B-58

CIVIL AIR REGULATIONS

PART 45

COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

Effective April 1, 1954

CIVIL AERONAUTICS BOARD

WASHINGTON, D. C.

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PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 4th day of March 1954.

This revision of Part 45 of the Civil Air Regulations brings the references to current Parts 40 and 61, which are contained in §§ 45.3 and 45.4, into accord with revised Part 40 which is to become effective on April 1, 1954, and deletes certain rules which are no longer applicable.

On April 13, 1953, the Board adopted revised Part 40 which consolidates and replaces the certification and operating rules for scheduled air carriers currently contained in Parts 40 and 61. Section 45.3 currently states that an applicant for a commercial operator's certificate who carries or intends to carry passengers in large aircraft for compensation or hire as a common carrier between any two points entirely within any State in excess of a certain frequency shall demonstrate that he is capable of conducting his operations in accordance with the provisions of Part 40 with the exception of certain sections. Section 45.4 currently states that persons subject to the provisions of Part 45 who conduct common carrier operations subject to this part in large aircraft carrying passengers between points entirely within a State in excess of a certain frequency shall comply with the requirements of Part 61 with the exception of certain sections. This revision changes the references to Parts 40 and 61 to conform to the appropriate sections of revised Part 40. Subparagraph (1) of § 45.2 (a) permitted operation without a commercial operator's certificate until April 1, 1950, if certain conditions were met. Since this date has long since passed, this paragraph is no longer applicable and is being deleted.

Since these changes are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, the Civil Aeronautics Board hereby revises Part 45 of the Civil Air Regulations (14 CFR Part 45, as amended) effective April 1, 1954, to read as follows:

Sec.
45.1 *Applicability of part.*
45.2 Certificate required.
45.3 Certification requirements.
45.4 *Operating rules.*
45.5 Certificate rules.

AUTHORITY: §§ 45.1 to 45.5 issued under sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 607, 52 Stat. 1007, 1011, as amended; 49 U. S. C. 551, 557.

§ 45.1 *Applicability of part.* The provisions of this part shall be applicable to citizens of the United States engaging in the carriage in air commerce of goods or passengers for compensation or hire, unless such carriage is conducted under the provisions of an air carrier operating certificate issued by the Administrator. For the purpose of this part, student instruction, banner towing, crop dusting, seeding, and similar operations shall not be considered as the carriage of goods or persons for compensation or hire.[1]

§ 45.2 *Certificate required.* No person subject to the provisions of this part shall engage in air commerce using aircraft of more than 12,500 pounds maximum certificated take-off weight until he has obtained from the Administrator a commercial operator certificate: *Provided,* That no person holding an air carrier operating certificate shall be required to obtain or be eligible for any commercial operator certificate unless he holds only an air carrier operating certificate issued pursuant to Part 42 of this subchapter and carries or intends to carry passengers for compensation or hire as a common carrier between any two points within a State with the frequency set forth in § 45.3 (a).

§ 45.3 *Certification requirements.* A commercial operator certificate shall be issued to an applicant who demonstrates to the Administrator that he is capable of conducting his operations in accordance with the provisions of Part 42 of this subchapter, as heretofore or hereafter amended, or at an equivalent level of safety: *Provided,* That an applicant who carries or intends to carry passengers for compensation or hire as a common carrier between two points[2] entirely within any State with the frequency set forth in paragraph (a) of this section shall demonstrate that he is capable of conducting these operations in accordance with the requirements of Part 40 of this subchapter, as heretofore or hereafter amended, except §§ 40.1, 40.10, and 40.12 through 40.17, or with such other certification requirements as the Administrator finds will provide an appropriate level of safety for the operation.[3]

(a) *Two flights, or one round trip,* a week on the same day or days of the week for any eight or more weeks in any 90 consecutive days; or a total of 36 or more flights, or 18 or more round trips, in any 90 consecutive days.

§ 45.4 *Operating rules.* (a) Except as provided in paragraph (b) of this section, all persons subject to the provisions of this part shall, in the conduct of operations subject hereto, comply with the operating requirements of Part 42 of this subchapter, as heretofore or hereafter amended. Operating requirements shall be deemed to include requirements relating to aircraft and equipment, maintenance, flight crew, flight time limitations, flight operation, aircraft operating limitations, and related record-keeping and reporting requirements.

(b) *Persons subject to the provisions* of this part who conduct common carrier operations subject hereto in aircraft of more than 12,500 pounds maximum certificated take-off weight carrying passengers between points entirely within a State with the frequency described in § 45.3 (a) shall, in the conduct of all passenger operations between such points, comply with the requirements of Part 40 of this subchapter, as heretofore or hereafter amended, except §§ 40.1, 40.10, and 40.12 through 40.17, or with

[1] Under circumstances where it is doubtful whether the operations are for "compensation or hire," the test to be applied is whether the air carriage is merely incidental to the operator's other business or is, in and of itself, a major enterprise for profit.

[2] The term "point" as used in this section shall have the same meaning as that established by § 291.1 (b) of this chapter. Section 291.1 (b) defines point to include "any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place."

[3] Note that an air carrier holding an air carrier operating certificate issued under the provisions of Part 42 of this subchapter may not conduct intrastate operations with the frequency specified in paragraph (a) of this section without first obtaining a commercial operator certificate.

such other operating requirements as the Administrator finds will provide an appropriate level of safety for the operation.

§ 45.5 *Certificate rules.* The certificate rules prescribed in §§ 42.5 through 42.9 of this subchapter shall be applicable to commercial operator certificates, except that for those persons complying with the certification requirements of Part 40 of this subchapter, §§ 40.11, and 40.18 shall apply in lieu of § 42.5.

NOTE: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 54-1733; Filed, Mar. 10, 1954; 8:49 a. m.]

NOTICE

Advise the Civil Aeronautics Board, Washington 25, D. C., that you have purchased this Part of the Civil Air Regulations and that agency will supply you with copies of amendments which have been issued since this printing. Be sure to specify the number of this Part, otherwise your request cannot be filled.

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