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Civil Aeronautics Administration — U. S. Department of Commerce

REGULATIONS OF THE ADMINISTRATOR

PART 408

Enforcement Procedures

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SUBPART A—INTRODUCTION

§ 408.1 *Definitions of terms.* As used in this part:

(a) "Act" shall mean Civil Aeronautics Act of 1938, as amended.

(b) "Administration" shall mean Civil Aeronautics Administration.

(c) "Administrator" shall mean Administrator of Civil Aeronautics.

(d) "Board" shall mean Civil Aeronautics Board.

SUBPART B—PROCESSES USED IN ENFORCEMENT

§ 408.11 *Report channels.* Apparent violations of the act or regulations issued thereunder should be reported by any person having knowledge of such violations, to a representative of the Administration assigned to one of its regional or district offices. A report of apparent violations will be investigated by an appropriate representative of the Administration, and the results of such investigation will constitute the basis for determining appropriate action to be taken by the Administration.

SUBPART C—ACTIONS TAKEN IN ENFORCEMENT

§ 408.21 *Records.* A report of violations may be filed for record if it appears after investigation by the Administration that the apparent violations were inadvertently committed, were of an insignificant nature, and/or will not be repeated by the alleged violator.

§ 408.22 *Reprimands.* A letter may be sent to the alleged violator reprimanding him for minor violations he is reported to have committed, and pointing out to him that the report will be considered in determining the appropriate action to be taken regarding any future violations reported against him.

§ 408.23 *Civil penalties.* Under section 901 of the act, any person who violates any provisions of Titles V, VI, or VII of the act, or section 11 (a) (1) of the Air Commerce Act of 1926, as amended, shall be subject to a civil penalty, and such penalty generally may be compromised by the Administrator. In the event imposition of a civil penalty is contemplated by the Administrator, and it is considered advisable to compromise the amount of such penalty, the Regional Attorney serving the Region of the Administration in which the violations are believed to have occurred, or the General Counsel of the Administration if a scheduled air carrier is involved, will send a letter to the alleged violator, advising what statutes and regulations seem to have been violated, and affording an opportunity to compromise the civil penalties resulting from the apparent violations. The alleged violator may submit to the official signing the notice of civil penalty, either orally or in writing, any material or information in answer to or tending to explain, mitigate or extenuate the apparent violation. Any material or information thus submitted will be considered in making final determination of the amount for which the civil penalties will be compromised. If an offer is tendered to compromise the penalties for a specific amount, and a certified check or money order in that amount, made payable to the Treasurer of the United States, is attached, the offer will be submitted to the Administrator with a recommendation regarding its acceptance. The Administrator in any case, or a Deputy Administrator in any case except one involving a scheduled air carrier, will accept or refuse the offer of compromise. If the offer of compromise is accepted, the alleged violator will be notified by a letter of its acceptance, and that such acceptance constitutes full settlement of any civil penalties due under the statutes and regulations by reason of the apparent violations. If a compromise settlement of the civil penalties cannot be effected, the Administration will, in an appropriate case, instigate the filing of a civil complaint in the United States District Court, pursuant to section 903 of the act, for the purpose of obtaining judicial determination of the civil penalties due.

§ 408.24 *Seizures of aircraft*—(a) *Authority to seize aircraft.* Whenever an aircraft is involved in a violation of any provision of Titles V and VI of the Civil Aeronautics Act of 1938, as amended, or of section 11 (a) (1) of the Air Commerce Act of 1926, as amended, or of any rule or regulation issued pursuant thereto, and the violation is committed by the owner or person in command of the aircraft, such aircraft may be summarily seized by any state or Federal law enforcement officer or Federal aviation safety agent authorized in an order of seizure issued by the Regional Administrator of the region in which the aircraft is located.

(b) *Custody of seized aircraft.* Whenever an aircraft has been seized pursuant to this section, it will be placed in the nearest available adequate public storage facility in the judicial district in which the seizure is made.

(c) *Notice of seizure.* Whenever an aircraft has been seized pursuant to this section, a written notice and a copy of this section will be sent without delay by the Regional Administrator to the registered owner of, and to other persons having a recorded interest in, the aircraft. The written notice will state:

(1) The time, date, and place of seizure;

(2) The name and address of the custodian of the aircraft;

(3) The reasons for the seizure, including the violations believed, or judicially determined, to have been committed; and

(4) The amount which may be tendered:

(i) As an offer in compromise of any civil penalties which might have been incurred as a result of the alleged violation, or

(ii) As payment of civil penalties which have been imposed by a Federal court as a result of the established violations.

(d) *Report of seizure.* Whenever an aircraft has been seized pursuant to this section, a report of the cause will be transmitted immediately by the Regional Administrator to the United States Attorney for the judicial district in which the seizure is made, requesting the United States Attorney to institute proceedings for the enforcement of the lien.

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(e) *Release of seized aircraft.* Whenever an aircraft has been seized pursuant to this section, it will be released by direction of the Regional Administrator under any one of the following conditions:

(1) Upon payment of the civil penalty or the amount agreed upon in compromise, and the costs incurred in connection with the seizure, storage, and maintenance of the aircraft;

(2) Upon seizure of the aircraft pursuant to process of a Federal court in proceedings in rem for enforcement of a lien against the aircraft, or notification by the United States Attorney of failure to institute such proceedings; or

(3) Upon deposit of a bond in such amount and with such sureties as the Regional Administrator may prescribe, conditioned upon payment of the penalty or the amount agreed upon in compromise, and the costs incurred in connection with the seizure, storage, and maintenance of the aircraft.

§ 408.25 *Emergency suspensions.* Under section 609 of the act, in cases of emergency a type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate may be suspended, in whole or in part, for a period not in excess of 30 days, without regard to any requirement as to notice and hearing; the Administration shall immediately give notice of such suspension to the holder of such certificate, and shall enter upon a hearing which shall be disposed of as speedily as possible; and during the pendency of the proceeding the Administration may further suspend such certificate, in whole or in part, for an additional period not in excess of 30 days. In the event the condition or conduct of a certificate holder is such as to indicate immediate danger of injury to a person or damage to property, and the immediate suspension of the certificate might reasonably be expected to avert such injury or damage, an emergency will be deemed to exist within the meaning of section 609. Under such circumstances, any employee of the Administration charged with the duty of examining a certificate holder or enforcing aeronautical statutes and regulations, may suspend for a period not to exceed 30 days, any of the foregoing certificates issued by the Administration other than an air carrier operating certificate, which may be suspended in an emergency only by the Administrator. Any such employee of the Administration making an emergency suspension will, if practicable, notify orally the party or parties involved, that an emergency suspension of the certificate has been made pursuant to the authority of section 609, and will, within a reasonable time thereafter, confirm such notification in writing. Formal proceedings will be instituted immediately, during the pendency of which the Administrator, a Deputy Administrator, or the Regional Administrator serving the region in which the condition is likely to exist or conduct is likely to occur, may further suspend such certificate, in whole or in part, for an additional period not in excess of 30 days.

§ 408.26 *Complaints.* Under section 1002 of the act, the Administration may file with the Board a complaint in writing, with respect to anything done or omitted to be done by any person in contravention of any provision of the act or any requirement established pursuant to the act. Under section 609 of the act, the Board may suspend, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate issued by the Administration, if the interest of the public so requires, or it may revoke, in whole or in part, any such certificate for any cause which at the time of revocation would justify the Administration in refusing to issue to the holder of such certificate a like certificate. After such a complaint has been filed, the Board will determine administratively whether a certificate issued by the Administration to the alleged violator shall be suspended or revoked. When such a procedure is used, the complaint will be prepared by the Regional Attorney of the Administration serving the area in which the violations are alleged to have been committed, or by the General Counsel of the Administration in the event a scheduled air carrier is involved, and filed with the Docket Section of the Board. Proceedings will be conducted in accordance with Part 301 of this title.

§ 408.27 *Military actions.* Where a report reveals that violations involving an aircraft of one of the United States armed forces have been committed, copies of the report will be forwarded by the Administration to the appropriate military authorities in order that they may take such disciplinary actions as they consider appropriate.

§ 408.28 *Criminal penalties.* Under section 902 of the act, any person who knowingly and willfully violates any provision of the act (except Titles V, VI, and VII) or any order, rule, or regulation issued under any such provision, for which no penalty is otherwise provided in the act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine. Under section 902, any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under the act, or knowingly uses or attempts to use any such fraudulent certificate shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and or imprisonment. Under section 902, any person who, with intent to interfere with air navigation within the United States, exhibits within the United States any light or signal in such place or in such manner that it is likely to be mistaken for a true light or signal established pursuant to the act, or for a true light or signal in connection with an airport or other air navigation facility; or after due warning by the Administrator continues to maintain any misleading light or signal; or knowingly removes, extinguishes, or interferes with the operation of, any such true light or signal shall be subject to a fine and/or imprisonment. If it appears from a report received by the Administration that any of these offenses has been committed, the Administration will, in an appropriate case, send the report to the Department of Justice for criminal prosecution of the person who committed the offense.

(15 Federal Register 9443)

A complete list of the Regulations of the Administrator and amendments to them appears in the CAA Journal, issued monthly by Civil Aeronautics Administration. Copies of amendments are obtainable, without charge, from the Office of Aviation Information, CAA, Washington 25, D. C.

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