

Chapter 3

MILITARY INVESTIGATION WITH NTSB OR FAA PARTICIPATION

3.1. General. A military aircraft mishap without civil aircraft involvement will be investigated by personnel from the appropriate military service. These same personnel will determine cause(s) from the evidence gathered, recommend corrective action(s), and create a report of their investigation and analysis.

3.2. Participation. By law, military authorities must provide for participation by the Secretary of Transportation in the military investigation of a mishap in which a duty of the Secretary may be involved.

3.2.1. The NTSB may have an interest when the above duty is an FAA function applicable to civil aviation.

3.2.2. Participation may be extended to the NTSB when military authority deems it could contribute to aviation safety.

3.2.3. The NTSB and FAA may decline to participate.

3.2.4. The concept of party status (i.e., participation) as used in the context of a NTSB investigation is not defined in military services' directives governing military mishap investigations and reporting.

3.2.4.1. Service directives provide for investigative boards' use of scientists, engineers, technical experts or manufactures' representatives.

3.2.4.2. Personnel, unless appointed, should not be in interviews with witnesses providing a statement under a promise of confidentiality, board deliberations on privileged information, or creation of the investigation report.

3.2.4.3. In view of the above, participation in a mishap investigation under military authority is construed to mean attendance and active assistance in any portion of the investigation except those in which the investigative board obtains, analyzes or reports privileged information.

3.2.5. Circumstances which may invoke NTSB or FAA participation in a military investigation are:

3.2.5.1. A mishap involving military aircraft or component equipment with a civilian equivalent.

3.2.5.2. A mishap involving an operation applicable to civil aviation.

3.2.5.3. A mishap involving an FAA function.

3.2.6. Military authorities should consider FAA involvement if any of the following apply to the mishap:

3.2.6.1. Performance of an FAA employee or designee.

3.2.6.2. FAA certification of a civilian crewmember, air agency, or operator.

3.2.6.3. FAA design or airworthiness certification.

3.2.6.4. Navigation or airport facility established, operated or maintained by the FAA; by another agency for the FAA; or by any non-government entity when intended for use by aircraft in the National Airspace System.

3.2.6.5. FAA rule, regulation or order applicable to airspace use.