The National Transportation Safety Board ("NTSB") consists of 5 members (each one serving 5 years) has the authority to investigate all train accidents resulting in serious injury to any person or in damage to property of the railroad. It is an independent federal agency.

Any investigation of an accident by the Board shall have priority over all other investigations of such accident. If any accident is investigated by a federal agency or a state commission, the NTSB may, if convenient, make an investigation the same time.

The operator of a railroad shall notify the Board by telephoning the National Response Center by telephone 800-424-0201 at the earliest practicable time after the occurrence of any one of the following railroad accidents:

(a) No later than 2 hours after an accident which results in:

1. A passenger or employee fatality or serious injury to 2 or more crew members or passengers requiring admission to a hospital;
2. The evacuation of a passenger train;
3. Damage to a tank car or container resulting in release of hazardous materials or involving evacuation of the general public; or
4. A fatality at a grade crossing.

(b) No later than 4 hours after an accident which does not involve any of the circumstances enumerated in paragraph (a) of this section but which results in:

1. Damage (based on a preliminary gross estimate) of $150,000 or more for repairs, or the current replacement cost to railroad and nonrailroad property; or
2. Damage of $25,000 or more to a passenger train and railroad and nonrailroad property.

(c) Accidents involving joint operations must be reported by the railroad that controls the track and directs the movement of trains where the accident has occurred.

(d) Where an accident for which notification is required by paragraph (a) or (b) of this section occurs in a remote area, the time limits set forth in that paragraph shall

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1/ The NTSB has issued a rule that requires the operator of a railroad to preserve intact and make no attempt to extract data from any event recorder or data pack from any event recorder, any speed tape, or any other recording medium that contains information in any way pertinent to the accident for which notification has been given, until the NTSB takes custody of the information.
commence from the time the first railroad employee who was not at the accident site at the time of its occurrence has received notice thereof.

NTSB employees may only testify as to the factual information they obtained during the course of an investigation, including factual evaluations embodied in their factual accident reports. However, they shall decline to testify regarding matters beyond the scope of their investigation, and they shall not give any expert or opinion testimony.

Public access to information.

Copies of any communication, document, investigation, or other report or information in the NTSB's possession shall be made available to the public, except for certain trade secrets.

Use of reports.

(a) No part of any Board report relating to an accident investigation shall be admitted as evidence or used in any lawsuit.

(b) An NTSB employee may use a copy of his factual accident report as a testimonial aid, and may refer to that report during his testimony or use it to refresh his memory.

(c) An NTSB employee may not use the Board's accident report for any purpose during his testimony.

Manner in which testimony is given.

(a) Testimony of NTSB employees may be made available for use in actions or suits for damages arising out of accidents through depositions or written interrogatories. NTSB employees are not permitted to appear and testify in court in such actions.

(b) Normally, depositions will be taken and interrogatories answered at the NTSB's office to which the employee is assigned, and at a time arranged with the employee reasonably fixed to avoid substantial interference with the performance of his duties.

(c) NTSB employees are authorized to testify only once in connection with any investigation they have made of an accident. Consequently, when more than one lawsuit arises as a result of an accident, it shall be the duty of counsel seeking the employee's deposition to ascertain the identity of all parties to the multiple lawsuits and their counsel, and to advise them of the fact that a deposition has been granted, so that all interested parties may be afforded the opportunity to participate therein.

(d) Upon completion of the deposition of an NTSB employee, a copy of the transcript of the testimony will be furnished, at the expense of the party requesting the
deposition, to the NTSB's Counsel.

Request for testimony.

(a) A request for testimony of an NTSB employee relating to an accident by deposition or interrogatories shall be addressed to the General Counsel, who may approve or deny the request. Such request shall set forth the title of the case, the court, the type of accident (aviation, railroad, etc.), the date and place of the accident, the reasons for desiring the testimony, and a showing that the information desired is not reasonably available from other sources.

(b) The General Counsel shall attach to his approval such reasonable conditions as he may deem appropriate in order that the testimony will be limited to the matters delineated in these rules, will not interfere with the performance of the duties of the employees, and will otherwise conform to the policies of this part.

(c) A subpoena shall not be served upon an NTSB employee in connection with the taking of his deposition.

Testimony of former NTSB employees.

It is not necessary to request NTSB approval for testimony of a former NTSB employee. However, the scope of testimony of former NTSB employees is limited to the matters delineated in these rules, and use of reports as prescribed in these rules.

Procedure in the event of a subpoena.

(a) If an NTSB employee has received a subpoena to appear and testify, a request for his deposition shall not be approved until the subpoena has been withdrawn.

(b) Upon receipt of a subpoena, the employee shall immediately notify the General Counsel and provide the data identifying the accident; the title of the case, the name of the judge, if available, and the title and address of the court; the type of accident (aviation, railroad, etc.); the date on which the employee is directed to appear; the name, address, and telephone number, if available, of the attorney representing the party who caused the issuance of the subpoena; the scope of the testimony, if known; and a statement as to whether a prior deposition on the same accident has been given.

(c) The General Counsel shall determine the course of action to be taken and will so advise the employee.
**Testimony in State or local investigations.**

NTSB employees may testify at a coroner's inquest, grand jury, or criminal proceeding conducted by a State or local government. Testimony shall be limited to the matters delineated in these rules.

**Response to NTSB recommendations.**

Whenever the Board submits a recommendation regarding transportation safety to the Secretary of the DOT, the Secretary shall respond within 90 days. The Secretary shall adopt the recommendations or set forth in detail the reasons for such refusal.

The Board shall publish in the Federal Register each recommendation and the response by the Secretary.