Regulation No. SPR-1

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

SPECIAL REGULATIONS
Enactment of Part 375
Adopted: December 31, 1958
Effective: December 31, 1958

PART 375 - NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

The Federal Aviation Act of 1958 transfers the safety rule-making power from the Board to the Administrator of the Federal Aviation Agency. To implement this change, it will be necessary to revise those Parts of the Board's regulations promulgated under the Civil Aeronautics Act which contain both subject-matters remaining within the jurisdiction of the Board, and subject-matters transferred to the Administrator's jurisdiction, so as to state these subject-matters in separate parts.

New Part 375 thus contains the subject-matters in Part 190 of the Civil Air Regulations which remain within the jurisdiction of the Board. These subject-matters comprise not only the economic regulatory provisions in these Parts but also the provisions regarding admission to this country of foreign aircraft and their crews on the basis of foreign air safety certificates. The latter remain within the jurisdiction of the Board under Section 1108(b) of the new Act. Any provisions of Part 190

which involve the safety regulatory function are within the jurisdiction of the Administrator. Since new Part 375 contains the provisions of Part 190 which are based on jurisdiction remaining in the Board, those provisions are being repealed, to avoid duplication, effective simultaneously with the new Part.

The provisions of Part 190 are being transferred to Part 375 without change of substance. Since the amendment to the regulations is merely a matter of form, public notice thereon is unnecessary and not in the public interest, and the new regulation may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board, effective December 31,1958 , hereby amends its regulations:

1. By repealing Part 190 except Sections 190.2, 190.22, and the footnote and NOTE to Section 190.22, of the Civil Air Regulations;

2. Redesignating Subchapter D of the Board's Regulations as Subchapter E; and

3. Adding a new subchapter to read as follows:

SUBCHAPTER D - SPECIAL REGULATIONS

PART 375 - AUTHORIZATION OF NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES.

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SUBPART A - GENERAL

375.1 Definitions. As used in this part

(a) Act means the Federal Aviation Act of 1958;

(b) Category shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.;

(c) Foreign air carrier permit means a permit authorizing foreign air transportation by a foreign air carrier pursuant to section 402 of the Act;

(d) Foreign aircraft permit means a permit authorizing navigation of an aircraft of foreign registry, not a part of the armed forces of a foreign nation, in the United States pursuant to section 1108(b) of the Act;

(e) Foreign civil aircraft means an aircraft of foreign registry which is not part of the armed forces of a foreign nation.

(f) Type means all aircraft of the same basic design including all modifications thereto except those modifications which result in a change in handling or flight characteristics.

(g) Terms defined in section 101 of the Act have the meaning expressed in such definitions.

375.2 Applicability. The provisions of this part regulate the navigation in the United States of foreign civil aircraft. This part also contains provisions which specify the extent to which various classes of flight operations by foreign civil aircraft may be conducted, and the terms and conditions applicable to such operations. 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 Act.

375.3 Existing permits. Permits issued by the Board under the provisions of former Part 190 of the Civil Air Regulations shall continue in effect in accordance with their terms until their expiration date unless sooner terminated or revoked by the Board.

SUBPART B - AUTHORIZATION

375.10 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.

375.11 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.

SUBPART C - RULES GENERALLY APPLICABLE

375.20 Airworthiness and registration certificates. Foreign civil 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.

Provided, however, That in cases covered by paragraphs (a) and (b) of this section a special flight permit issued in accordance with §§ 1.76 and 1.77 of Part 1 of the Civil Air Regulations may be carried on board the aircraft in lieu of such certificate of airworthiness:

(a) It has been determined by the country of registry that the aircraft has been damaged to the extent that the airworthiness certificate is invalidated and the aircraft is to be flown to a place where repairs or alterations are to be made; or

(b) The certificate of airworthiness issued for the aircraft has been invalidated by the country of registry due to a change in nationality and such aircraft is intended to be navigated in the United States in transit to the new country of registry.

375.21 Airmen. Each member of the flight crew of a foreign civil 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.

375.22 Flight operations. Flight of foreign civil aircraft in the United States shall be conducted in accordance with the currently applicable regulations of the Administrator of the Federal Aviation Agency.

375.23 Maximum allowable weights. Foreign civil aircraft which are permitted to navigate in the United States on the basis of foreign airworthiness certificates shall not be operated in the United States except in accordance with the limitations on maximum certificated weights prescribed or authorized for the particular variation of the type and for the particular category of use, by the country of manufacture of the aircraft type involved.

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

SUBPART D - UNAUTHORIZED OPERATIONS

375.30 Air Transportation. Nothing in this part shall authorize any foreign aircraft to engage in air transportation.

375.31 Unauthorized aircraft. Foreign civil 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, AND PERMITS THEREFOR

375.40 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.

375.41 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.

375.42 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.

375.43 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.

375.44 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.

375.45 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.

375.46 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 and thereafter shall conduct such operations in accordance with the provisions of that approval. 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 § 375.70. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 of the Act is not authorized by this section.

375.47 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 Act, foreign civil 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 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. 1/

(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

1/ Application may be filed directly with the Board and need not be filed via diplomatic channels.

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 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 Act, or any other applicable provision of law, it will issue a permit for a period not in excess of 90 days, to the applicant authorizing 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 1108 (b) of the Act, 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 1953 amendment to section 6 of the Air Commerce Act of 1926, now designated as section 1108(b) of the Act, has

authorized the Board to permit such operations only where conditions of reciprocity and the interest of the public in 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.

375.48 Reports to be filed. Holders of permits issued under § 375.47 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.

375.49 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.

375.50 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 § 375.47 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 Federal Aviation Agency. 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 §§ 375.23 and 375.24 shall be made available to the Board or the Federal Aviation Agency upon demand.

SUBPART F - PENALTIES

375.60 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 Act, 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 Act, 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 Act. Engaging in air transportation as defined in the aforesaid Act by a foreign aircraft without a foreign air carrier permit issued pursuant to section 402 of the Act or in violation of the terms of such a permit constitutes not only a violation of this regulation but of Title IV of the Act as well, which entails a criminal penalty as set forth in section 902 of the Act.

SUBPART G - SPECIAL AUTHORIZATION

375.70 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 the applicable law and is in the interest of the public of the United States.