CIVIL AIR REGULATIONS

PART 190

AUTHORIZATION OF NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Effective April 30, 1954

CIVIL AERONAUTICS BOARD

WASHINGTON, D. C.

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TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

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PART 190—AUTHORIZATION OF NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 26th day of February 1954.

On August 19, 1953, the Board adopted Part 190 of the Civil Air Regulations under the authority of Public Law 225 of the 83d Congress. This law transferred to the Board the power to issue flight authorizations under the Air Commerce Act of 1926 for the navigation of foreign civil aircraft within the United States. Part 190 as then promulgated was intended as an interim regulation pending the adoption of permanent regulations after notice and public rule-making, and in the preamble to that part comment of interested persons was invited. Considerable comment has been received and considered by the Board, and in addition, several months of operations under the interim regulation have given the Board a background of experience upon which to base its rules.

The following points should be noted:

1. Holders of permits under section 402 of the Civil Aeronautics Act of 1938 will require no further authorization under the Air Commerce Act to navigate in the United States in respect of operations specifically authorized by the foreign air carrier permit, and such operations are in no way governed by this regulation.

2. Existing permits, whether issued by the Civil Aeronautics Administration or the Board, will continue in effect in accordance with their terms and conditions, since the Board finds that it is in the public interest to continue existing U. S. commitments to operators of foreign civil aircraft until their stated expiration.

3. Agricultural, industrial, and commercial transport operations not in air transportation continue to require specific Board approval. Commercial transport requests should, in the usual case, be submitted to the Board at least two weeks in advance of the date operations are proposed to commence, although this may be waived upon good cause shown. It should be noted that notice will be published in the Board's Weekly List of Applications Filed of all applications for authority involving 10 or more flights in a 90-day period, and that all applications together with the supporting documents will be available for public inspection, unless the Board otherwise specifically orders.

4. In several of the comments received the suggestion was made that the regulations contained in this part be divided and that the economic provisions thereof be transferred to the Board's Economic Regulations. While the Board considers that there is considerable merit to this proposal, it has decided to retain the original treatment of the regulations in this respect for the following reasons. Unlike other regulations of the Board the authority for these rules stems from the Air Commerce Act of 1926. Each of the rules, whether safety or economic in nature, is a condition or limitation on the right of operators of foreign civil aircraft to enter the United States. Failure to observe the rules is punishable primarily by a civil penalty enforced by the Administrator as a violation of Title V of the Civil Aeronautics Act. In addition to this consideration, the Board believes it desirable to have in one place all the regulations relating to the operation of foreign civil aircraft pursuant to the Air Commerce Act of 1926. On balance, therefore, the Board has continued to adhere to the principle that these rules should all appear in the same part of its regulations. In this connection it should be noted that Part 190 is the only regulation in the 190–199 series—while the Board's safety regulations, adopted pursuant to the Civil Aeronautics Act, are contained in the 1–99 series.

The interim Part 190 now in effect will expire on March 1, 1954. In order to provide an adequate opportunity for those persons who are governed by these regulations to acquaint themselves with the amendments which are hereby being made to the part, the Board will continue the present regulation in effect until April 30, 1954, at which time the part as amended will become fully effective.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board finds that the republication and amendment of Part 190 in the form set forth below, to the extent therein provided, is in the interest of the public and consistent with treaties, conventions and agreements which are in force between the United States and foreign countries.

Accordingly, the Civil Aeronautics Board hereby amends Part 190 of the Civil Air Regulations (14 CFR Part 190) as follows:

(1) Effective immediately, by striking the date March 1, 1954, in § 190.4 and inserting in lieu thereof April 30, 1954;

(2) Effective April 30, 1954, by amending Part 190 of the Civil Air Regulations (14 CFR Part 190) to read as follows:

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AUTHORITY: §§ 190.1 to 190.70 issued under sec. 205, 52 Stat 984; 49 U. S. C 425 Interpret or apply sec. 402, 52 Stat. 991, 67 Stat. 489; 49 U. S. C. 482

SUBPART A—GENERAL

§ 190.1 *Applicability.* The regulations prescribed in this part authorize, to the extent that authorization is required pursuant to section 6 (b) of the Air Commerce Act of 1926, as amended, the navigation of foreign civil aircraft within the United States and specify the extent to and the terms and conditions under which various classes of flight operations by such foreign aircraft may be conducted in the United States. The regulations in this part do not apply to operations in foreign air transportation conducted under the authority of a foreign air carrier permit issued pursuant to section 402 of the Civil Aeronautics Act.

§ 190.2 *Definitions.* As used in this part:

(a) "Administrator" means the Administrator of Civil Aeronautics.

(b) "Air commerce" means transportation in whole or in part by aircraft of persons or property for hire, navigation of aircraft in furtherance of a business, or navigation of aircraft from one place to another for operation in the conduct of a business.

(c) "Air transportation" means air transportation as defined in the Civil Aeronautics Act of 1938, as amended.

(d) "Board" means the Civil Aeronautics Board.

(e) "Scheduled international air service" means scheduled international air service as defined by the Council of the International Civil Aviation Organization in ICAO Document 7278–C 841 of May 10, 1952, adopted March 28, 1952.

(f) "United States" means the territory comprising the several States, Territories, possessions, and the District of Columbia (including the territorial waters thereof), any part thereof and the overlying airspace; but shall not include the Canal Zone.

§ 190.3 *Existing permits.* (a) Foreign Flight Permits issued prior to August 11, 1953, by the Administrator are hereby ratified and confirmed and shall continue in effect in accordance with their terms until the expiration date stated in each such permit, unless sooner specifically terminated or revoked by the Board. Navigation of foreign aircraft in the United States by holders of such permits shall be conducted pursuant to the terms, conditions, and limitations therein contained, and the provisions of this part (except Subpart A) shall not apply to such operations during the life of such permits.

(b) Permits issued by the Board under the provisions of this part prior to April 30, 1954, shall continue in effect in accordance with their terms until the expiration date stated in each such permit, unless sooner specifically terminated or revoked by the Board. Navigation of foreign aircraft in the United States by holders of such permits shall be conducted pursuant to the terms, conditions, and limitations therein contained, and the provisions of this part.

SUBPART B—AUTHORIZATION

§ 190.10 *Civil aircraft registered in ICAO member states.* Subject to the observance of the applicable rules, conditions, and limitations set forth in this part, foreign civil aircraft registered in any foreign country which at the time is a member of the International Civil Aviation Organization created by the Chicago Convention may be navigated in the United States.

§ 190.11 *Civil aircraft registered in non-ICAO member states.* Aircraft registered under the laws of foreign countries, not members of the International Civil Aviation Organization created by the Chicago Convention, which the Board has found grant reciprocal treatment to U. S. aircraft and airmen, may be navigated in the U. S. subject to the observance of the same rules, conditions, and limitations applicable in the case of aircraft of ICAO member states.

NOTE: At the time of publication of this part it has been determined that the following countries, not member states of ICAO, afford reciprocity to U. S. aircraft and airmen: Costa Rica, Ecuador, Morocco, New Hebrides, Panama, Portuguese Colonies, Saudi Arabia and Uruguay.

SUBPART C—RULES GENERALLY APPLICABLE TO THE NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

§ 190.20 *Airworthiness and registration certificates.* Foreign aircraft shall carry aboard currently effective certificates of registration and airworthiness issued or rendered valid by the country of registry and shall display the nationality and registration markings of that country, (Addition and 190-2)

§ 190.21 *Airmen.* Each member of the flight crew of a foreign aircraft shall have in his personal possession a valid airman certificate or license authorizing him to perform his assigned functions in the aircraft and for the operation involved issued or rendered valid by the country of registry of the aircraft or by the United States. No such flight crew member shall perform any flight duty within the United States which he is not currently authorized to perform in the country issuing or validating the certificate.

§ 190.22 *Flight operations.* Flight of foreign aircraft in the United States shall be conducted in accordance with the current applicable Civil Air Regulations and with regulations of the Administrator under Title XII of the Civil Aeronautics Act of 1938, as amended. Without limiting the generality of the foregoing, the following conditions are specified with respect to the following operations:

(a) *VFR operations.* Flight shall be conducted in accordance with the visual flight rules of Part 60, Air Traffic Rules, and the applicable sections of Part 43, General Operation Rules, of this chapter, except that a VFR Flight Plan shall be filed with the nearest appropriate CAA Communications station prior to each such flight.

(b) *IFR operations.* Flight shall be conducted in aircraft equipped with (1) radio equipment which will permit two-way radio-telephone communication with Civil Aeronautics Administration air traffic control while the aircraft is in a control zone or control area, and (2) a radio navigational device suitable for use with the type of ground aids upon which navigation is to be predicated. No such instrument flight shall be conducted unless every pilot operating the aircraft in the United States possesses a United States instrument rating or is authorized by his foreign airman certificate to engage in instrument flight and has thoroughly familiarized[1] himself with the United States en route, holding and let-down procedures. At least one member of the crew must be able to conduct two-way radio-telephone communication in the English language between the aircraft and ground communication stations and must be on duty while approaching, within and leaving the United States. Instrument flight shall be performed in accordance with the instrument flight rules of Part 60 and the applicable sections of Part 43 of this chapter. Entry into and exit from the United States under instrument conditions shall be in accordance with instructions issued by the appropriate area airway traffic control center. Instrument operations into all airports shall be conducted in accordance with the instrument approach procedures and weather minimums in Part 609 of Chapter II of this title, and published in the Flight Information Manual of the Civil Aeronautics Administration.

(c) *Overwater operations.* A flight notification or flight plan will be required for all flights conducted offshore (overwater) in accordance with the Supple-

[1] The highly developed system of air navigation aids, detailed traffic control procedures, and heavy instrument traffic in the United States require the most meticulous observance of air traffic control instructions. Any failure to observe such instructions can imperil not only the offending pilot and those aboard his aircraft, but other aircraft in the vicinity and persons and property on the ground as well. Operation of aircraft under instrument conditions by pilots who are not thoroughly familiar with the workings of the air navigation aids being used or who cannot understand or are unable to follow traffic control instructions exactly presents such a hazard to life that it is considered gross negligence. Accordingly, any pilot who flies under instrument conditions in the United States without the required degree of familiarity will be considered in violation of § 60.12 of this chapter and subject to a civil penalty of up to $1,000. Foreign pilots are advised that agents of the Civil Aeronautics Administration in the United States and at many points abroad are available to help foreign pilots in this respect, and if such an agent is satisfied that the pilot concerned possesses the required degree of familiarity he will issue a letter so stating. Possession of such a letter addressed to the pilot concerned is considered to satisfy this requirement. A flight demonstration will not be required to satisfy the agent of the required degree of familiarity.

mentary Procedures for the pertinent ICAO regions.

NOTE: Information describing such requirements is found in separate publications for each ICAO region and may be obtained through the Civil Aeronautics Administration regional offices whose addresses are set forth in section 42 of the statement of the Civil Aeronautics Administration organization and functions.

§ 190.23 *Maximum allowable weights.* Foreign aircraft shall not be operated within the United States at weights in excess of the maximum weights authorized by the country of manufacture of the aircraft type and model involved.

§ 190.24 *Entry and clearance regulations.* All applicable entry and clearance requirements for aircraft, passengers, crews, baggage and cargo shall be followed.

SUBPART D—UNAUTHORIZED OPERATIONS

§ 190.30 *Air transportation.* Nothing in this part shall authorize any foreign aircraft to engage in air transportation.

§ 190.31 *Unauthorized aircraft.* Aircraft which are not authorized to be navigated pursuant to Subpart B of this part shall not be navigated in the United States.

SUBPART E—ADDITIONAL LIMITATIONS APPLICABLE TO PARTICULAR CLASSES OF OPERATIONS

§ 190.40 *Operations not for remuneration or hire.* Foreign civil aircraft which are not at the time engaged in the carriage of passengers, cargo or mail for remuneration or hire may be navigated into, out of, and within the United States, and may discharge, take on or carry between points in the U. S. any non-revenue traffic. The use of foreign civil aircraft in demonstration flights, agricultural and industrial operations and flight instruction shall be governed as hereinafter set forth in this subpart.

§ 190.41 *Demonstration flights of foreign aircraft.* Flight of foreign civil aircraft within the United States may be made for the purpose of demonstration for sale of the aircraft or any component thereof, provided no persons, cargo or mail are carried for remuneration or hire.

§ 190.42 *Agricultural and industrial operations within the United States.* Foreign civil aircraft shall not be used for crop-dusting, pest control, pipeline patrol, banner towing, sky-writing or similar uses within the United States unless special authorization is obtained from the Board and the operation is conducted in accordance with all applicable state and local laws and regulations as well as the applicable provisions of this part. Applications for such authorization shall be submitted at least five days in advance of the date of the commencement of the proposed operation and shall contain a general statement of the facts and the authority desired. The application shall be accompanied by such documentation as may be necessary to establish that reciprocity for similar operations exists in the country of registry of the aircraft. Such additional information as may specifically be requested by the Board shall also be furnished.

§ 190.43 *Flights incidental to agricultural and industrial operations outside the United States.* Foreign civil aircraft which are engaged in agricultural or industrial operations to be performed wholly without the United States may be navigated into, out of, and within the United States in connection therewith provided they are not at the time engaged in the carriage of passengers, cargo or mail for remuneration or hire.

§ 190.44 *Flight instruction.* Foreign civil aircraft shall not be used within the United States for the purpose of flight instruction for remuneration or hire: *Provided,* That this restriction shall not prevent the giving of indoctrination training in the operation of the aircraft concerned to a buyer or his employees.

§ 190.45 *Transit flights, irregular operations.* Foreign civil aircraft carrying persons, property, or mail for remuneration or hire but not engaged in scheduled international air services are authorized to navigate non-stop across the territory of the United States and to make stops for non-traffic purposes. Such aircraft shall not make stops for the purpose of taking on or discharging passengers, cargo or mail, or for other than strictly operational purposes.

§ 190.46 *Transit flights; scheduled international air service operations.* An operator of foreign civil aircraft desiring to conduct a scheduled international air service in transit across the United States pursuant to the International Air Services Transit Agreement shall, before commencing operations, obtain the approval of the Administrator for the route or routes proposed to be followed pursuant to Part 44 of this chapter and thereafter shall conduct such operations in accordance with the provisions of that part. Stopovers for the convenience or pleasure of the passengers are not authorized under this section, and stops other than for strictly operational reasons shall not be made. Operators of aircraft registered in countries not parties to the International Air Services Transit Agreement shall make special application to the Board under § 190.70. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 of the Civil Aeronautics Act is not authorized by this section.

§ 190.47 *Commercial transport operations not in air transportation.* Except for aircraft being operated under a permit issued by the Board pursuant to section 402 of the Civil Aeronautics Act, foreign aircraft engaged in flights for remuneration or hire for the purpose of discharging or taking on passengers or cargo at one or more points in the United States may be navigated in the United States only if there is carried on board the aircraft a permit issued by the Board in accordance with this section authorizing the operation involved. Carriage of cargo for the operator's own account is governed by these provisions if the cargo is to be resold or otherwise used in the furtherance of a business.

(a) Application for permit: Application for the permit specified in this section shall be submitted on CAB Form 272 to the Civil Aeronautics Board, addressed to the attention of the Director, Bureau of Air Operations. There shall be enclosed with the application a copy of each contract between the operator and each person for whose account the flight or flights is or are to be performed. If any flight is to be performed in whole or in part for the account of the operator personally, there shall also be enclosed a full and complete description of the operation and copies of all contracts relating to the acquisition and disposition of the cargo. In any case, the beneficial owner of the cargo shall be disclosed. Copies of contracts covering proposed operations which have previously been filed with either the Civil Aeronautics Administration or the Board in connection with a prior application need not be filed again. Applications shall be filed with the Board, at least 14 days in advance of the date of the commencement of the proposed operation: *Provided,* That, for good cause shown and upon a finding by the Board that the waiver of this requirement is in the interest of the public, an application filed less than 14 days in advance of the date of the commencement of the proposed operation will be considered by the Board.[2]

(b) Except to the extent that the Board directs that such information be withheld from public disclosure for reasons of national defense or as hereinafter specified in this paragraph, every application and its supporting documents filed pursuant to this section shall be open to public inspection, and notice thereof, in the case of application for 10 or more flights in any 90-day period, shall be published in the Board's Weekly List of Applications Filed. Any person may make written objection to the Board to the public disclosure of such information or any part thereof, stating the grounds for such objection. If the Board finds that a disclosure of such information or part thereof would adversely affect the interests of such person and is not required in the interest of the public, it will order that such information or part to be so withheld.

(c) Issuance of permit: If upon examination of the application, all supporting documents and other information available to it, the Board is of the opinion that the application is in order and that the proposed operation either by itself or in conjunction with other operations of the operator to or from the United States is in the interest of the public and does not disclose any apparent violation of section 402 of the Civil Aeronautics Act of 1938 (52 Stat. 991, 49 U. S. C. 482), or any other applicable provision of law, it will issue a permit for a period not in excess of 90 days, to the applicant au-

[2] Application may be filed directly with the Board and need not be filed via diplomatic channels.

thorizing the conduct of the flights set forth in the application.

(d) Nature of privilege conferred by permit: The provisions of this section and of any permit issued hereunder, together with section 6 (b) of the Air Commerce Act of 1926, as amended, are designed, among other purposes, to carry out the international undertakings of the United States in the Chicago Convention, in particular Article 5 thereof. That Article accords to foreign aircraft the privilege of "taking on or discharging passengers, cargo, or mail" subject to the right of the State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable. The Congress by the Amendment to section 6 o fthe Air Commerce Act of 1926 approved by the President, has authorized the Board to permit such operations only where conditions of reciprocity and the interest of the public of the United States are met. It is incompatible with the intent of this legislation and the nature of the function involved to regard the operator of any foreign registered aircraft as entitled as a matter of right to the issuance, renewal, or freedom from modification or change in a permit issuable pursuant to this authority. Accordingly, any permit issued under this part may be withheld, revoked, amended, modified, restricted, suspended, withdrawn, or cancelled by the Board in the interest of the public of the United States, without notice or hearing and without the right in the holder to challenge the Board's discretion.

§ 190.48 *Reports to be filed.* Holders of permits issued under § 190.47 shall submit to the Board a report of flights conducted pursuant thereto. The initial report shall be submitted not later than the 30th day following commencement of operations and shall report on all flights conducted during such period. Like reports shall be filed for each succeeding 30-day period. Failure to submit a report on time shall constitute grounds for revocation, refusal to renew the permit, or denial of the issuance of a new permit.

§ 190.49 *Contents of reports.* The report of flights shall give a brief summary of each of the flights performed, setting forth the quantity and type of traffic carried and the names and addresses of the persons for whose account the transportation was furnished. In the case of cargo transportation, such reports shall in addition specifically set forth (a) the consignor; (b) the consignee; (c) the identity of the person or persons paying for the transportation (whether consignor, consignee or other); and (d) the principal business of each of the foregoing.

§ 190.50 *Keeping of records.* Failure to comply with the requirements of this section shall be cause for the suspension, revocation or refusal to renew a permit or the denial of the issuance of a new permit issuable under this part.

(a) Each holder of a permit issued under § 190.47 shall keep true copies of all manifests, air waybills, invoices and other traffic documents covering flights originating or terminating in the United States and for flights originating in the United States under permits authorizing 10 or more flights in a 90 day period shall maintain a place in the United States where such documents may be inspected at any time by authorized representatives of the Board or the Civil Aeronautics Administration. Records of flights terminating in the United States and flights conducted pursuant to a permit authorizing less than 10 flights in any 90 day period need not be maintained in the United States, but shall be made available to the Board upon demand.

(b) Records documenting each particular flight, demonstrating compliance with §§ 190.23 and 190.24 shall be made available to the Board or the Civil Aeronautics Administration upon demand.

SUBPART F—PENALTIES

§ 190.60 *Penalties.* The operation of a foreign aircraft within the United States in violation of the provisions of this part constitutes a violation of section 501 of the Civil Aeronautics Act of 1938, (52 Stat. 1005, 49 U. S. C. 521), and may, in addition, constitute a violation of the Civil Air Regulations. Such operation makes the person or persons responsible for the violation or violations subject to a civil penalty as provided in section 901 of the Civil Aeronautics Act (52 Stat. 1015, 49 U. S. C. 621), and to the alteration, amendment, modification, suspension or revocation of any permit issued under this part and of any United States certificate involved as provided in section 609 of the Civil Aeronautics Act (52 Stat. 1011, 49 U. S. C. 559). Engaging in air transportation as defined in the aforesaid Civil Aeronautics Act by a foreign aircraft without a foreign air carrier permit issued pursuant to section 402 of that act (52 Stat. 991, 49 U. S. C. 482) or in violation of the terms of such a permit constitutes not only a violation of this regulation but of the Civil Aeronautics Act as well, which entails a criminal penalty as set forth in section 902 (52 Stat. 1015, 49 U. S. C. 622) of that act.

SUBPART G—SPECIAL AUTHORIZATION

§ 190.70 *Special authorization.* Any person desiring to navigate a foreign civil aircraft within the United States otherwise than as specifically provided in this part may petition the Board for an order authorizing the particular flight or series of flights. Such an order may be issued only if the Board finds that the proposed operation is fully consistent with applicable law and is in the interest of the public of the United States.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

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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