U. S. DEPARTMENT OF COMMERCE
DANIEL C. ROPER, Secretary
BUREAU OF AIR COMMERCE
DENIS MULLIGAN, Director

CIVIL AIR REGULATIONS

95.—IMPOSITION, REMISSION, AND MITIGATION OF PENALTIES

As Amended to May 31, 1938

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CIVIL AIR REGULATIONS

Pursuant to the authority contained in the Air Commerce Act of 1926 (44 Stat. 568) as amended by the Act of February 28, 1929 (45 Stat. 1404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (48 Stat. 1116), and Sections 11 and 12 of the Act of June 12, 1934 (48 Stat. 933, 937), the following Civil Air Regulations are hereby made, prescribed, and issued to be known as—

Part 00. Aircraft Registration Certificate.
Part 01. Aircraft Certificates.
Part 02. Aircraft Identification Mark.
Part 03. Aircraft Title Transfer.
Part 04. Airplane Airworthiness.
Part 13. Aircraft Engine Airworthiness.
Part 14. Aircraft Propeller Airworthiness.
Part 15. Aircraft Equipment Airworthiness.
Part 18. Repair and Alteration of Aircraft.
Part 20. Pilot Rating.
Part 21. Airline Pilot Rating.
Part 23. Ground Instructor Rating.
Part 24. Mechanic Rating.
Part 25. Parachute Rigger Rating.
Part 26. Airport Control Tower Operator Rating.
Part 27. Airline Dispatcher Rating.
Part 40. Scheduled Airline Certification (Interstate and Intra-Territorial).
Part 50. Flying School Rating.
Part 52. Aircraft Repair Station Rating.
Part 60. Air Traffic Rules.
Part 61. Scheduled Airline Rules (Interstate).
Part 90. Air Mail.
Part 91. Aircraft Accident Investigations.
Part 92. Hearings Upon Certificates (Issued, Renewed, Denied, Suspended or Revoked).
Part 93. Evidence.
Part 94. Penalties.
Part 95. Imposition, Remission and Mitigation of Penalties.
Part 96. Authorization to Act for the Secretary.
Part 98. Definitions.
Part 99. Mode of Citation of Regulations.

Any and all rules and regulations heretofore made, prescribed, and issued by the Secretary of Commerce pursuant to the authority first above stated are hereby repealed.

Approved May 31, 1938.

[SEAL]

DANIEL C. ROPER,
Secretary of Commerce.

PART 95.—IMPOSITION, REMISSION, AND MITIGATION OF PENALTIES

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95.0 Provision for issuance. Pursuant to the provisions of the Air Commerce Act authorizing the Secretary of Commerce to remit or mitigate penalties incurred under the provisions of that Act and to prescribe by regulation for proceedings for that purpose, the following regulations shall be applicable.

95.1 Notice. Upon information received from a duly authorized inspector of the Bureau of Air Commerce, or other source deemed suitable by the Secretary, that a violation of law or regulation has taken place, and that a civil penalty has thereby been incurred by a particular person or persons, the remission or mitigation of which is within the authority of the Secretary, a notice shall be sent to the person or persons by the Director of the Bureau.

Note.—In cases where the act complained of does not seriously involve misuse of a Federal certificate or substantially affect the interests of interstate or foreign air commerce, the Director of the Bureau may transmit the file to the appropriate State authorities for such action as may be deemed fit.

95.10 Terms of notice. The notice will state

95.100 (*a*) the citation of the regulation or law said to have been violated;

95.101 (*b*) a brief description of the nature of the act constituting the violation, giving the date and place;

95.102 (*c*) a statement that the person is subject to a penalty of $500 for such violation, under provision of the Air Commerce Act, Section 11;

95.103 (*d*) a statement that the Secretary is authorized to remit or mitigate the penalty if a sufficient showing of circumstances is made; and

95.104 (*e*) a statement of the time in which application must be made and filed requesting remission or mitigation and setting forth all pertinent circumstances.

95.11 Service of notice. The notice may be served personally or by registered mail. In the latter case deposit in the United States mails shall be deemed proof of service.

95.12 Copy to the United States attorney. In case libel in rem proceedings against the aircraft are pending at the time of sending the notice regarding remission of mitigation, the Director of the Bureau shall send the United States attorney prosecuting the libel a copy of the notice sent pursuant to § 95.1.

95.2 Answer. The person or persons so notified may before the date limited file in duplicate an affidavit of answer stating the circumstances upon which the request for remission or mitigation is based.

95.20 Failure to answer. In case a person so notified fails to file by the date limited an affidavit of answer as provided for in § 95.2, the Secretary will make entry in the record stating that for failure of answer no remission or mitigation of the penalty incurred will be granted.

95.21 Extension of time. The time first limited may be extended, and an entry so made may be revoked, if either after or before the time first limited the person files an affidavit of answer stating circumstances which in the opinion of the Secretary excuse the original failure to answer within the time limited.

95.3 Action upon answer. Upon receiving the affidavit of answer provided for in § 95.2, the Secretary will determine whether or not the penalty will be remitted or mitigated, and to what extent if any, stating the amount assessed and due to be paid.

95.30 Record. The determination so made will be entered in the record of the case.

95.31 Notice to the party. Notice with a copy of the entry of such determination will thereupon be sent to the person concerned, and to each such person if more than one.

95.32 Notice to the United States attorney. If libel proceedings in rem are pending, notice with a copy of the entry of determination will be sent by the Secretary to the United States attorney prosecuting the libel.

95.4 Effect on other proceedings.

95.40 Failure to serve notice. The failure of the Director of the Bureau to send the notice provided for in § 95.1, or the Secretary to act in allowance of a remission or mitigation of penalty, shall not alter the liability of the person subject to the penalty in any other proceedings.

95.41 Remission or mitigation. The determination as to the remission or mitigation of a civil penalty imposed by the Secretary shall be final.

95.5 Payment. Upon receipt at the Bureau of a money order or a check, payable to the Treasurer of the United States, from the party charged, for the amount of the penalty assessed, the Secretary will notify the sender thereof, acknowledging full payment of the penalty.

95.6 Accounting. All penalties paid in under these provisions will be covered into the Treasury as miscellaneous receipts.

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