prosecuting the libel proceedings.
(b) Any aircraft subject to a lien for any civil penalty imposed under this section may be summarily seized by and placed in the custody of such persons as the appropriate Secretary or Attorney General may by regulation prescribe and a report of the case thereupon transmitted to the United States attorney for the judicial district in which the seizure is made. The United States attorney shall promptly institute proceedings for the enforcement of the lien or notify the Secretary of his failure so to act. The aircraft shall be released from such custody upon (1) payment of the penalty or so much thereof as is not remitted or mitigated, (2) seizure in pursuance of process of any court in proceedings in rem for enforcement of such a lien, or notification by the United States attorney of his failure to institute such proceedings, or (3) deposit of a bond in such amount and with such sureties as the Secretary or Attorney General may prescribe, conditioned upon the payment of the penalty or so much thereof as is not remitted or mitigated.

[49 U.S.C. App. 1474]

TITLE X—PROCEDURE

CONDUCT OF PROCEEDING

Sec. 1001. The Board and the Administrator, subject to the provisions of this Act and the Administrative Procedure Act,2 may conduct their proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice. No member of the Board or Agency shall participate in any hearing or proceeding in which he has a pecuniary interest. Any person may appear before the Board or Agency and be heard in person or by an attorney. The Board, in its discretion, may enter its appearance and participate as an interested party in any proceeding conducted by

1For terminations and transfers of functions of the Civil Aeronautics Board, see section 1601 of this Act.