U. S. DEPARTMENT OF COMMERCE
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BUREAU OF AIR COMMERCE
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CIVIL AIR REGULATIONS

95.—IMPOSITION, REMISSION AND MITIGATION OF PENALTIES

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CIVIL AIR REGULATIONS

95.—IMPOSITION, REMISSION AND MITIGATION OF PENALTIES

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 or mitigation, the Director of the Bureau shall send the United States attorney prosecuting the libel a copy of the notice sent pursuant to CAR 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 CAR 95.2, the Secretary will make entry in the record stating that for failure of answer no remission or mitigation 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 CAR 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 CAR 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 action of the Secretary in remitting or mitigating the penalty, upon notification to the United States attorney having charge of proceedings to collect the penalty, shall operate to stay and discharge all proceedings or to reduce the penalty accordingly, as the case may be.

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.

Any and all rules or regulations made, established, and issued by the Secretary of Commerce pursuant to law as are inconsistent with the provisions of the above specified civil air regulations are hereby repealed.

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