

To implement this provision, part 311 of the Board's Procedural Regulations, 14 C.F.R. 311, provides in substance that accidents reports and underlying papers must not be given out to third persons or otherwise made public, and that only factual data about the accident observed by Board personnel, and not their opinions, suggestions or recommendations, shall be disclosed, upon formal inquiry or in court proceedings.

Section 902(f) of the Federal Aviation Act (72 Stat. 784, as amended, 49 U.S.C. 1472) prohibits any member, officer or employee of the Board from divulging any fact or information obtained during the course of an examination of the accounts, records and memorandums of any carrier, or which is withheld from public disclosure under section 1104, except as directed or authorized by the Board or a court of competent jurisdiction or judge thereof. This section does not, however, authorize the withholding of information from the duly authorized committees of Congress.

8. In what circumstances are private parties dealing with your agency required in any manner to resort to organization or procedure not published in the Federal Register?

Section 3(a) of the Administrative Procedure Act provides that "[n]o person shall in any manner be required to resort to [agency] organization or procedure" not published in the Federal Register. In dealing with the Board, private parties are not required to resort to any organization or procedure not so published.

9. In what types of cases has your agency refrained from publishing rules where there is involved any function of the United States requiring secrecy in the public interest, pursuant to section 3(1) of the Administrative Procedure Act or other authority?

Section 3 of the Administrative Procedure Act requires agencies to publish its rules except, inter alia, "to the extent that there is involved (1) any function of the United States requiring secrecy in the public interest." The Board has not, however, utilized this authority to refrain from publishing rules.

10. In what circumstances has your agency refrained from publishing rules where there is involved any matter relating solely to internal agency management, pursuant to section 3(2) of the Administrative Procedure Act or other authority?

In addition to the "secrecy" exception discussed in the answer to question 9, section 3 of the Administrative Procedure Act also exempts, from its rule-publishing requirement, "any matter relating solely to the internal management of an agency." The general rules governing the Board's internal management are set forth in its administrative regulations as contained in the two volumes of the CAB Manual. Since these rules do not generally affect members of the public, they are not published in the Federal Register, in accordance with the underlying rationale of the section 3(2) exception. Those internal management regulations, however, relating to the providing of information to the public, are largely duplicated in Public Notice PN-15.

11. What is your agency's definition of "official record" as used in section 3(c) of the Administrative Procedure Act?

Section 3(c) requires that, with noted exceptions, "matters of official record shall in accordance with published rule be made available to persons properly and directly concerned" (emphasis added). While the Board has not specifically defined the term "official record," the records in the possession of the Board which are available for public inspection and copying are described in Public Notice PN-15 and generally include:

(1) Documents required or permitted to be filed with the Board by the Federal Aviation Act, or any other statute or by any rule or order of the Board.

(2) Material or record filed in any adjudicatory, investigative or rule-making procedure.

(3) Public notices, compilations, tabulations, reports, and other materials published by the Board or authorized by the Board for public release.

(4) Approved minutes of Board meetings, except portions relating to pending matters. (This category of information is available only to "persons properly and directly concerned with the subject thereof").

A provision of the Federal Aviation Act which has a bearing on this subject is section 1103 (72 Stat. 797, 49 U.S.C. 1503), which designates as public records "copies of tariffs, and of all contracts, agreements, understandings, and arrangements filed with the Board as herein provided, and the statistics, tables and figures contained in the annual or other reports of air carriers and other persons