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FORM AND SCOPE OF THE CIVIL AIR REGULATIONS

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I. ORIGIN OF THE CIVIL AIR REGULATIONS

Difficulty in Determining Standards. For several years prior to the issuance of the Civil Air Regulations, it had been difficult to determine what standards had been established by the Federal Government with respect to good flying practices as they were related to safety in air commerce and this difficulty was due, in considerable part, to the difficulty in getting access to the existing regulations. Regulations governing aeronautical activities had been issued, from time to time, by various individuals within the Department of Commerce and the Bureau of Air Commerce without any system for their clearance through any central office. They were signed by persons of various title and rank and many of the regulations could be found only in Departmental or Bureau correspondence. Hardly any two sets of these regulations were published in like size or style.

Difficulty of Enforcement. Because these regulations were issued by persons other than the Secretary of Commerce, as provided by the Air Commerce Act of 1926, they probably could not have been enforced in a contested case.

Necessity for Single Source of Regulations. With the increasing complexity of the many activities in aviation, it was at once apparent that there should be provided a single set of source material—uniform as to size, style, and general plan—which would give to each participant in aeronautics a complete picture of the Federal Government's position in the control of aviation—either by act of Congress or by regulation of the Secretary of Commerce, and

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also furnish the participant with a convenient handbook of good aeronautical practices.

Nature of the Regulations. These materials should be issued with sufficient care as to legal draftsmanship as to permit enforcement, when contested. They should be supplemented with simple explanatory publications so that the layman could readily understand and comply with their provisions, and they should be issued in such form and style as to permit easy and frequent amendment in order to keep pace with the rapidly developing art of flying.

Attempts to Revise Old Regulations. Many attempts were made to have the Bureau of Air Commerce staff revise the old regulations and bring them up to date. This proved to be impossible due to the very heavy load of exacting routine duties already imposed upon the Bureau. Finally, through the efforts of Col. J. Monroe Johnson, Assistant Secretary of Commerce, Fred D. Fagg, Jr., and the writer were invited to serve as consulting experts to the Bureau and undertake the task of revision. Howard C. Knotts was later invited to serve as a consulting expert when Mr. Fagg became Director of Air Commerce on March 1, 1937.

Time Necessary for Revision. In order to provide a comprehensive, practicable, and legally sound system of regulation which would be conducive to the healthy growth of aviation, the revision was allowed to take a period of 16 months (July, 1936-November, 1937). There was real need for the issuance of revised regulations by the winter of 1936-37 to increase the safety of flying practices, but only the emergent measures were provided for and the main revision was carried forward to November 1, 1937, when it was certain that a careful and workable plan would be put into effect. In the interim, to increase the safety of flight, a system of designation of civil airways was provided for the first time since the enactment of the Air Commerce Act of 1926, on July 7, 1936, and the beginnings of a system of air traffic control was instituted.

New Code Issued. The main part of the new code of Civil Air Regulations was issued to become effective Nov. 1, 1937.

II. FORM AND SCOPE OF THE REGULATIONS

The Previous Practice of Publication. A vital defect in the publications practice (not system; for the rapid growth of problems and the lack of adequate time for the task had bereft the word "system" of any appropriateness)—a first vital defect was the failure to observe the fundamental distinction (fundamental for an administrative office) between *regulations* and *information*.

The Bureau abounded in valuable printed information of all sorts. And it was in enormous demand; one of the informational Bulletins was printed in 75,000 copies annually; for literally millions of young men are seeking for information on all phases of aeronautics. But the regulations, representing the law controlling aeronautic manufacture, operation, and navigation, was contained in one or another of these Bulletins, and the continual amendments in others, and these all indistinguishably published in the same series of numbered Bulletins, non-periodical, together with another and periodical series, containing information and regulation similarly intermingled. Neither the flying public, nor the State officials, nor perhaps even the Bureau officials, were enabled to find just what each needed without a wasteful search through an accumulated mass of material, some of it stale and out-of-date.

The Proposed System of Publication. The first thing to do, as all agreed, was to organize the different kinds of material into a system. And here it will be understood that there were various classes of persons whose needs were to be met,—the manufacturers, the transport companies, the private commercial operators, the amateur flyers, the aeronautic schools, the commercial pilots, the airport managers, the State aviation officials, the Bureau inspectors, and so on.

So the general publications system was to be inclusive and, as adopted June 26, 1936, was as follows:

SERIES	TITLE	NATURE OF	PUBLISHED BY
A	CIVIL AIR LAW	Loose-leaf, Letter size	Bureau or G. P. O.
AA	AMENDMENTS TO SERIES A	Multilith	Bureau or G. P. O.
B	CIVIL AIR REGULATIONS	"	Bureau
BA	AMENDMENTS TO SERIES B	"	Bureau
C	BUREAU OF AIR COMMERCE MANUALS (Explanations and information on Regulations)	"	Bureau
CA	AMENDMENTS TO SERIES C	"	Bureau
D	AERONAUTICS BULLETINS (Non-regulatory Information)	Octavo Serial Nos.	Bureau or G. P. O.
E	PERIODICALS 1. Air Commerce Bulletin 2. Airmen Notices	"	Bureau or G. P. O. Bureau
F	INSPECTION HANDBOOK	Loose-leaf, Letter size	Bureau
FA	AMENDMENTS TO SERIES F	Multilith	Bureau
G	ARMY-NAVY-COMMERCE PUBLICATIONS ¹	"	Bureau
GA	AMENDMENTS TO SERIES G	"	Bureau
H	MISCELLANEOUS MEMORANDA Classify as to type (M-, MM-, EI-, etc.)	Mimeograph	Bureau

1. Those published by the Bureau of Air Commerce or, now, by the Civil Aeronautics Authority.

Every publication, no matter what the future might develop, would find a place in one of these series.

Proposed System for Regulatory Material. The regulations part of this system was the most important. The *materials* to be included would be the regulations of the Secretary of Commerce, to whom the Air Commerce Act and its amendments gave such authority. But the Act, in various parts, gave a varied range of authority. Hence, each part of the Regulations, exercising some part of that authority, must recite that it was made by that authority; thus connecting it up in such a way as to insure its legality, and also to indicate to the public the basis of the regulation. (This method, inevitable under modern Supreme Court decisions, is the method now required by the Director of the Federal Register for all administrative regulations filed with him for publication.) A standard form was adopted, which precedes each main part of the Regulations.

Format of the CAR. The problem of format was to devise a form which should be all-inclusive, now and in the future, and yet should be flexible, to allow of constant future development; to make this form readily available for all the varied classes of persons who would be interested in knowing the regulations; and to formulate it in clear and concise terms.

These requirements, as applied to different phases of the work, resulted in the following plan:

(a) The Regulations would form a *single book*, but it must be made in *loose-leaf* form. Thus, the constant changes could be made by re-printing the particular sheet, and substituting it for the original one,—a plan already used by the Army and the Navy and many business establishments.

(b) The *type* must be clear and fairly large, and the *paper* strong. (Any one who has resorted to a copy of the Postal Manual at a local postoffice, and has observed its well-thumbed pages, cluttered with flying strips of pasted amendments in small type, will appreciate the importance of these two features.)

(c) Each chapter (now called Part) must be preceded by a *contents table* for that chapter. (Any one who has had to study some of the recent 100-section Acts of a legislature will appreciate the importance of this feature.)

(d) The *classification* must be inclusive, and yet must allow for future developments. The grouping actually adopted shows that this has been done: Aircraft; Airmen; Air Navigation Facilities; Air Carriers; Air Agencies; Air Navigation within the U. S.; Air Navigation without the U. S.; Unassigned; and Miscellaneous. This classification will serve for a generation or more. The "unas-

signed" contemplated the eventual enactment of legislation for *economic* regulation, and it was thought that the regulations dealing with such subject matter could be included in this division.

(e) The numbering of the successive sections (paragraphs) must be an *expansible decimal* system. This method, for laws, was started by Wisconsin a decade ago (Kansas disputes this priority), and is now in use in half a dozen States, and is yearly on the increase in adoption. It is the *only* method that makes feasible a permanent citing figure and yet allows changes to be absorbed into the system without confusion. In practical aeronautics, with its rapid progress and frequent change of detail, it is indispensable.

In brief, the method consists in dividing the whole subject into ten or less classified divisions; in subdividing each of these into ten or less sub-head (chapters, titles, or whatever term is used), and again assigning ten or less sub-heads to each of these chapters; and so on. Each of the large original parts is assigned a two-integer figure, e. g., 20. Each next sub-head is assigned one of the second integers, e. g., 22. Then each next sub-head is assigned a figure following a decimal point, e. g., 22.3, and each later subdivision, if any, an additional figure in the second decimal place, thus 22.34. With this allotment all main and sub-main headings can be taken care of, and the detailed elaboration (which is the part subject to frequent change) is taken care of by further sub-decimal figures. Thus: Airmen has the figure 2. Within this, Pilot Rating is 20. Pilot Examinations and Test for rating is 20.5. Physical examination is 20.52. Requirements as to time of accomplishing the physical examination are 20.520, 20.521, 20.522. And if any new situation calls for exceptions to this regulation 20.520, they would be inserted as 20.5200, 20.5201, and so on. This method is expansible for serving as long as the legal system itself endures. It permits prompt notice of changes; it makes change of details easy and clear; and it is permanent. Moreover, if and when completely effective for the new Administrative Code, it will save thousands of hours of labor and millions of dollars of expense. Any lawyer who has used the Wisconsin or the Kansas statutes will testify to its merits.

Of course, it requires careful formulation. But that too is a merit.

(f) *Marginal data* are also used to help the loose-leaf system. Every page bears at the top margin the beginning and the ending numbers of the sections covered on that page; thus, 14.03-14.0321; and at the bottom margin, the name of the chapter or title, thus Aircraft (at the left) and the effective date thus 11/1/37 (at the right). So when a change-sheet (on pink paper, for purposes of

easy distinction) is sent out and inserted, it shows its own place and its own effective date. (The Civil Air Regulations issued November 1, 1937, must be consulted, as some matters here referred to were omitted in the printed revision of May 31, 1938.)

(g) A final advantage of the system is the feasibility of *separate publication* of the separate chapters or titles. Different classes of persons are specially interested in different parts of the regulations. Thus, the aircraft-engine manufacturer needs lots of copies of CAR 13; the air carrier pilots are specially interested in CAR 21; all flyers want CAR 60 (air traffic rules); airport managers need specially CAR 30; and so on. One of the special bulletins of information was printed (in 1936) in 75,000 copies. Experience shows just what the demand is for the different parts of the regulations. Hence, the plan above described attains economy for the government and convenience for the public.

One final circumstance will show what careful thought was put into the preparation of every detail of CAR, viz. the *expansible binder*. The book of regulations of a certain other bureau, excellently composed in looseleaf style, has a board-binder so narrow that the loose-leaves readily project and get torn; and it is fastened by a cord, so that each time a new leaf is put in, it requires tedious manipulation and leads to copious ejaculation. The CAR binder avoids these shortcomings. (This binder was especially ordered for the Bureau of Air Commerce staff, but is of a kind generally available..)

Manuals. An important appurtenance of the CAR is the inspectors' manuals. Some 2000 employees on the staff perform the varied duties of inspectors, each with a special class of assignments. Their practice must be standardized, so far as possible, and their duties call for instructions based on past experience in the several branches of inspection. The Manuals embody this experience, and furnish general instructions which ensure uniform action throughout the country.

The Manuals embody an invaluable accumulation of information and guiding practices in every aspect of practical aeronautics. They are keyed up at every point with the corresponding regulations. They represent one of the finest achievements of the Bureau of Air Commerce; for the inspectors are the government's representatives that come into direct contact with all classes of citizenry interested in aviation, and the Manuals are the immediate means by which the government is enabled to carry out its regulatory powers with least inconvenience and greatest satisfaction to the citizenry at large.