A-145

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Civil Air Regulations Amendment 97-1
Effective: March 1, 1947
Adopted: February 17, 1947

WITHDRAWAL OF COMPLAINT

Effective March 1, 1947, Part 97 of the Civil Air Regulations is amended by adding thereto immediately following §97.18 a new section numbered 97.18a as follows:

97.18a Withdrawal of Complaint. A complaint may be withdrawn by the Administrator of Civil Aeronautics, as plaintiff, at any time prior to the issuance of an initial decision in the proceeding as provided for in sections 97.22 and 97.23 hereof, by filing with the Board an original and two copies of a formal Notice of Withdrawal of Complaint stating the reasons for such action, together with a signed statement that a copy thereof has been mailed to the defendant, and the proceeding shall thereupon be deemed terminated without further action of the Board.

By the Civil Aeronautics Board:

/s/ M. C. Mulligan

M. C. Mulligan
Secretary

(SEAL)

Part 97 last issued January 1, 1947.

CIVIL AERONAUTICS BOARD

WASHINGTON, D. C.

CIVIL AIR REGULATIONS

PART 97

As Amended to July 6, 1945

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

Sec.

97.10 Initiation of Proceedings
97.11 Filing of Complaint
97.12 Service of the Complaint
97.13 Answer
97.14 Request for Hearing
97.15 Notice of Hearing
97.16 Submission Without Hearing or Appearance
97.17 *Amendment of Pleadings*
97.18 Depositions
97.19 Examiner's Report - Exceptions - Oral Argument
97.20 Limitation of Actions
97.21 Saving Clause

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

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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 respondent, the Board shall make its decision on the basis of whatever data is submitted to it by the complainant and the respondent.

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 proceeding 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.

97.20 Limitation of Actions. The Board shall dismiss any allegations in a complaint filed with it which charges a violation of the Civil Air Regulations or other act occurring more than six months prior to the date

of filing the complaint, unless the complainant shall show good cause for the delay.

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.

CIVIL AERONAUTICS BOARD

WASHINGTON, D. C.

CIVIL AIR REGULATIONS

PART 97

As Amended to December 10, 1943

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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