

STATEMENT OF PARTY REPRESENTATIVES
TO NTSB INVESTIGATION

Aircraft Identification:


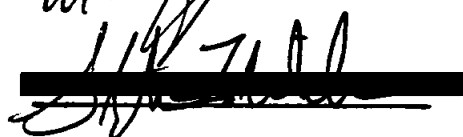
Registration Number N 94296
Make and Model CESSNA 185F
Location TEHACHAPI, CA
Date 1/3/95

The undersigned hereby acknowledge that they are participating in the above-referenced aircraft accident field investigation (including any component tests and teardowns or simulator testing) on behalf of the party indicated adjacent to their name, for the purpose of providing technical assistance to the National Transportation Safety Board.

The undersigned further acknowledge that they have read the attached copy of 49 CFR Part 831 and have familiarized themselves with 49 CFR §831.11, which governs participation in NTSB investigations and agree to abide by the provisions of this regulation.

It is understood that a party representative to an investigation may not be a person who also represents claimants or insurers. The placement of a signature hereon constitutes a representation that participation in this investigation is not on behalf of either claimants or insurers and that, while any information obtained may ultimately be used in litigation, participation is not for the purposes of preparing for litigation.

By placing their signatures hereon all participants agree that they will neither assert nor permit to be asserted on their behalf, any privilege in litigation, with respect to information or documents obtained during the course of and as a result of participation in the NTSB investigation as described above. It is understood, however, that this form is not intended to prevent the undersigned from participating in litigation arising out of the accident referred to above or to require disclosure of the undersigned's communications with counsel.

<u>SIGNATURE</u>	<u>NAME (Printed)</u>	<u>PARTY</u>	<u>DATE</u>
	<u>Michael J. Gilmert</u>	<u>TECHNICAL</u>	<u>01-18-95</u>
	<u>Stephen T. Wilson</u>	<u>CESSNA</u>	<u>1-18-95</u>

Continued on reverse

SIGNATURE

NAME (Printed)

PARTY

DATE _____

[illegible]

TITLE 49—TRANSPORTATION
CHAPTER VIII—NATIONAL TRANSPORTATION
SAFETY BOARD
EFFECTIVE: JUNE 3, 1988

**PART 831—ACCIDENT/INCIDENT
INVESTIGATION PROCEDURES**

- Sec.
- 831.1 Applicability of part.
- 831.2 Responsibility of Board.
- 831.3 Authority of Directors.
- 831.4 Nature of investigation.
- 831.5 Priority of Board investigations.
- 831.6 Request to withhold information.
- 831.7 Right of representation.
- 831.8 Investigator-in-charge.
- 831.9 Authority of Board representatives.
- 831.10 Autopsies.
- 831.11 Parties to the field investigation.
- 831.12 Access to and release of wreckage, records, mail, and cargo.
- 831.13 Flow and dissemination of accident information.
- 831.14 Proposed findings.

Authority. Title VII, Federal Aviation Act of 1958, as amended, 72 Stat. 781, as amended by 76 Stat. 921 (49 U.S.C. 1441 et seq.); and the Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 et seq., as amended by 95 Stat. 1065 (49 U.S.C. 1901 et seq.).

§ 831.1 Applicability of part.

Unless otherwise specifically ordered by the National Transportation Safety Board (Board), the provisions of this part shall govern all accident or incident investigations, conducted under the authority of title VII of the Federal Aviation Act of 1958, as amended, and the Independent Safety Board Act of 1974. Rules applicable to accident hearings and reports are set forth in Part 845.

§ 831.2 Responsibility of Board.

(a) *Aviation.* (1) The Board is responsible for the organization, conduct and control of all accident investigations involving civil aircraft, or civil and military aircraft, within the United States, its territories and possessions. It is also responsible for investigation of accidents which occur outside the United States, and which involve U.S. civil aircraft or civil and military aircraft, at locations determined to be not in the territory of another state (i.e., in international waters).

(2) Certain aviation field investigations are conducted by the Federal Aviation Administration (FAA), pursuant to a request to the Secretary of the Department of Transportation, effective February 10, 1977 (see appendix to Part 800 of this chapter),¹ but the Board determines the probable cause of such accidents. Under no circumstances shall investigations conducted by the Board be considered joint investigations in the sense of sharing responsibility. However, in the case of an accident or incident involving civil aircraft of U.S. registry or manufacture in a foreign state which is a signator to Annex 13 to the Chicago Convention of the International Civil Aviation Organization,

the state of occurrence is responsible for the investigation. If it occurs in a foreign state which is not bound by the provisions of Annex 13 to the Chicago Convention, the conduct of the investigation shall be in consonance with any agreement entered into between the United States and the foreign state.

(b) *Surface.* The Board is responsible for the investigation of railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train (see Part 840 of this chapter); major marine casualties and marine accidents involving a public and nonpublic vessel or involving Coast Guard functions (see Part 850 of this Chapter); highway accidents, including railroad grade-crossing accidents which it selects in cooperation with the States; and pipeline accidents in which there is a fatality or substantial property damage.

(c) *Other Accident.* The Board is also responsible for the investigation of an accident which occurs in connection with the transportation of people or property which, in the judgment of the Board, is catastrophic, involves problems of a recurring character, or would otherwise carry out the policy of the Independent Safety Board Act of 1974.

§ 831.3 Authority of Directors.

The Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations, subject to the provisions of § 831.2, may order an investigation into any accident or incident.

§ 831.4 Nature of investigation.

Accident or incident investigations are conducted by the Board in order to determine the facts, conditions, and circumstances relating to each accident or incident and the probable cause thereof and to ascertain measures which will best tend to prevent similar accidents or incidents in the future. The investigation includes the field investigation, report preparation, and, where ordered, the public hearing. Accident investigations are factfinding proceedings with no formal issues and no adverse parties and are not subject to the provisions of the Administrative Procedure Act (Pub. L. 89-554, 80 Stat. 384 (5 U.S.C. 554 et seq.)). Such investigations are not conducted for the purpose of determining the rights or liabilities of any person.

§ 831.5 Priority of Board Investigations.

Any investigation of an accident (except marine)² conducted by the Safety Board shall have priority over all other investigations of such accident conducted by other Federal agencies. The Safety Board shall

provide for the appropriate participation by other Federal agencies in any such investigation, except that such agencies may not participate in the Safety Board's determination of the probable cause of the accident. Nothing in this section impairs the authority of other Federal agencies to conduct investigations of an accident under applicable provisions of law or to obtain information directly from parties involved in, and witnesses to, the transportation accident. The Safety Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner.

§ 831.6 Request to withhold information.

Any person may make written objection to the public disclosure of information contained in any report or document filed, or of information obtained by the Board, stating the grounds for such objection. The Board, on its own initiative or if such objection is made, may order such information withheld from public disclosure when, in its judgment, the information can be withheld under the provisions of an exemption to the Freedom of Information Act (Pub. L. 93-502, amending 5 U.S.C. 552) and its release is not found to be in the public interest (see Part 801).

§ 831.7 Right of representation.

Any person interrogated by an authorized representative of the Board during the field investigation shall be accorded the right to be accompanied, represented, or advised by counsel or by any other duly qualified representative.

§ 831.8 Investigator-in-charge.

The designated investigator-in-charge organizes, conducts, and controls the field phase of investigation. He shall assume responsibility for the supervision and coordination of all resources and of the activities of all personnel, both Board and non-Board, involved in the onsite investigation.

§ 831.9 Authority of Board representatives.

(a) *General.* Any employee of the Board, upon presenting appropriate credentials is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things necessary for proper investigation.

¹ The authority of a representative of the Federal Aviation Administration during such field investigations shall be the same as that of a Board investigator under this part.

² The joint regulations of the Board and Coast Guard for the investigation of marine casualties are set forth in Part 850 of this chapter.

Upon demand of an authorized representative of the Board and presentation of credentials issued to such representative, any Government agency, or person having possession or control of any transportation vehicle or component thereof, any facility, equipment, process or controls, relevant to the investigation, or any pertinent records and memoranda, including all files, hospital records, and correspondence now or hereafter existing and kept or required to be kept, shall forthwith permit inspection, photographing, or copying thereof by such authorized representative for the purpose of investigating an aircraft accident/incident, other accident, overdue aircraft, study, or investigation pertaining to safety or the prevention of accidents. Authorized representatives of the Board may interrogate any person having knowledge relevant to an aircraft accident/incident, overdue aircraft, study, or special investigation.

(b) *Aviation.* Any employee of the Board upon presenting appropriate credentials 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.

(c) *Surface.* (1) Any employee of the Board, upon presenting appropriate credentials, is authorized to test or examine any vehicle, vessel, rolling stock, track pipeline component, or any part of such item when such examination or testing is determined to be required for purposes of such investigation.

(2) Any examination or testing shall be conducted in such a manner so as not to interfere with or obstruct unnecessarily the transportation services provided by the owner or operator of such vehicle, vessel, rolling stock, track, or pipeline component, and shall be conducted in such a manner so as to preserve, to the maximum extent feasible, any evidence relating to the transportation accident, consistent with the needs of the investigation and with the cooperation of such owner or operator.

§ 831.10 Autopsies.

The Board is authorized to obtain with or without reimbursement, a copy of the report of autopsy performed by State or local officials on any person who dies as a result of having been involved in a transportation accident within the jurisdiction of the Board. The investigator-in-charge, on behalf of the Board, may order an autopsy or seek other tests of such persons as may be necessary to the investigation, 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.

§ 831.11 Parties to the field investigation.

(a) The investigator-in-charge may, on behalf of the Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations, designate parties to participate in the field investigation. Parties to the field investigation shall be limited to those persons, government agencies, companies, and associations whose employees, functions, activities, or products were involved in the accident or incident and who can provide suitable qualified technical personnel to actively assist in the field investigation.

(b) Participants in the field investigation shall be responsive to the direction of the appropriate Board representative and may be relieved from participation if they do not comply with their assigned duties or if they conduct themselves in a manner prejudicial to the investigation.

(c) No party to the field investigation designated under § 831.11(a) shall be represented by any person who also represents claimants or insurers. Failure to comply with this provision shall result in loss of status as a party.

(d) Section 701(g) of the Federal Aviation Act of 1958, as amended, provides for the appropriate participation of the Administrator in Board investigations, and section 304(a) of the Independent Safety Board Act of 1974, as amended, provides for the appropriate participation of other Federal agencies in Board investigations. Thus, components of the Department of Transportation, and, when appropriate, other Federal agencies, will normally be a party to field investigations and will have the same rights and privileges and be subject to the same limitations as other parties.

§ 831.12 Access to and release of wreckage, records, mail, and cargo.

(a) Only the Board's accident investigation personnel and persons authorized by the investigator-in-charge, the Director, Bureau of Accident Investigation, or the Director, Bureau of Field Operations to participate in any particular investigation, examination or testing shall be permitted access to wreckage, records, mail, or cargo which is in the Board's custody.

(b) Wreckage, records, mail, and cargo in the Board's custody shall be released by an authorized representative of the Board when it is determined that the Board has no further need of such wreckage, mail, cargo, or records.

§ 831.13 Flow and dissemination of accident information.

(a) Release of information during the field investigation, particularly at the accident scene, shall be limited to factual developments, and shall be made only through the Board Member present at the accident scene, the representative of the Board's Office of Public Affairs, or the investigator-in-charge.

(b) All information concerning the accident or incident obtained by any personnel participating in the field investigation shall be passed to the investigator-in-charge, through appropriate channels. Upon approval of the investigator-in-charge, parties to the investigation may relay to their respective organization information which is necessary for purposes of prevention or remedial action. Under no circumstances shall accident information be released to, or discussed with, unauthorized persons whose knowledge thereof might adversely affect the investigation.

§ 831.14 Proposed findings.

Any person, Government agency, company, or association whose employees, functions, activities, or products were involved in an accident under investigation may submit to the Board, prior to its consideration of probable cause, proposed findings to be drawn from the evidence produced during the course of the accident investigation, a proposed probable cause, and proposed safety recommendations designed to prevent future accidents.

Signed at Washington DC on this 12th day of April, 1988.

Jim Burnett,
Chairman.

[FR Doc. 88-9870 Filed 5-3-88; 8:45 am]

BILLING CODE 7533-01-M