

sued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 756.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1152	49 App.:1489. 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A).	Aug. 23, 1958, Pub. L. 85-726, §1009, 72 Stat. 796. Oct. 15, 1966, Pub. L. 89-670, §6(d) (1st sentence), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(a)(1)(A), 88 Stat. 2168.

The words “civil action” are substituted for “proceedings . . . begun originally in any court of the United States” for consistency with rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The words “section 1132, 1134(b) or (f)(1) (related to an aircraft accident), or 1155(a) of this title” are substituted for “the provisions of this chapter” in 49 App.:1489 because 49 App.:1489 is taken from 49 App.:ch. 20 and the sections in quotations restate the relevant provisions of 49 App.:ch. 20 carried out by the National Transportation Safety Board. The remaining relevant provisions of 49 App.:ch. 20 are restated in part A of subtitle VII of the revised title, and provisions comparable to this section are included as section 46109 of the revised title. The word “rule” is omitted as being synonymous with “regulation”. The word “requirement” is omitted as included in “order”. The words “or any term, condition, or limitation of any certificate or permit” are omitted because the Board does not have authority to issue certificates or permits. The words “may be joined as a party or permitted to intervene” are substituted for “it shall be lawful to include as parties, or to permit the intervention of” for clarity. The text of 49 App.:1489 (words after semicolon) is omitted as surplus.

§ 1153. Judicial review

(a) GENERAL.—The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is issued.

(b) PERSONS SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the

order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists. Findings of fact by the Board, if supported by substantial evidence, are conclusive.

(4) In reviewing an order under this subsection, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Administration decides that an order of the Board under section 44703(d), 44709, or 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(d) COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.—If the Commandant of the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 756; Pub. L. 108-293, title VI, §622, Aug. 9, 2004, 118 Stat. 1063; Pub. L. 112-95, title III, §301(b), Feb. 14, 2012, 126 Stat. 56.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1153(a)	49 App.:1655(d) (last sentence). 49 App.:1903(d).	Oct. 15, 1966, Pub. L. 89-670, §6(d), 80 Stat. 938. Jan. 3, 1975, Pub. L. 93-633, §304(d), 88 Stat. 2171.
1153(b)(1)	49 App.:1486(a), (b) (as 1486(a), (b) relates to CAB). 49 App.:1655(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §1006(a), (b), (e), (f) (as §1006(a), (b), (e), (f) relates to CAB), 72 Stat. 795.
1153(b)(2)	49 App.:1486(c) (related to CAB). 49 App.:1655(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §1006(c) (related to CAB), 72 Stat. 795; restated June 29, 1960, Pub. L. 86-546, §1, 74 Stat. 255.
1153(b)(3)	49 App.:1486(d), (e) (1st sentence) (as 1486(d), (e) (1st sentence) relates to CAB). 49 App.:1655(d) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, §1006(d) (related to CAB), 72 Stat. 795; restated Sept. 13, 1961, Pub. L. 87-225, §2, 75 Stat. 497.
1153(b)(4)	49 App.:1486(e) (last sentence related to CAB). 49 App.:1655(d) (1st sentence).	
1153(b)(5)	49 App.:1486(f) (related to CAB). 49 App.:1655(d) (1st sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1153(c)	49 App.:1429(a) (8th-last sentences related to Administrator under subch. VII).	Aug. 23, 1958, Pub. L. 85-726, § 609(a) (8th-last sentences related to Administrator under title VII), 72 Stat. 779; Nov. 18, 1971, Pub. L. 92-159, § 2(a), 85 Stat. 481; Aug. 26, 1992, Pub. L. 102-345, § 3(a)(2), 106 Stat. 925.
	49 App.:1471(a) (3)(D)(v) (related to Administrator under subch. VII).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 901(a) (3)(D)(v) (related to Administrator under title VII); added Nov. 18, 1988, Pub. L. 100-690, § 7208(b), 102 Stat. 4429; restated Aug. 26, 1992, Pub. L. 102-345, § 2(a), 106 Stat. 923.
	49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89-670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97-449, § 7(b), 96 Stat. 2444.

In subsection (a), the text of 49 App.:1903(d) (last sentence) is omitted as unnecessary because 5:ch. 7 applies by its own terms. The words “final order” are substituted for “order, affirmative or negative” in 49 App.:1903(d) and “Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final” in 49 App.:1655(d) to eliminate unnecessary words. The words “is issued” are substituted for “after the entry” for consistency in the revised title and with other titles of the United States Code. The text of 49 App.:1655(d) (last sentence words after last comma) is omitted as unnecessary because of 49 App.:1903(d).

In subsection (b)(1), the words “affirmative or negative” are omitted as surplus. The words “related to an aviation matter” are added because the source provisions being restated only apply to aviation matters. The words “is issued” are substituted for “the entry of” for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words “if any” are omitted as surplus. The words “of the proceeding” are added for clarity. The words “complained of” and “as provided in section 2112 of title 28” are omitted as surplus.

In subsection (b)(3), the word “amend” is added for consistency in the revised title. The word “interim” is substituted for “interlocutory” for clarity. The words “taking other appropriate action” are substituted for “by such mandatory or other relief as may be appropriate” for clarity and to eliminate unnecessary words.

In subsection (b)(4), the words “made in the proceeding conducted by” are substituted for “urged before” for clarity.

In subsection (c), the source provisions are combined to eliminate unnecessary words and are restated in this chapter to alert the reader to the authority of the Administrator of the Federal Aviation Administration to seek judicial review of an order of the National Transportation Safety Board under section 44709 or 46301(d) of the revised title that the Administrator decides will have a significant adverse impact on carrying out source provisions restated in this chapter that are derived from title VII of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 781).

AMENDMENTS

2012—Subsec. (c). Pub. L. 112-95 substituted “section 44703(d), 44709, or” for “section 44709 or”.

2004—Subsec. (d). Pub. L. 108-293 added subsec. (d).

§ 1154. Discovery and use of cockpit and surface vehicle recordings and transcripts

(a) IN GENERAL.—(1) Except as provided by this subsection, a party in a judicial proceeding may not use discovery to obtain—

(A) any still image that the National Transportation Safety Board has not made available

to the public under section 1114(c) or 1114(d) of this title;

(B) any part of a cockpit or surface vehicle recorder transcript that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title; and

(C) a cockpit or surface vehicle recorder recording.

(2)(A) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit or surface vehicle recorder transcript if, after an in camera review of the transcript, the court decides that—

(i) the part of the transcript made available to the public under section 1114(c) or 1114(d) of this title does not provide the party with sufficient information for the party to receive a fair trial; and

(ii) discovery of additional parts of the transcript is necessary to provide the party with sufficient information for the party to receive a fair trial.

(B) A court may allow discovery, or require production for an in camera review, of a cockpit or surface vehicle recorder transcript that the Board has not made available under section 1114(c) or 1114(d) of this title only if the cockpit or surface vehicle recorder recording is not available.

(3) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit or surface vehicle recorder recording, including with regard to a video recording any still image that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title, if, after an in camera review of the recording, the court decides that—

(A) the parts of the transcript made available to the public under section 1114(c) or 1114(d) of this title and to the party through discovery under paragraph (2) of this subsection do not provide the party with sufficient information for the party to receive a fair trial; and

(B) discovery of the cockpit or surface vehicle recorder recording, including with regard to a video recording any still image that the National Transportation Safety Board has not made available to the public under section 1114(c) or 1114(d) of this title, is necessary to provide the party with sufficient information for the party to receive a fair trial.

(4)(A) When a court allows discovery in a judicial proceeding of a still image or a part of a cockpit or surface vehicle recorder transcript not made available to the public under section 1114(c) or 1114(d) of this title or a cockpit or surface vehicle recorder recording, the court shall issue a protective order—

(i) to limit the use of the still image, the part of the transcript, or the recording to the judicial proceeding; and

(ii) to prohibit dissemination of the still image, the part of the transcript, or the recording to any person that does not need access to the still image, the part of the transcript, or the recording for the proceeding.

(B) A court may allow a still image or a part of a cockpit or surface vehicle recorder tran-