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

Procedural Regulations
Revision of Part 301
Adopted: December 31, 1958
Effective: December 31, 1958

RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

Part 301 of the Board's Procedural Regulations, adopted December 8, 1949, provided the procedural implementation for the Board's functions under Sections 602 and 609 of the Civil Aeronautics Act of 1938 as modified by Reorganization Plans Nos. III and IV of 1940. Under these provisions, the Board passed in quasi-judicial proceedings on denials by the Administrator of Civil Aeronautics of applications for airman certificates and on complaints brought by the said Administrator for suspension or revocation of air safety certificates issued under Title VI of the Civil Aeronautics Act.

The Federal Aviation Act of 1958 (P. L. 85-726; 72 Stat. 731) continues the provisions in Sections 602 and 609, with modifications. New Section 602 withholds standing to seek Board review from persons whose certificates are, at the time of the denial, under order of suspension or whose certificates have been revoked within one year preceding the date of such denial. New Section 609 modifies the statutory scheme by authorizing the Administrator of the Federal Aviation Agency himself to issue orders amending, modifying, suspending or revoking air safety certificates in whole or in part, but further provides that any person whose certificate is affected by such an order may appeal the order to the Board. While upon such an appeal the Board's function is the same as it was under Section 609 of the Civil Aeronautics Act, these statutory changes require certain changes in the Board's procedural regulations. It was also necessary to provide for an accelerated procedure in cases of appeals from emergency orders of the Administrator so as to comply with the new statutory directive that the Board shall finally dispose of such appeals within 60 days after the Administrator advises the Board of the emergency character of the order appealed from.

It further appeared to the Board that, in addition to making amendments required by these statutory changes, Part 301 should be revised to improve its form; that certain amendments, dictated by experience, should be made; and that the provisions regarding safety rule-making (whose scope of application is greatly reduced under the Federal Aviation Act) should be omitted from revised Part 301.

To accommodate the amendment to Section 602 in the new Act, Section 301.18 (b) provides for motions to dismiss petitions for review for lack of standing of the petitioner. The statutory changes in Section 609 are reflected in the provisions on pleadings (301.12 to 301.15), procedure on emergency orders (301.50) and other provisions. These provisions preserve the character of the proceeding before the Board under Section 609 as a de novo proceeding in which the Board is not bound by the Administrator's findings or order and in which the Administrator as complainant has the burden of proof.

Thus the revised procedure before the Board under Section 609 remains quasi-judicial in nature and based on pleadings, namely, the Administrator's complaint and the respondent's answer. However, in order to save time and avoid unnecessary duplication, it is provided that the Administrator's order may take the place of the complaint if it (1) complies with the requirements as to the contents of a complaint, (2) was served upon the respondent with a notice that, in case he wishes to appeal, it is also to be considered as the Administrator's complaint before the Board requesting affirmation of his order and (3) postpones its effective date until after expiration of the time for appeal provided in this Part. In such a case the respondent may combine his notice of appeal with his answer or, in proper cases, with some appropriate motion. Thus, where this procedure is followed one duplicative procedural step on each side may be avoided.

Section 609 of the Act provides that the "filing" of the appeal with the Board shall stay the effectiveness of the Administrator's order. Thus effectiveness of the order during the time required for filing the appeal can be avoided only if the Administrator postpones the effective date of his non-emergency orders until after expiration of the time allowed for filing an appeal under this Part. As to emergency orders, Section 609 provides that the Order shall remain effective if the Administrator advises the Board "that an emergency exists and safety in air commerce or air transportation requires the immediate effectiveness of his order". A hiatus during which the emergency order might be deemed stayed by an appeal is avoided because where the combination pleading method is used, the appeal and the Administrator's order, which contains the designation as an emergency order, will be docketed by the Board at the same time (301.14, 301.15(a)). Where combination pleading is not used, there is nothing to prevent the Administrator from advising the Board of the emergency character of his Order on the very day the appeal is received by him and docketed by the Board under 301.15(a).

The provisions implementing the Board's substantive policy against imposing disciplinary sanctions for violations not prosecuted within six months are retained and clarified in the revised Part, and such matters may be dismissed upon motion (301.18 (c)). There is, of course, no limitation in respect of matters bearing upon a certificate holder's qualifications where qualification is properly put in issue.

The provision which insured that a record of prior violations of the respondent would be brought to the examiner's attention only after the examiner had made his determination on the issue of guilt, was omitted. It seems doubtful whether such a rule would be practical under amended Section 609 since the prior violations, if any, may be recited in the Administrator's order appealed from which would be part of the record in the proceeding before the examiner. Comments submitted pursuant to the invitation expressed below should also be addressed to the issue whether and in what manner the omitted provision should be re-incorporated in this Part.

Since Part 301 contains rules of agency procedure, notice of rule-making and public procedure thereon are not required. Since this Part must be applicable to all proceedings arising under Sections 602 and 609 of the Federal Aviation Act which were not pending at the time Section 1501 (b) of said Act took effect, good cause is found to exist for making it effective prior to 30 days from the publication thereof. Interested persons desiring to present written data setting forth their views with respect to the rules herein adopted are requested to submit such matter to the Board on or before February 15, 1959. All communications so received will be considered by the Board and the rules herein adopted will be re-evaluated in the light of the comments submitted.

In consideration of the foregoing, the Civil Aeronautics Board hereby promulgates a revised Part 301 of the Procedural Regulations, effective December 31, 1958, except as to proceedings pending at that time, to read as follows:

GENERAL PROVISIONS

§§ 301.1 Definitions. As used in this part,

(a) Act means the Federal Aviation Act of 1958, P. L. 85-726;

(b) Administrator means the Administrator of the Federal Aviation Agency;

(c) Air safety certificate means any certificate to which the provisions of Section 609 of the Act apply;

(d) Board means the Civil Aeronautics Board;

(e) Complaint means a complaint filed by the Administrator for an order of the Board affirming an order of the Administrator which was appealed to the Board;

(f) Emergency order means an order of the Administrator made under Section 609 of the Act which recites that an emergency exists and that safety in air commerce or air transportation requires the immediate effectiveness of such order;

(g) Examiner means the Board's hearing examiner assigned to the respective case;

(h) Petition for review means a petition for review of the Administrator's denial of an application for issuance or renewal of an airman certificate;

(i) Petitioner means a person who has filed a petition for review of the Administrator's action denying an application for issuance or renewal of an airman certificate, pursuant to Section 602 (b) of the Act;

(j) Respondent means the holder of an air safety certificate, who has appealed to the Board from an order of the Administrator amending, modifying, suspending or revoking his certificate, pursuant to Section 609 of the Act;

(k) Terms defined in the Act are used with the meaning of such definitions.

§ 301.2 Applicability of part. The provisions of this part shall govern all proceedings before the Civil Aeronautics Board upon petition for review of a refusal by the Administrator to issue or renew an airman certificate to an applicant therefor; and upon appeal from any order of the Administrator amending, modifying, suspending, or revoking any such certificate.

§301.3 Appearances. Any party to a proceeding may appear and be heard in person or by attorney. No register of persons who may practice before the Board is maintained and no application for admission to practice is required. Any person practicing or desiring to practice before the Board may, upon hearing and good cause shown, be suspended or prohibited from so practicing. Section 302.11 of the Procedural Regulations, "Representation of Private Parties by Persons Formerly Associated with the Board," shall be applicable to safety enforcement proceedings as well as to economic proceedings.

INITIAL PROCEDURE

§301.10 Initiation of Proceedings. (a) Where the Administrator has denied an application for the issuance or renewal of an airman certificate, the applicant may file with the Board a petition for review of the Administrator's action.

(b) Where the Administrator has made an order amending, modifying, suspending or revoking an air safety certificate, the holder thereof may file with the Board an appeal from the Administrator's order or, in proper cases, a combined appeal and answer or motion.

§301.11 Assignment and powers of examiners. (a) Assignment of examiner. Upon the filing of a petition for review or appeal an examiner will be assigned to the case. Thereafter, all motions and procedural requests shall be addressed to the examiner. The examiner's authority in each case shall terminate when the time for appeal to the Board from his initial decision (whether or not extended) has passed.

(b) Examiner's powers. Examiners shall have the following powers:

(1) To give notice concerning, and hold, prehearing conferences and hearings;

(2) To administer oaths and affirmations;

(3) To examine witnesses:

(4) To issue subpoenas and to take or cause depositions to be taken;

(5) To rule upon offers of proof and receive evidence;

(6) To regulate the course of the hearing;

(7) To hold conferences, before or during the hearing, for the settlement or simplification of issues by consent of the parties;

(8) To dispose of procedural requests or similar matters;

(9) Within their discretion, or upon the direction of the Board, to certify any question to the Board for its consideration and disposition;

(10) To make initial decisions.

(c) Appeals from examiner's rulings. Except as otherwise provided in this Part, rulings of examiners on motions may not be appealed to the Board prior to its consideration of the entire proceeding except in extraordinary circumstances and with the consent of the Examiner. An appeal shall be disallowed unless the Examiner finds either on the record or in writing, that the allowance of such an appeal is necessary to prevent substantial detriment to the public interest or undue prejudice to any party. If an appeal is allowed, any party may file a brief with the Board within such period as the Examiner directs. No oral argument will be heard unless the Board directs otherwise. The rulings of the Examiner on motion may be reviewed by the Board in connection with its final action in the proceeding irrespective of the filing of an appeal or any action taken on it.

(d) Disqualification of examiner. An examiner shall withdraw from the case if at any time he deems himself disqualified. If, prior to the initial decision in the case, there is filed, in good faith, an affidavit of personal bias or disqualification with substantiating facts and the

examiner does not withdraw, the Board will determine the matter as a part of the record and decision in the case, if an appeal is filed from the examiner's initial decision. The Board will not otherwise consider any claim of bias or disqualification. The Board, in its discretion, may order a hearing on a charge of bias or disqualification.

§301.12 Pleadings: contents and form. (a) Petition for review. The petition for review of the Administrator's denial of an application for issuance or renewal of an airman certificate shall contain a short, plain statement of the facts on which petitioner's case rests; and a statement of the action requested.

(b) Appeal. The appeal from an order of the Administrator affecting an air safety certificate shall identify the Administrator's order and the certificate thereby affected and shall recite the Administrator's action (amendment, modification, suspension, or revocation) by which the certificate holder is aggrieved and from which the appeal is taken. If the appeal is limited to one or more issues of fact or law, such issues shall be clearly identified. In such cases, only the facts pertinent to those issues need to be stated in the complaint, and the answer and the hearing shall likewise be limited to these issues. Provided, that where it appears necessary in the interest of justice, the Board or the examiner may, on their own motion, at any time prior to the conclusion of the hearing, order the entire case brought before them and may fix reasonable times for appropriate amendments of the pleadings and, where necessary, continuation of the hearing.

(c) Complaint. The complaint of the Administrator, filed following an appeal from his order, shall contain a plain and concise statement of the facts upon which he seeks affirmation of his order. If the Administrator claims that respondent lacks qualification as an airman, the complaint shall state on which of the facts pleaded this contention is based.

(d) Answer. The Administrator shall file an answer to the petition for review and the respondent shall file an answer to the Administrator's complaint. Failure to deny any allegations of the petition or complaint shall be deemed an admission of the allegations not answered.

(e) Form of pleadings. A petition for review or an appeal may be filed in the form of a letter to the Board, signed by the aggrieved party. An original and five copies, either in printed or typewritten form, of any complaint, answer, motion or combined pleading shall be filed with the Board.

§301.13 Time limitations. (a) Petitions for review, and appeals. Petitions for review shall be filed within 60 days, and appeals shall be filed within 10 days, from the time of service of the Administrator's action on the aggrieved party.

(b) Complaints following appeals. Upon appeal from an order of the Administrator, the Administrator's complaint shall be filed within 20 days of service upon him of the appeal.

(c) Answers. Answers to petitions for review and complaints shall be filed within 20 days of service thereof.

(d) Extension of Time. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period. Upon good cause shown in motions filed and served upon all parties, the Board or examiner may grant extensions of time.

§301.14 Combination of Pleadings. In cases where (1) the Administrator's order contains the statements required for a complaint by §301.12 (c) hereof, (2) the Administrator has advised the respondent that the order is being forwarded to the Board and that in case respondent appeals, the said order shall be considered the Administrator's complaint for affirmation thereof by the Board, and (3) the order (unless it is an emergency order) postpones its effective date until after the expiration of the time for appeal provided in this section, the order shall be deemed to be the Administrator's complaint and the order and appeal shall be docketed at the same time (§301.15(a)). Where this procedure is followed, the respondent may either file and serve a separate appeal within 10 days and answer within 20 days thereafter, or he may file and serve a combined "Appeal and Answer" within 10 days of service upon him of the Administrator's order. The "Appeal and Answer" shall comply with the provisions applicable to separate appeals and answers. In cases where the Administrator's order, used as a complaint, would be subject to a permissible motion the appeal may be combined with such a motion in lieu of the answer.

§301.15 Service and Filing. (a) Petitions for review and appeals. Petitions for review and appeals may be mailed to the Board and shall be deemed timely if postmarked before the end of the time limitation therefor. The Board will forthwith forward two copies thereof to the Administrator, and will docket petitions and appeals as of the time the copies are received by the Administrator.

(b) Other pleadings, motions or documents. All other pleadings, motions or documents, including those on appeal from the examiner's initial decision, shall be served before filing with the Board, by personal service or registered mail. Service by registered mail shall be complete upon mailing to the representative of record of the party to be served in the proceeding, or, if no such representative has entered an appearance, to the last known address of the party. Where no other address has been furnished, service by mail may be directed to the address last furnished by the petitioner or respondent to the Federal Aviation Agency.

§301.16 Amendment of pleadings. At any time more than 15 days prior to the time of hearing, a party to a proceeding may amend his pleadings by serving a copy of the amended pleadings on the adverse party and by filing five copies with the Board. After that time, amendment shall be allowed at the discretion of the examiner assigned to the case. Where amendment to an answerable pleading has been allowed, the examiner shall allow the adverse party a reasonable opportunity to answer.

§301.17 Withdrawal of pleadings. A party may withdraw his pleadings only upon approval of the examiner or the Board.

§301.18 Motions to dismiss. (a) In general. Motions to dismiss may be made within the time limitation for filing an answer. In case the motion is not granted in its entirety, the answer shall be filed within 10 days of service of the order on the motion.

(b) Motion to dismiss petition for review because of lack of standing. Upon motion by the Administrator a petition for review shall be dismissed if it was filed by a person whose certificate was, at the time of denial of his application, under order of suspension or whose certificate had been revoked within one year of the date of such denial.

(c) Motion to dismiss stale complaint. Where the complaint states allegations of offenses which occurred more than six months prior to the Administrator's advising respondent as to reasons for proposed action under Section 609 of the Act, respondent may move to dismiss such allegations pursuant to the following provisions:

A. In those cases where a complaint does not allege lack of qualification of the certificate holder:

1. The Administrator shall be required to show in response to the motion, that good cause existed for the delay.

2. If the facts alleged by the Administrator to establish good cause are inadequate, in the Examiner's judgment, he shall thereupon dismiss the stale allegations and proceed to adjudicate only the remaining portion of the complaint, if any.

3. If the Examiner wishes some clarification as to complainant's factual assertions of good cause, he shall obtain this from the Administrator in writing, with due service made upon the respondent, and proceed to an informal determination of the good cause issue without a hearing. A hearing to develop facts as to good cause shall be held only where the respondent raises an issue of fact in respect of the Administrator's good cause issue allegations.

B. In those cases where the complaint alleges lack of qualification of the certificate holder:

1. The Examiner shall first determine whether an issue of lack of qualification would be presented if any or all of the allegations, stale and timely, are assumed to be true. If not, the Examiner shall proceed as in "A" above.

2. If the Examiner deems that an issue of lack of qualification would be presented by any or all of the allegations, if true, he shall proceed to a hearing on the lack of qualification issue only and he shall so inform the parties. The respondent shall be put on notice that he is to defend against alleged lack of qualification as an airman and not merely against a proposed remedial sanction.

(d) Appeals to the Board. To the extent that orders of examiners grant motions to dismiss, they may be appealed to the Board. The procedure for appeals from initial decision shall apply to such appeals. In case of dismissals in part the appeal may be deferred until after the initial decision has been made, provided that notice of intent to do so has been given to the examiner and all parties within 20 days of the examiner's order.

§301.19 Motion for more definite statement. The Administrator or the respondent may file in lieu of his answer a motion that the allegations in the petition for review or complaint be made more definite and certain. Such motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the examiner is not complied with within 15 days after notice is given, the examiner shall strike the allegation or allegations in any petition for review or complaint to which the motion was directed. If the motion is denied the moving party shall file its answer within 10 days thereafter.

§301.20 Intervention. Any person may move for leave to intervene in a proceeding and may become a party thereto, if the examiner finds that such person may be bound by the order to be entered in the proceeding or that such person has a property or financial interest which may not be adequately represented by existing parties: Provided, That such intervention would not unduly broaden the issues or delay the proceedings. Except for good cause shown, no motion for leave to intervene will be entertained if filed less than 10 days prior to hearing.

§301.21 Depositions. After a petition for review or complaint is filed, testimony may be taken by deposition at the instance of any party to the proceedings in accordance with the provisions of Section 1004 of the Act or Rule 26 of the Federal Rules of Civil Procedure.

HEARINGS

§301.30 Notice of hearing. The examiner to whom the case is assigned or the Board will give the parties adequate notice of the date and place where a hearing will be held and the nature of such hearing. In fixing the time and place for hearing, due regard will be had for the convenience of petitioner or respondent and their representatives.

§301.31 Subpoenas and witness fees. (a) Subpoenas requiring the attendance of witnesses or the production of documentary or tangible evidence for the purpose of taking depositions or at a hearing may be issued by the examiner to whom the case is assigned upon application by any party to a proceeding; the application for production of documentary or tangible evidence shall show the general relevance and reasonable scope of the evidence sought.

(b) Witnesses shall be entitled to the same fees and mileage as are paid to witnesses in the courts of the United States. The fees shall be paid by the party at whose instance the witness is subpoenaed or appears.

(c) The provisions of subsection (a) of this section are not applicable to the attendance of Board Members, officers or employees or the production of documentary evidence in the custody of such persons at a hearing. Applications therefor shall be addressed to the examiner in writing and shall set forth the need of the moving party for such evidence and its relevancy to the issues in the proceeding. Such applications shall be processed as motions. The grant of such a motion by an examiner, in whole or in part, shall be immediately reviewed by the Board on its own initiative and shall be subject to final Board action.

§301.32 Evidence. (a) Right to full and true disclosure of the facts. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit evidence in rebuttal, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) Burden of proof. In proceedings under Section 609 of the Act the burden of proof shall be upon the Administrator. In proceedings under Section 602 of the Act the burden of proof shall be on the petitioner.

§ 301.33 Argument and submittals. At the hearing, the examiner shall give the parties adequate opportunity for the presentation of arguments in support of motions, objections, and exceptions to his rulings. Prior to each initial decision, the parties shall be afforded a reasonable opportunity to submit for consideration proposed findings and conclusions and supporting reasons therefor.

§301.34 Record. The transcript of testimony and exhibits, together with all papers, requests, and rulings filed in the proceeding, shall constitute the exclusive record for the initial decision. The record shall include any proceeding upon an affidavit of personal bias or disqualification of an examiner. Copies of the transcript may be obtained by any party from the official reporter upon payment of the fees fixed therefor.

INITIAL DECISION

§301.40 Initial decision. (a) The examiner may render his initial decision orally at the close of the hearing or he may render such decision in writing at a later date.

(b) The initial decision shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all material issues of fact (including the credibility of witnesses where such finding is material), law, or discretion presented on the record and the appropriate sanction or denial thereof.

(c) If the initial decision is in writing, it shall be served upon the parties. At any time before the date for filing appeal has passed, the examiner or the Board may, for good cause shown, extend the time within which to file an appeal to the Board and the examiner may also reopen the case for good cause upon notice to the parties.

(d) If no appeal to the Board from either party nor motion by the Board to review the initial decision is filed within the time allowed, such initial decision shall become final. The timely filing of such appeal or motion shall stay the order in the initial decision.

§301.41 Decisions involving official notice. Where any decision of the examiner or the Board rests on official notice of a material fact not appearing in the evidence in the record, any party shall, upon filing a petition within 10 days after notice thereof, be afforded a reasonable opportunity to show to the contrary.

APPEALS TO THE BOARD

§301.45 Notice of appeal. A party may appeal from an examiner's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to §301.15(b)) a notice of appeal within 10 days after an oral initial decision or service of a written initial decision. Exceptions are not required. Upon good cause shown the Board may extend the time for filing a notice of appeal.

§301.46 Consideration of issues on appeal. In considering issues raised on appeal which relate to findings of fact or the remedial order of the examiner, the Board will consider only (a) whether any finding appealed from is supported by substantial, reliable, and probative evidence or (b) whether the remedial order is consistent with the Board's policy. If the Board determines that the examiner erred in any matter, the Board may then make any proper findings or order in lieu thereof or remand the case for further hearing. The Board, upon its own motion, may raise any issue the resolution of which it deems important to a proper disposition of the proceeding; in such case a reasonable opportunity shall be afforded to the parties to submit argument thereon.

§301.47 Briefs and oral argument. Any party may file a brief, and shall promptly serve copies on all other parties. Appellant's brief must be filed and served within 20 days after the initial decision is rendered orally, or, if in writing, is served. Appellee's brief shall be filed and served within 15 days of service of appellant's brief. Five copies of briefs shall be filed with the Board. Motions for additional time for filing briefs or for the privilege of filing additional briefs may be granted by the Board upon good cause shown. Oral argument before the Board will not be granted unless it is specifically requested and a need therefor is shown.

§301.48 Petition for rehearing, reargument, reconsideration, or modification of Board order. (a) Any party to a proceeding may petition for rehearing, reargument, reconsideration, or modification of a Board order. Initial decisions which have become final because they were not appealed from shall not be deemed Board orders for this purpose. The petition shall be in writing. Nine copies shall be filed with the Board, and it shall be served upon all other parties within 30 days after service of the Board's order. It shall contain a brief statement of the matters claimed to be erroneously decided. If the petition requests consideration of additional evidence, the nature and purpose of the new evidence and the reasons why such evidence was not presented at the time of the hearing must be stated. Repetitious petitions will not be entertained by the Board.

(b) Replies to petitions filed pursuant to this section shall be filed and served upon petitioner within 10 days after the receipt of the petition.

(c) Upon good cause shown, the Board may extend the time for filing petitions or replies.

(d) The filing of a petition under this section shall not operate to stay the effectiveness of the Board's order, unless otherwise ordered by the Board.

PROCEDURE ON EMERGENCY ORDERS

§§301.50 Proceedings where the Administrator has made an emergency order. (a) When the Administrator has made an emergency order, as provided for in Section 609 of the Act, and it has been appealed to the Board, the provisions of this Part shall apply with the following modifications: Where the procedure of §301.14 is not used, the Administrator shall serve and file his complaint within 5 days after advising the Board of the emergency character of his order, and the respondent shall serve and file his answer within 8 days. Where the procedure of §301.14 has been used, the Administrator's advice of the emergency character of his order shall be deemed received by the Board at the time his order is docketed and the respondent's answer, if separate from the appeal, shall be filed and served within 5 days of the filing of the appeal.

(b) No motion to dismiss or for more definite statement shall be made but the substance thereof may be stated in the answer. The examiner may permit or require a more definite statement or other amendment to any pleading at the hearing upon just and reasonable terms.

(c) The examiner shall, immediately upon the filing of the answer, set the date and place for hearing upon not to exceed 8 days notice to the parties. The initial decision shall be made orally on the record at the termination of the hearing and after opportunity for oral argument.

(d) Notice of appeal shall be given within 2 days of the initial decision. No exceptions shall be filed but each party shall file one brief with the Board within 5 days of the notice of appeal. The Board will give 3 days notice of oral argument, where granted. The Board will not entertain petitions for reconsideration, rehearing, reargument or modification of its order except on the ground that new evidence has been discovered which could not have been discovered before by the exercise of due diligence.

(e) Where an order of the Administrator not designated as an emergency order has been appealed and the Administrator advises the Board at any time prior to final disposition of the appeal that an emergency exists in respect of such order, the examiner or the Board shall determine from what time on the proceeding shall be governed by this Section.

(Secs. 204(a); 609, 1001, 1004, 1005, 1104; 72 Stat. 743, 779, 788, 792-4, 797; 49 U.S.C. 1324, 1481, 1484, 1485 and 1504).

By the Civil Aeronautics Board:

/s/ Mabel McCart

Mabel McCart
Acting Secretary

SEAL