A-243

CIVIL AERONAUTICS BOARD

WASHINGTON, D. C.

CIVIL AIR REGULATIONS

PART 97

As Amended to August 9, 1946

RULES OF PRACTICE GOVERNING SUSPENSION AND REVOCATION PROCEEDINGS BEFORE THE BOARD UNDER SECTION 609 OF THE CIVIL AERONAUTICS ACT OF 1938, AS AMENDED

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97.10 Initiation of Proceedings. A proceeding may be initiated by the Administrator of Civil Aeronautics by filing with the Board a complaint which shall be complete in itself so as fully to set forth the alleged violations of the Civil Air Regulations and other acts complained of. The complaint shall pray that the Board shall either suspend or revoke the respondent's certificate.

97.11 Filing of Complaint. An original and nine copies of the complaint, either printed or typewritten, shall be filed with the Board.

97.12 Service of the complaint. When a complaint is filed, as prescribed in § 97.11, the General Counsel's Office of the Civil Aeronautics Board shall send a copy thereof, by registered mail, return receipt requested, to the respondent, together with a copy of these rules of practice. The complaint will be deemed served upon the respondent on the date specified on the Post Office return receipt.

97.13 Answer. After service upon him of the complaint, the respondent shall have ten days within which to answer in writing the charges set forth therein. Such answer shall be deemed filed as of the date of mailing to the Civil Aeronautics Board. Failure to answer any of the charges within the prescribed ten-day period shall be deemed an admission of the charges not answered. Upon good cause shown, the examiner to whom the case is assigned or the Chief of the Safety Section shall grant additional time within which to answer.

97.14 Request for Hearing. An appropriate form for requesting or waiving hearing shall be sent respondent with the copy of the complaint. Respondent shall have ten days from the date of service of the complaint upon him in which to request a hearing. Failure to make such request within the prescribed time shall be deemed a waiver of respondent's right to hearing. Upon good cause shown, the examiner to whom the case is assigned or the Chief of the Safety Section shall grant additional time within which to request a hearing.

97.15 Notice of Hearing. When a hearing has been requested, the General Counsel's Office of the Civil Aeronautics Board shall give the respondent adequate notice of the date and place where such hearing will be held.

97.16 Submission Without Hearing or Appearance. Where hearing has been waived by the respondent, the examiner, on the basis of the pleadings and the documentary evidence submitted to the Board by the parties, shall prepare the initial decision. The examiner shall serve, by registered mail, a copy of this initial decision upon respondent and his counsel, if any. A copy shall also be served upon complainant. The parties to the proceeding shall have five days, or such additional time as the examiner may specify, after the date of service of such initial decision within which to file exceptions and appeal to the Board. If no exception to, appeal to the Board from, or motion by the Board to review, such decision is filed or entered within the time allowed, such decision shall without further proceedings then become the decision of the Board.

97.17 Amendment of Pleadings. Either party to the proceeding may amend his pleadings, as a matter of course, by filing with the Board at any time more than 15 days prior to the date of hearing three copies of the pleadings, as amended. After that time amendment shall be allowed at the discretion of the Board or its designated examiner.

97.18 Depositions. After answer is filed by respondent, the testimony of any person within the United States may be taken by deposition at the instance of either the Administrator or respondent. Such depositions shall be taken before any person having power to administer oaths who is designated either by the examiner to whom the case is assigned or the Chief of the Safety Section.

97.19 Examiner's Report - Exceptions - Oral Argument. After the hearing the examiner, on the basis of the evidence submitted, shall prepare a report and recommendation to the Board. The General Counsel's Office of the Civil Aeronautics Board shall serve, by registered mail, a copy of this report and recommendation upon respondent and his counsel, if any. A copy shall also be served upon complainant. The parties to the proceedings shall have five days, or such additional time as the examiner may specify, after the date of service of such report and recommendation, within which to file exceptions thereto. If either complainant or respondent desires to argue his exceptions before the Board orally, request for such argument shall be made at the time of filing the exceptions. If no exceptions to the Examiner's report and recommendation are filed within the time allowed for filing such exceptions, the Examiner's report and recommendation will be adopted by the Board as its final decision.

97.20 (Unassigned).

97.21 Saving Clause. The repeal or amendment of any Civil Air Regulation shall not affect any pending proceeding or any proceeding thereafter commenced to alter, amend, modify, suspend, or revoke any certificate issued by the Administrator for causes arising or acts committed prior to said repeal or amendment, unless the act of repeal or amendment specifically so provides.