

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).

Editorial Notes

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 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 to be admitted into evidence in a judicial proceeding, only if the court places the still image, the part of the transcript, or the recording under seal to prevent the use of the still image, the part of the transcript, or the recording for purposes other than for the proceeding.

(5) This subsection does not prevent the Board from referring at any time to cockpit or surface vehicle recorder information in making safety recommendations.

(6) In this subsection:

(A) RECORDER.—The term “recorder” means a voice or video recorder.

(B) STILL IMAGE.—The term “still image” means any still image obtained from a video recorder.

(C) TRANSCRIPT.—The term “transcript” includes any written depiction of visual information obtained from a video recorder.

(b) REPORTS.—No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 757; Pub. L. 106–424, §5(c)(1), Nov. 1, 2000, 114 Stat. 1885; Pub. L. 115–254, div. C, §1104(b), Oct. 5, 2018, 132 Stat. 3430.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1154(a)	49 App.:1905(c)(3), (d).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §306(c)(3), (d); added Oct. 14, 1982, Pub. L. 97–309, §2, 96 Stat. 1453; restated Nov. 28, 1990, Pub. L. 101–641, §4, 104 Stat. 4655.
1154(b)	49 App.:1441(e). 49 App.:1655(d) (1st sentence). 49 App.:1903(a)(1)(A), (c).	Aug. 23, 1958, Pub. L. 85–726, §701(e), 72 Stat. 781. 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), (c), 88 Stat. 2168, 2171.

In subsection (a), the word “transcript” is substituted for “transcriptions” for clarity.

In subsection (a)(1)(A), the words “that the National Transportation Safety Board has not made available to the public” are substituted for “other than such portions made available to the public by the Board” for clarity.

In subsection (a)(2)(B), the words “prepared by or under the direction of the Board” are omitted as unnecessary and for consistency with the source provisions restated in this subsection.

In subsection (b), the words “civil action” are substituted for “suit or action” in 49 App.:1441(e) and 1903(c) for consistency with the Federal Rules of Civil Procedure (28 App. U.S.C.).

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §1104(b)(1), substituted “In General” for “Transcripts and Recordings” in heading.

Subsec. (a)(1). Pub. L. 115–254, §1104(b)(2), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Subsec. (a)(3). Pub. L. 115–254, §1104(b)(3), substituted “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,” for “recorder recording” in introductory provisions and in subpar. (B).

Subsec. (a)(4)(A). Pub. L. 115–254, §1104(b)(4), inserted “a still image or” before “a part of a cockpit” in introductory provisions and substituted “the still image, the part of the transcript, or the recording” for “the part of the transcript or the recording” wherever appearing.

Subsec. (a)(4)(B). Pub. L. 115–254, §1104(b)(4)(B), inserted “a still image or” before “a part of a cockpit” and substituted “the still image, the part of the transcript, or the recording” for “the part of the transcript or the recording” in two places.

Subsec. (a)(6)(B), (C). Pub. L. 115–254, §1104(b)(5), added subpar. (B) and redesignated former subpar. (B) as (C).

2000—Pub. L. 106–424, §5(c)(1)(A), substituted “and surface vehicle recordings and transcripts” for “voice and other material” in section catchline.

Subsec. (a). Pub. L. 106–424, §5(c)(1)(B), substituted “cockpit or surface vehicle recorder” for “cockpit voice recorder” wherever appearing.

Pub. L. 106–424, §5(c)(1)(C), substituted “section 1114(c) or 1114(d)” for “section 1114(c)” wherever appearing.

Subsec. (a)(6). Pub. L. 106–424, §5(c)(1)(D), which directed the amendment of this section by adding par. (6) at the end, was executed by adding par. (6) at the end of subsec. (a) to reflect the probable intent of Congress.

§ 1155. Penalties

(a) CIVIL PENALTY.—(1) A person violating section 1132, section 1134(b), section 1134(f)(1), section 1136(g), or section 1139(g) of this title or a regulation prescribed or order issued under any of those sections is liable to the United States Government for a civil penalty of not more than \$1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces of the United States or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) CRIMINAL PENALTY.—A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 758; Pub. L. 104–264, title VII, §702(b), Oct. 9, 1996, 110