

## FSMC, TITLE 20. AERONAUTICS

### Chapter 1: General Provisions

Definitions.

#### § 101. Definitions.

As used in this title, unless the context otherwise requires:

- (1) "*Aeronautics*" means the science and art of flight.
- (2) "*Air carrier*" means any citizen of the Federated States of Micronesia who undertakes, whether directly or indirectly or by a lease or any other arrangement, to engage in air transportation: PROVIDED, that the Secretary may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this title to the extent and for such periods as may be in the public interest.
- (3) "*Air commerce*" means domestic or international air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any National airway or any operation or navigation of aircraft that directly affects, or that may endanger safety in, domestic or international air commerce.
- (4) "*Air navigation facility*" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take-off of aircraft.
- (5) "*Air transportation*" means domestic or international air transportation or the transportation of mail by aircraft.
- (6) "*Aircraft engine*" means an engine used, or intended to be used, for propulsion of aircraft and includes all parts and accessories thereof other than propellers.
- (7) "*Aircraft*" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.
- (8) "*Airman*" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way; and (except to the extent the Secretary may otherwise provide with respect to individuals employed outside the Federated States of Micronesia) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air\_traffic control\_tower operator.
- (9) "*Airport*" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.
- (10) "*Airport operator*" means any person, state or state port authority engaged in the operation of an airport as defined herein.
- (11) "*Appliances*" means instruments, equipment, apparatus, parts, or accessories, of whatever description, that are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and including communication equipment and any other mechanism or

mechanisms installed in or attached to aircraft during flight), and that are not a part or parts of aircraft, aircraft engines, or propellers.

(12) "*Attorney General*" means the Attorney General of the Federated States of Micronesia.

(13) "*Charter air carrier*" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in charter air transportation.

(14) "*Charter air transportation*" means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this title under regulations prescribed by the Secretary.

(15) "*Citizen of the Federated States of Micronesia*" means:

(a) an individual who is a citizen of the Federated States of Micronesia or of one of its possessions, or

(b) a partnership, corporation, or association considered to be a citizen under the laws of the Federated States of Micronesia.

(16) "*Civil aircraft of the Federated States of Micronesia*" means any aircraft registered as provided in this title.

(17) "*Civil aircraft*" means any aircraft other than a public aircraft.

(18) "*Civil Aviation Division*" means the Civil Aviation Division of the Department of Transportation and Communications.

(19) "*Conditional sale*" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

(20) "*Conveyance*" means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.

(21) "*Department*" means the Department of Transportation and Communications of the Federated States of Micronesia.

(22) "*Domestic air commerce*" , and "*international air commerce*" , respectively, mean the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation, in commerce between, respectively:

(a) a place in the Federated States of Micronesia and any other place in the Federated States of Micronesia; and

(b) a place in the Federated States of Micronesia and any place outside thereof.

(23) "*Domestic air transportation*" , and "*international air transportation*" , respectively, mean the carriage

by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between, respectively:

(a) a place in the Federated States of Micronesia and any other place in the Federated States of Micronesia; and

(b) a place in the Federated States of Micronesia and any place outside thereof.

(24) "*The Federated States of Micronesia*" means the states of the Federated States of Micronesia, including the territorial waters and the overlying airspace thereof.

(25) "*Foreign air carrier*" means any person, not a citizen of the Federated States of Micronesia, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in international air transportation.

(26) "*Landing area*" means any location, either on land or water, including airports and intermediate landing fields, that is used, or intended to be used, for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

(27) "*Mail*" means FSM mail and foreign\_transit mail.

(28) "*National airway*" means a portion of the navigable airspace of the Federated States of Micronesia designated by the Secretary as a National airway.

(29) "*Navigable airspace*" means airspace above the minimum altitudes of flight prescribed by regulations issued under this title, and shall include airspace needed to insure safety in take-off and landing of aircraft.

(30) "*Navigation of aircraft*" or "*navigate aircraft*" includes the piloting of aircraft.

(31) "*Operation of aircraft*" or "*operate aircraft*" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of this title.

(32) "*Person*" means any individual, firm, partnership, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(33) "*Propeller*" includes all parts and accessories thereof.

(34) "*Public aircraft*" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any province, territory, or possession of the Federated States of Micronesia, but not including any government\_owned aircraft engaged in carrying persons or property for commercial purposes.

(35) "*Secretary*" means the Secretary of Department of Transportation and Communications.

(36) "*Spare parts*" means parts and accessories of aircraft (other than aircraft engines and propellers), of aircraft engines (other than propellers), of propellers and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, or appliance, but that at the time are not installed therein or attached thereto.

(37) "*Special aircraft jurisdiction of the Federated States of Micronesia*" includes:

- (a) civil aircraft of the Federated States of Micronesia;
- (b) any other aircraft within the Federated States of Micronesia;
- (c) any other aircraft outside the Federated States of Micronesia:
  - (i) that has its next scheduled destination or last point of departure in the Federated States of Micronesia, if that aircraft next actually lands in the Federated States of Micronesia;
  - (ii) having "*an offense*", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the Federated States of Micronesia with the alleged offender still aboard; or
  - (iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) is committed if the aircraft lands in the Federated States of Micronesia with an alleged offender still on board; and
- (d) other aircraft leased without crew to a lessee who has his principal place of business in the Federated States of Micronesia, or if none, who has his permanent residence in the Federated States of Micronesia; while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.

(38) "*Supreme Court*" means the Supreme Court of the Federated States of Micronesia.

(39) "*Ticket agent*" means any person, not an air carrier or a foreign air carrier and not a bona fide employee of an air carrier or foreign air carrier, who, as principal or agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for, such transportation.

**Source:** PL 9-138 § 4.

## **Chapter 2: General Powers of the Secretary; National Preemption**

**§ 201. General powers and duties of the Secretary.**

**§ 202. National preemption.**

### **§ 201. General powers and duties of the Secretary.**

(1) General powers. The Secretary is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures, necessary to carry out the provisions of this title.

(2) Cooperation with other government agencies and departments. The Secretary is empowered to confer with or to hold joint hearings with any other national or state government agencies or departments, in connection with any matter arising under this title within its jurisdiction, and to avail itself of the cooperation, services, records, and facilities of such agencies or departments as fully as may be practicable in the administration and enforcement of this title.

(3) Exchange of information. The Secretary, is empowered to exchange with other governments, through

appropriate agencies of the Federated States of Micronesia, information pertaining to aeronautics.

(4) Foreign aid.

(a) Under such terms and conditions as are prescribed by the laws of the Federated States of Micronesia, the Secretary, after consultation and in cooperation with the Department of External Affairs, may accept, receive, disburse, and expend moneys from foreign governments or other international organizations, and other moneys, public or private, made available by grant or loan to accomplish, in whole or in part, any of the purposes of this title.

(b) No moneys from any foreign government or international organization shall be accepted under and pursuant to this title unless:

(i) the funds are made available upon such terms and conditions as are prescribed by, or are consistent with or allowed under, the laws of the Federated States of Micronesia; and

(ii) the Secretary has consulted with the Department of External Affairs and obtained clearance from the Attorney General to enter into any contracts which may be required in connection therewith.

(c) Foreign aid received by the Secretary under the provisions of this section shall be paid to a special airport trust account to be expended only for the purpose specified by the grantor and in compliance with the provisions of subsection (b) of this section, or if the grantor has not restricted such purpose, to be used at the discretion of the Secretary for:

(i) matching funds for airport development projects in the states, including, but not limited to, maintenance of runways and navigational aids; improvements, expansion, and maintenance of the terminal buildings; and other matters related to airport operations; and

(ii) other purposes which directly foster and advance the development of civil aeronautics and air commerce in the Federated States of Micronesia.

Source: PL 9-138 § 6.

§ 202. National preemption.

(1) No state or political subdivision thereof shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates charged by, routes established or served by, or services provided by any air carrier having authority to provide air transportation in the Federated States of Micronesia.

(2) The provisions of subsection (1) of this section shall not apply to fees or rates charged by airport operators to air carriers having the authority to provide air transportation in the Federated States of Micronesia; however, such fees, rates and other charges levied by airport operators upon air carriers shall remain subject to the Secretary's ultimate review and approval under the provisions of sections 305(3), 703(4), 1002, and any other applicable provisions of this title.

Source: PL 9-138 § 7.

### Chapter 3: Organization of Civil Aviation Authority and Powers and Duties of the Secretary

Organization of Civil Aviation Authority.  
Fostering of air commerce.  
National defense and civil needs.  
Airspace control and facilities.  
Other powers and duties of the Secretary.  
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Applicability of title 17 of the Code of the Federated States of  
Micronesia.  
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#### **§ 301. Organization of Civil Aviation Authority.**

The Secretary may organize the Civil Aviation Authority of the Federated States of Micronesia as he sees fit, consistently with other national legislation, in such manner as to promote efficiently and effectively the safety and economic development of civil aviation.

**Source:** PL 9-138 § 9.

#### **§ 302. Fostering of air commerce.**

The Secretary is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the Federated States of Micronesia and abroad.

**Source:** PL 9-138 § 10.

#### **§ 303. National defense and civil needs.**

In exercising the authority granted in, and discharging the duties imposed by, this act, the Secretary shall give full consideration to the requirements of national defense, of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace.

**Source:** PL 9-138 § 11.

#### **§ 304. Airspace control and facilities.**

(1) *Use of airspace.* The Secretary is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to ensure the safety of aircraft and the efficient utilization of such airspace. He may modify or revoke such assignment when required in the public interest. The authority of the Secretary under this subsection shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

(2) *Air navigation facilities.* The Secretary is authorized, within the limits of available resources, (a) to acquire, establish, and improve air navigation facilities wherever necessary; (b) to operate and maintain such air navigation facilities; (c) to arrange for publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation; and (d) to provide necessary facilities and personnel for the regulation and protection of air traffic. The Secretary may from time to time arrange for the performance by another government agency or department, with the consent of that agency or department, of any function under this subsection.

(3) *Air traffic rules.* The Secretary is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

**Source:** PL 9-138 § 12.

**§ 305. Other powers and duties of the Secretary.**

(1) *General.* The Secretary is empowered to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures, pursuant to and consistent with the provisions of this title, as he shall deem necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this title.

(2) *Publications.* The Secretary shall provide for the publication of reports, orders, decisions, rules, and regulations issued by him under this title in such form and manner as may be best adapted for public information and use.

(3) *Power to conduct hearings and investigations.* The Secretary shall have the power to conduct hearings and investigations necessary to carry out his duties under this title. Such power shall be exercised in consultation with the appropriate authorities of other government agencies, foreign governments and international organizations.

(4) *Training schools.* The Secretary is empowered to conduct a school or schools for the purpose of training employees of the Secretary in those subjects necessary for the proper performance of all authorized functions. He may also authorize attendance at courses given in such school or schools of other governmental personnel, personnel of other governments, or personnel of the aeronautics industry.

(5) *Exemptions.* The Secretary from time to time may grant exemptions from the requirements of any rule or regulation prescribed under this title if he finds that such action would be in the public interest.

**Source:** PL 9-138 § 13.

**§ 306. Air transportation security rules and regulations.**

(1) *Acts of criminal violence and aircraft piracy.* The Secretary shall prescribe such reasonable rules and regulations requiring such practices, methods, and procedures, as he may deem necessary to protect persons and property aboard aircraft against acts of criminal violence and aircraft piracy.

(2) *Screening of passengers.* The Secretary shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees or agents of the air carrier or foreign air carrier prior to boarding the aircraft for such transportation.

(3) *Procedures for inspections, detentions, and searches.* The Secretary shall, to the extent practicable, require uniform procedures for the inspection, detention, and search of persons and property in domestic air transportation and foreign air transportation to assure their safety and to assure that they will receive courteous and efficient treatment by air carriers and their agents and employees.

**Source:** PL 9-138 § 14.

**§ 307. Applicability of [title 17 of the Code of the Federated States of Micronesia](#).**

In the exercise of the rule making authority under this chapter, the Secretary shall be subject to the provisions of [title 17 of this code](#), as well as the provisions of this title.

**Source:** PL 9-138 § 15, modified.

**§ 308. Development Planning.**

The Secretary is directed to make long range plans for and formulate policy with respect to the orderly development and use of the navigable airspace, and the orderly development and location of landing areas, National airways, radar installation and all other aids and facilities for air navigation, as will best meet the needs of, and serve the interest of civil aeronautics.

**Source:** PL 9-138 § 16.

**§ 309. Delegation by Secretary.**

In exercising the powers and duties vested in him by this title, the Secretary may, subject to such regulations, supervision, and review as he may prescribe, delegate to any properly qualified private person, or to any employee or employees under the supervision of such person, any work, business, or function respecting (1) the examination, inspection, and testing necessary to the issuance of certification under this title, and (2) the issuance of such certificates in accordance with standards established by him. The Secretary may establish the maximum fees which such private persons may charge for their services and may rescind any delegation made by him pursuant to this subsection at any time and for any reason which he deems appropriate.

**Source:** PL 9-138 § 17.

FSMC, TITLE 20. AERONAUTICS

**Chapter 4: Air Carrier  
Economic Regulation**

- § 401.** Certificate of public convenience and necessity.
- § 402.** Permits to foreign air carriers.
- § 403.** Tariffs of air carrier.
- § 404.** Observation of tariff.
- § 405.** Notice of tariff change.
- § 406.** Power to prescribe rates and practices of air carriers.
- § 407.** Rules of rate-making.
- § 408.** Suspension of rates.
- § 409.** Carriers duty to provide service, rates and divisions.
- § 410.** Equitable treatment.
- § 411.** Account records and reports.
- § 412.** Disclosure of stock ownership.
- § 413.** Inspection of accounts and property.
- § 414.** Methods of competition.
- § 415.** Classification and exemption of carriers.
- § 416.** Requirement as to carriage of mail.
- § 417.** Transportation of mail.
- § 418.** Flight schedules of air carriers.

**§ 401. Certificate of public convenience and necessity.**

- (1) Certificate required. No air carrier shall engage in any air transportation unless there is in force a

certificate issued by the Secretary authorizing such air carrier to engage in such transportation.

(2) Application for certificate. Application for a certificate shall be made in writing to the Secretary and shall be in such form and contain such information as the Secretary shall by regulation require.

(3) Terms and conditions of certificate.

(a) Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered; and there shall be attached to the exercise of the privileges granted by the certificate, or amendment thereto, such reasonable terms, conditions, and limitations as the public interest may require.

(b) A certificate issued under this section to engage in international air transportation or international air transportation by charter shall designate the terminal and intermediate points only insofar as the Secretary shall deem practicable, and otherwise shall designate only the general route or routes to be followed.

(4) Authority to modify or revoke.

(a) The Secretary may alter, amend, modify, or suspend any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate.

(b) Any interested person may file with the Secretary a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a certificate pursuant to paragraph (1) of this subsection.

(5) Transfer of certificate. No certificate may be transferred unless such transfer is approved by the Secretary as being consistent with the public interest.

(6) Insurance and liability. No certificate shall be issued or remain in effect unless the applicant for such certificate or the air carrier, as the case may be, complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

(7) Continuing requirement. The requirement that each applicant for a certificate or any other authority under this title must be found to be fit, willing, and able to perform properly the transportation covered by its application and to conform to the provisions of this title and the rules, regulations, and requirements of the Secretary under this title, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Secretary. The Secretary may by order modify, suspend, or revoke such certificate or other authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able.

Source: PL 9-138 § 19.

§ 402. Permits to foreign air carriers.

(1) Permit required. No foreign air carrier shall engage in international air transportation unless there is in force a permit issued by the Secretary authorizing such carrier so to engage.

(2) Issuance of permit. The Secretary is empowered to issue such a permit if it finds

(a) that the applicant is fit, willing, and able properly to perform such international air transportation and to conform to the provisions of this title and the rules, regulations, and requirements of the Secretary hereunder and

(b) either that the applicant is qualified, and has been designated by its government, to perform such international air transportation under the terms of an agreement with the Federated States of Micronesia, or that such transportation will be in the public interest.

(3) Application for permit. Application for a permit shall be made in writing to the Secretary and shall be in such form and contain such information as the Secretary shall require.

Source: PL 9-138 § 20.

§ 403. Tariffs of air carrier.

(1) Every air carrier and every foreign air carrier shall file with the Secretary, and print and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier which through service and through rates shall have been established, and showing to the extent required by regulations all classifications, rules, regulations, practices, and services in connection with such air transportation.

(2) Tariffs shall be filed, posted and published in such form and manner and shall contain such information as the Secretary shall by regulation prescribe; and the Secretary is empowered to reject any tariff so filed which is not consistent with this section and such regulations. Any tariff so rejected shall be void.

(3) The rates, fares, and charges shown in any tariff shall be denominated in units of currency of the United States, but such tariff may also state rates, fares, and charges in terms of currencies other than that of the United States, and may in the case of foreign air transportation, contain such information as may be required under the laws of any country in which or to which an air carrier or foreign air carrier is authorized to operate.

Source: PL 9-138 § 21.

§ 404. Observation of tariff.

No air carrier, foreign air carrier or any ticket agent shall charge, demand, collect or receive greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in its then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Secretary to be specified in such tariffs except those specified therein. Nothing in this title shall prohibit such air carrier or foreign air carrier, under such terms and conditions as the Secretary may prescribe, from issuing or interchanging tickets or passes for free or reduced rate transportation to their directors, officers, agents and employees and their immediate families.

Source: PL 9-138 § 22.

§ 405. Notice of tariff change.

No change shall be made in any rate, fare, or charge, or any classification, rule, regulations or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier or foreign air carrier, except after 30 days notice of the proposed change filed, posted and published in compliance with section 403 of this chapter. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Secretary may in the public interest by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section

governing the filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances and conditions.

Source: PL 9-138 § 23.

§ 406. Power to prescribe rates and practices of air carriers.

Whenever, upon complaint, or upon his own initiative, and after notice and hearing conducted pursuant to the procedures provided under [title 17 of this code](#), the Secretary shall be of the opinion that any individual or joint rate, fare or charge demanded, charged, collected or received by any air carrier for air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Secretary shall determine and prescribe the lawful rate, fare, or charge thereafter to be demanded, charged, collected or received or the lawful classification, rule, regulation or practice thereafter to be made effective.

Source: PL 9-138 § 24.

Cross-reference: [Title 17 of this code](#) is on Administrative Procedures.

§ 407. Rules of rate-making.

In exercising and performing his powers and duties with respect to the determination of rates for the carriage of persons or property, the Secretary shall consider, among other factors:

- (1) The effect of such rates upon the movement of traffic;
- (2) The need in the public interest of adequate and efficient transportation of persons and property by air carrier at the lowest cost consistent with the furnishing of such service;
- (3) Such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;
- (4) The inherent advantages of transportation by aircraft; and
- (5) The need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

Source: PL 9-138 § 25.

§ 408. Suspension of rates.

- (1) Whenever any air carrier shall file with the Secretary a tariff stating a new individual or joint rate, fare, or charge for interstate and intrastate air transportation:
  - (a) the Secretary is empowered, upon complaint or upon his own initiative, at once, and, if he so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing conducted pursuant to the procedures provided under title 17 of this code concerning the lawfulness of such rate, fare, and charge.
  - (b) Pending such hearing and the decision thereon, the Secretary, by filing with such tariff, and delivering to the air carrier affected thereby, a statement in writing of his reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge for a period of 90 days.
  - (c) If the proceeding has not been concluded and a final order made within such period, the Secretary may

from time to time extend the period of suspension, but not for a longer period in the aggregate than 180 days beyond the time when such tariff should otherwise go into effect.

(2) If the proceedings have not been concluded and an order of extension has not been issued within the period of suspension, the proposed rate, fare, or charge shall go into effect at the end of such period.

(3) This section shall not apply to any initial tariff filed by any air carrier.

Source: PL 9-138 § 26.

Cross-reference: Title 17 of this code is on Administrative Procedures.

§ 409. Carriers' duty to provide service, rates and divisions.

It shall be the duty of every air carrier:

(1) to provide and furnish air transportation as authorized by its certificate, upon reasonable request therefore and to provide reasonable through service in such air transportation in connection with other air carriers;

(2) to provide safe and adequate service, equipment and facilities in connection with such transportation;

(3) to establish, observe and enforce just and reasonable individual and joint rates, fares and charges and just and reasonable classifications, rules and regulations and practices relating to such air transportation; and

(4) in case of such joint rates, fares, and charges, to establish just, reasonable and equitable division thereof between air carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

Source: PL 9-138 § 27.

§ 410. Equitable treatment.

No air carrier or foreign air carrier shall:

(1) make, give or cause any undue or unreasonable preference or advantage to any particular person, port, locality or description of traffic in air transportation in any respect whatsoever; or

(2) subject any particular person, port, locality or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Source: PL 9-138 § 28.

§ 411. Account records and reports.

The Secretary is empowered to require annual, monthly, periodical and special reports from any air carrier; to prescribe the manner and form in which such reports shall be made; and to require from any air carrier specific answers to all questions upon which the Secretary may deem information to be necessary. Such reports shall be under oath whenever the Secretary so requires. The Secretary may also require any air carrier to file with him a true copy of each or any contract, agreement, understanding, or arrangement, between such air carrier and any other air carrier or person, in relation to any traffic affected by the provisions of this title.

Source: PL 9-138 § 29.

§ 412. Disclosure of stock ownership.

Each air carrier shall submit annually, and at such times as the Secretary shall require, a list showing the

names of each of its stockholders or members holding more than five percent of the entire capital stock or capital as the case may be, of such air carrier, together with the name of any person for whose account, if other than the holder, such stock is held; and a report setting forth a description of the shares of stock or other interest held by such air carrier, or for its account, in persons other than itself.

Source: PL 9-138 § 30.

§ 413. Inspection of accounts and property.

The Secretary or his duly authorized representative shall, during reasonable business hours, and upon reasonable notice, have access to all lands, buildings, and equipment of any air carrier within the Federated States of Micronesia, and to all accounts, records and memoranda, including all documents, papers and correspondence, now or hereafter existing and kept or required to be kept by air carriers.

(1) The Secretary may, to expedite such inspection, employ special agents or auditors, who shall have authority to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda.

(2) The provisions of this section shall apply only to the extent found by the Secretary to be reasonably necessary for the administration and enforcement of the provisions of this title.

Source: PL 9-138 § 31.

§ 414. Methods of competition.

The Secretary may upon his own initiative or upon complaint by any air carrier, foreign air carrier or ticket agent, if he considers that such action by him would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

(1) If the Secretary shall find after notice and hearing conducted pursuant to the procedures provided under title 17 of this code that such air carrier, foreign air carrier or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, the Secretary shall order such air carrier, foreign air carrier or ticket agent to cease and desist from such practices or methods of competition.

(2) The Secretary shall, within 30 days of the issuance of a cease and desist order pursuant to subsection (1) of this section, transmit all records supporting such order to the Attorney General, and refer the matter thereafter to the Attorney General for review and appropriate legal action.

Source: PL 9-138 § 32, modified.

Cross-reference: Title 17 of this code is on Administrative Procedures.

§ 415. Classification and exemption of carriers.

(1) The Secretary may from time to time establish such just and reasonable classifications or groups of air carriers for the purposes of this title as the nature of the services performed by such air carriers shall require; and such just and reasonable rules and regulations, pursuant to and consistent with the provisions of this title, to be observed by each such class or group as the Secretary finds necessary in the public interest.

(2) The Secretary may from time to time and to the extent necessary, exempt from the requirements of this title or any provisions thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any air carrier or class of air carriers, if he finds that the enforcement of this title or such provision, or such rule, regulation, term, condition, or limitation is or would be an undue burden on such air carrier or class of air carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier

or class of air carriers and is in the public interest.

Source: PL 9-138 § 33.

§ 416. Requirement as to carriage of mail.

Whenever so authorized by its certificate, any air carrier shall provide necessary and adequate facilities and service for the transportation of mail, and shall transport mail whenever required by the Postmaster General. Such air carrier shall be entitled to receive reasonable compensation in compliance with rates approved by the Postmaster General.

Source: PL 9-138 § 34.

§ 417. Transportation of mail.

The Postmaster General is authorized to make such rules and regulations, not inconsistent with the provision of this title, or any order, rule or regulation made by the Secretary thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

Source: PL 9-138 § 35.

§ 418. Flight schedules of air carriers.

(1) Every air carrier and every foreign air carrier shall file with the Secretary, and print and keep open to public inspection, flight schedules showing all flights scheduled between points served by it, and showing to the extent required by regulations all classifications, rules, regulations, practices, and services in connection with such air transportation.

(2) Flight schedules shall be filed, posted and published in such form and manner and shall contain such information as the Secretary shall by regulation prescribe; and the Secretary is empowered to reject any flight schedule so filed which is not consistent with this section and such regulations. Any flight schedule so rejected shall be void.

(3) No change shall be made in any flight schedule, except after 30 days' notice of the proposed change filed, posted and published in compliance with this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Secretary may in the public interest by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section governing the filing and posting of flight schedules, either in particular instances or by general order applicable to special or peculiar circumstances and conditions.

Source: PL 10-92 § 1.

Editor's note: PL 10-92 that created this section 418 was signed into law on June 6, 1998.

FSMC, TITLE 20. AERONAUTICS

## **Chapter 5: Nationality and Ownership of Aircraft**

**[§ 501.](#) Registration and ownership of aircraft.**

**[§ 502.](#) Registration of engines, propellers, and appliances.**

**[§ 503.](#) Recordation of aircraft ownership.**

**§ 501. Registration and ownership of aircraft.**

(1) Registration required. It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1104 of this title) to operate or navigate within the Federated States of Micronesia any aircraft not eligible for registration. The Secretary may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as the Secretary may prescribe.

(2) Eligibility for registration. An aircraft shall be eligible for registration if, but only if:

(a) (i) it is:

(A) owned by a citizen of the Federated States of Micronesia or by an individual citizen of another country who has lawfully been admitted for permanent residence in the Federated States of Micronesia; or

(B) owned by a corporation (other than a corporation that is a citizen of the Federated States of Micronesia) lawfully organized and doing business under the laws of the Federated States of Micronesia, so long as such aircraft is based and primarily used in the Federated States of Micronesia; and

(ii) it is not registered under the laws of any other country; or

(b) it is an aircraft of the National Government, or of a state of the Federated States of Micronesia or political subdivision thereof.

For purposes of this subsection, the Secretary shall, by regulation, define the term . based and primarily used in the Federated States of Micronesia. .

(3) Issuance of certificate. Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Secretary who shall issue to the owner thereof a certificate of registration.

(4) Applications. Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Secretary may require.

(5) Suspension or revocation.

(a) Any such certificate may be suspended or revoked by the Secretary for any cause that renders the aircraft ineligible for registration.

(b) The Secretary may suspend or revoke the registration of any aircraft used in the violation of any laws of the Federated States of Micronesia.

(6) Effect of registration. Such certificate shall be conclusive evidence of nationality for international purposes. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be, in issue.

(7) Inspection by law enforcement officers. The operator of an aircraft shall make available for inspection an aircraft. s certificate of registration upon request by any law enforcement officer.

Source: PL 9-138 § 37.

**§ 502. Registration of engines, propellers, and appliances.**

The Secretary may establish reasonable rules and regulations for registration and identification of aircraft

engines, propellers, and appliances, in the interest of safety, and no aircraft engine, propeller, or appliance shall be used in violation of any such rule or regulation.

Source: PL 9-138 § 38.

§ 503. Recordation of aircraft ownership.

(1) Establishment of recording system. The Secretary shall establish and maintain a system for the recording of any conveyance that affects the title to, or any interest in, any civil aircraft of the Federated States of Micronesia.

(2) Recordation of security interests. The Secretary may establish and maintain a system for the recording of any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any specifically identified aircraft engine or engines or any specifically identified aircraft propeller, and also any assignment or amendment thereof or supplement thereto.

(3) Recording of releases. The Secretary shall also record under the system provided for in subsection (1) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

Source: PL 9-138 § 39.

## **FSMC, TITLE 20. AERONAUTICS**

### **Chapter 6: Safety Regulation of Civil Aeronautics**

- § 601. General safety powers and duties.**
- § 602. Airman and aircraft certificates.**
- § 603. Air carrier operating certificates.**
- § 604. Maintenance of equipment in air transportation.**
- § 605. Air navigation facility rating.**
- § 606. Air agency rating.**
- § 607. Form of applications.**
- § 608. Amendment, suspension, and revocation of certificates.**
- § 609. Prohibitions.**

#### **§ 601. General safety powers and duties.**

(1) Minimum standards; rules and regulations. The Secretary is empowered and it shall be his duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising from time to time:

(a) Such minimum standards governing the design, materials, workmanship, construction, and performance of aircraft, aircraft engines, and propellers as may be required in the interest of safety;

(b) Such minimum standards governing appliances as may be required in the interest of safety;

(c) Reasonable rules and regulations and minimum standards governing, in the interest of safety, (i) the inspection, servicing, and overhaul of aircraft, aircraft engines, propellers, and appliances; (ii) the equipment and facilities for such inspection, servicing, and overhaul; and (iii) in the discretion of the Secretary, the periods

for, and the manner in which, such inspection, servicing, and overhaul shall be made, including provision for examinations and reports by properly qualified private persons whose examinations or reports the Secretary may accept in lieu of those made by its officers and employees;

(d) Reasonable rules and regulations governing the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, required in the interest of safety, including the reserve supply of aircraft fuel and oil that shall be carried in flight;

(e) Reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen, and other employees, of air carriers; and

(f) Such reasonable rules and regulations, or minimum standards, governing other practices, methods, and procedure, as the Secretary may find necessary to provide adequately for national security and safety in air commerce.

(2) International Civil Aviation Organization. In prescribing rules, regulations, and minimum standards, and in issuing certificates under this title, the Secretary shall do so consistently with the provisions of the Convention on International Civil Aviation, its Annexes, and all relevant standards issued by the International Civil Aviation Organization (ICAO).

Source: PL 9-138 § 41.

§ 602. Airman and aircraft certificates.

(1) Power to issue certificate. The Secretary is empowered to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft.

(2) Issuance of certificate. Any person may file with the Secretary an application for an airman certificate. If the Secretary finds, after investigation, that such person possesses proper qualifications for, and is physically able to perform duties pertaining to, the position for which the airman certificate is sought, he shall issue such certificate, containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters as the Secretary may determine to be necessary to assure safety in air commerce.

(3) Airworthiness certificate. The registered owner of any aircraft may file with the Secretary an application for an airworthiness certificate for such aircraft. If the Secretary finds that the aircraft conforms to the type certificate therefor, and, after inspection, that the aircraft is in condition for safe operation, he shall issue an airworthiness certificate. The Secretary may prescribe in such certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, and limitations as are required in the interest of safety. Each such certificate shall be registered by the Secretary and shall set forth such information as the Secretary may deem advisable. The certificate number, or such other individual designation as may be required by the Secretary, shall be displayed upon each aircraft in accordance with regulations prescribed by the Secretary.

Source: PL 9-138 § 42.

§ 603. Air carrier operating certificates.

(1) Power to use. The Secretary is empowered to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued.

(2) Issuance. Any person desiring to operate as an air carrier may file with the Secretary an application for an air carrier operating certificate. If the Secretary finds, after investigation, that such person is properly and

adequately equipped and able to conduct a safe operation in accordance with the requirements of this title and the rules, regulations, and standards prescribed thereunder, he shall issue an air carrier operating certificate to such person. Each air carrier operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation, and shall specify the points to and from which, and the National airways over which, such person is authorized to operate as an air carrier under an air carrier operating certificate.

Source: PL 9-138 § 43.

§ 604. Maintenance of equipment in air transportation.

(1) Duty of carriers and airmen. It shall be the duty of each air carrier to make, or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in air transportation as may be required by this title, or the orders, rules, and regulations of the Secretary issued thereunder. And it shall be the duty of every person engaged in operating, inspecting, maintaining, or overhauling equipment to observe and comply with the requirements of this title relating thereto, and the orders, rules, and regulations issued thereunder.

(2) Inspection. The Secretary shall employ inspectors who shall be charged with the duties of:

(a) making such inspections of aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture, and while used by an air carrier in air transportation, as may be necessary to enable the Secretary to determine that such aircraft, aircraft engines, propellers, and appliances are in safe condition and are properly maintained for operation in air transportation; and

(b) advising and cooperating with each air carrier in the inspection and maintenance thereof by the air carrier.

(3) Finding of unsafe condition. Whenever any inspector shall, in the performance of his duty, find that any aircraft, aircraft engine, propeller, or appliance, used or intended to be used by any air carrier in air transportation, is not in condition for safe operation, he shall so notify the carrier in such form and manner as the Secretary may prescribe; and, for a period of five days thereafter, such aircraft, aircraft engine, propeller, or appliance shall not be used, unless found by the Secretary or his inspector to be in condition for safe operation.

Source: PL 9-138 § 44.

§ 605. Air navigation facility rating.

The Secretary is empowered to inspect, classify, and rate any air navigation facility available for the use of civil aircraft, as to its suitability for such use. The Secretary is empowered to issue a certificate for any such air navigation facility.

Source: PL 9-138 § 45.

§ 606. Air agency rating.

(1) The Secretary is empowered to provide for the examination and rating of:

(a) civilian schools giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors;

(b) repair stations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, or appliances, as to the adequacy and suitability of the equipment, facilities, and materials for and methods of, repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and

appliances, and the competency of those engaged in the work or giving any instruction therein; and

(c) such other air agencies as may, in his opinion, be necessary in the interest of the public.

(2) The Secretary is empowered to issue certificates for such schools, repair stations, and other agencies.

Source: PL 9-138 § 46.

§ 607. Form of applications.

Applications for certificates under this title shall be in such form, contain such information, and be filed and served in such manner as the Secretary may prescribe.

Source: PL 9-138 § 47.

§ 608. Amendment, suspension, and revocation of certificates.

The Secretary may, from time to time, reinspect any civil aircraft, engine, propeller, appliance, air navigation facility, or air agency, or may reexamine any civil airman. If as a result of any such reinspection or reexamination, or if, as a result of any other investigation made by the Secretary, he determines that aviation safety requires, the Secretary may issue an order amending, modifying, suspending, or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate (including airport operating certificate), or air agency certificate. Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Secretary shall advise the holder thereof as to any charges or other reasons relied upon by the Secretary for his proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked. Any person substantially affected by the Secretary's order may obtain judicial review of said order under the laws of the Federated States of Micronesia, and the Secretary shall be made a party to the proceeding.

Source: PL 9-138 § 48.

§ 609. Prohibitions.

(1) Violations of title. It shall be unlawful:

(a) For any person to operate in air commerce any civil aircraft for which there is not currently in effect an airworthiness certificate, or in violation of the terms of any such certificate.

(b) For any person to serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller or appliance used or intended for use, in air commerce without an airman certificate authorizing him to serve in such capacity, or in violation of any term, condition, or limitation thereof, or in violation of any order, rule, or regulation issued under this title;

(c) For any person to employ for service in connection with any civil aircraft used in air commerce an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed;

(d) For any person to operate as an air carrier without an air carrier operating certificate, or in violation of the terms of any such certificate;

(e) For any person to operate aircraft in air commerce in violation of any other rule, regulation, or certificate issued by the Secretary under this title;

(f) For any person holding an air agency or production certificate, to violate any term, condition, or limitation thereof, or to violate any order, rule, or regulation under this title relating to the holder of such certificate; and

(g) For any person to operate an airport without an airport operating certificate required by the Secretary pursuant to [section 701 of this title](#), or in violation of the terms of any such certificate.

(2) Exemption of aircraft and airmen of other countries. Aircraft and airmen of other countries serving in connection therewith may, except with respect to the observance by such airmen of the air traffic rules, be exempted from the provisions of subsection (1) of this section, to the extent, and upon such terms and conditions, as may be prescribed by the Secretary.

Source: PL 9-138 § 49.

## **FSMC, TITLE 20. AERONAUTICS**

### **Chapter 7: Regulation of Airports**

**[§ 701.](#) Airport operating certificates.**

**[§ 702.](#) Operation and maintenance of airports.**

**[§ 703.](#) Regulation of tariffs of airport operators.**

**[§ 704.](#) Expenditure of national funds for airports.**

**[§ 705.](#) Derivation and disbursement of funds.**

#### **§ 701. Airport operating certificates.**

(1) Power to issue. The Secretary is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft.

(2) Issuance. Any person, state or state port authority desiring to operate an airport that is described in subsection (1) of this section and that is required by the Secretary, by rule, to be certified may file with the Secretary an application for an airport operating certificate.

(a) If the Secretary finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this title and the rules, regulations, and standards prescribed thereunder, the Secretary shall issue an airport operating certificate to such person.

(b) Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation; and unless the Secretary determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include, but not be limited to, terms, conditions, and limitations relating to:

(i) the operation and maintenance of adequate safety equipment, including fire fighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft; and

(ii) the condition and maintenance of primary and secondary runways as the Secretary determines to be necessary.

(3) Exemption. The Secretary may exempt any operator of an airport if he finds that such requirements

are, or would be, unreasonably costly, burdensome, or impractical.

Source: PL 9-138 § 51.

§ 702. Operation and maintenance of airports.

Each state shall be responsible for the operation and maintenance of all airports in his state, subject to the airport certification process of section 701 of this chapter.

Source: PL 9-138 § 52.

§ 703. Regulation of tariffs of airport operators.

(1) Tariffs of airport operators. Every airport operator shall file with the Secretary, and print and keep open to public inspection, tariffs showing all rates, fees and charges for services provided to air carriers, and showing, to the extent required by regulations, all classifications, rules, regulations, and practices used in connection with such services and the assessment of such rates, fees and charges.

(2) Observation of tariff. No airport operator shall charge, demand, collect or receive greater or less or different compensation than the rates, fares, and charges specified in its then currently effective tariffs; and no airport operator shall refund or remit any portion of the rates, fees, or charges so specified, or extend to any person any privileges or facilities, with respect to matters required by the Secretary to be specified in such tariffs except those specified therein.

(a) Nothing in this title shall prohibit such airport operators, under such terms and conditions as the Secretary may prescribe, from reducing or waiving rates, fees or charges to air carriers owned or operated by state government or the national government, or an agency or department thereof.

(3) Notice of tariff change. No change shall be made in any rate, fee, or charge, or any classification, rule, regulations or practice affecting such rate, fee, or charge, or the value of the service thereunder, specified in any effective tariff of any airport operator, except after 30 days notice of the proposed change filed, posted and published in compliance with subsection (2) of this section. Such notice shall plainly state the change proposed to be made and the time such change will take effect. The Secretary may in the public interest by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section governing the filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances and conditions.

(4) Power to prescribe rates and practices of airport operators. Whenever, upon complaint, or upon his own initiative, and after notice and hearing conducted pursuant to the procedures provided chapter 10 of this title, the Secretary shall be of the opinion that any rate, fee or charge demanded, charged, collected or received by any airport operator from an air carrier, or any classification, rule, regulation, or practice affecting such rate, fee, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Secretary shall determine and prescribe the lawful rate, fare, or charge thereafter to be demanded, charged, collected or received or the lawful classification, rule, regulation or practice thereafter to be made effective.

(5) Rules of rate-making. In exercising and performing his powers and duties with respect to the determination of rates for the carriage of persons or property, the Secretary shall consider, among other factors:

(a) The effect of such rates upon the movement of traffic;

(b) The need in the public interest of adequate and efficient services provided by airport operators at the lowest cost consistent with the furnishing of such service;

(c) Such standards respecting the character and quality of service to be rendered by airport operators as may be prescribed by or pursuant to law; and

(d) The need of each airport operator for revenue sufficient to enable such airport operator, under honest, economical, and efficient management, to provide adequate and efficient airport service.

Source: PL 9-138 § 53.

§ 704. Expenditure of national funds for airports.

No national funds, other than those expended under this title, shall be expended (whether or not in cooperation with State or other local governmental agencies), for the acquisition, establishment, construction, alteration, repair, maintenance, or operation of any landing area or for the acquisition, establishment, construction, maintenance, or operation of air navigation facilities thereon, except upon written recommendation and certification by the Secretary that such landing area or facility is reasonably necessary for use in air commerce. Any interested person may apply to the Secretary, under regulations prescribed by him, for such recommendation and certification with respect to any landing area or air navigation facility proposed to be established, constructed, altered, repaired, maintained, or operated by, or in the interests of, such person. There shall be no exclusive right for the use of any landing area or air navigation facility upon which national funds have been expended.

Source: PL 9-138 § 54.

§ 705. Derivation and disbursement of funds.

(1) All moneys received by the Secretary, the Department, or the National Government from rates, fees, and other charges pursuant to this title shall be paid to the air transportation trust account established by [section 201\(4\)\(c\) of this title](#), to be expended only for the purposes stated in subparagraphs (i) and (ii) thereof.

(2) All moneys received by airport operators from rates, fees, and other charges pursuant to this title shall be paid to a special trust account to be expended only for the state from which such moneys were received, and to be used at the discretion of the state for:

(a) matching funds for grants from the foreign governments or international organizations for airport development;

(b) maintenance of runways and navigational aids;

(c) improvements, expansion, and maintenance of the terminal buildings; and

(d) other matters related to the operations under the authority of the airport operator.

(3) The Secretary may exempt a state from the requirements of subsection (2) of this section if he finds that such requirements are, or would be, unreasonably costly, burdensome, or impractical.

Source: PL 9-138 § 55.

## **FSMC, TITLE 20. AERONAUTICS**

### **Chapter 8: Aircraft Accident Investigation**

**§ 801. Accidents involving civil aircraft.**

**§ 801. Accidents involving civil aircraft.**

- (1) General duties. It shall be the duty of the Secretary to:
  - (a) Make rules and regulations governing notification and report of accidents involving civil aircraft;
  - (b) Investigate such accidents and report the facts, conditions, and circumstances relating to each accident and the probable cause thereof;
  - (c) Take such actions as, in his opinion, will tend to prevent similar accidents in the future;
  - (d) Make such reports public in such form and manner as may be deemed by him to be in the public interest; and
  - (e) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents.
- (2) Conduct of investigations. In conducting any hearing or investigation, any officer or employee of the Secretary shall have the same powers as the Secretary has with respect to hearings or investigations conducted by him. In carrying out his duties under this title, the Secretary is authorized to examine and test to the extent necessary any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce. In the case of any fatal accident, the Secretary is authorized to examine the remains of any deceased person aboard the aircraft at the time of the accident, who dies as a result of the accident, and to conduct autopsies or such other tests thereof as may be necessary to the investigation of the accident.
- (3) Tampering with evidence. Any civil aircraft, aircraft engine, propeller, appliance, or property aboard an aircraft involved in an accident in air commerce, shall be preserved in accordance with, and shall not be moved except in accordance with, regulations prescribed by the Secretary. Anyone who violates this subsection commits a national offense, punishable by a fine not to exceed \$5,000 or imprisonment for a term not exceeding one year, or both.
- (4) Use of record and reports as evidence. No part of any report or reports of the Secretary relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such report or reports.
- (5) Use of other agencies in accident investigations. Upon the request of the Secretary, other government agencies and departments are authorized to make investigations with regard to aircraft accidents and to report to the Secretary the facts, conditions, and circumstances thereof, and the Secretary is authorized to utilize such reports in making its determinations of probable cause under this title.

Source: PL 9-138 § 57.

**FSMC, TITLE 20. AERONAUTICS**

**Chapter 9: Penalties**

**§ 901. Civil penalties.**

**§ 902. Criminal penalties.**

### **§ 901. Civil penalties.**

(1) General penalty. Any person, other than a person conducting an operation in air transportation or foreign air transportation, who violates any provision of this title or any rule, regulation, or order issued thereunder shall be subject to a civil penalty not exceeding \$1,000 for each such violation. Any person conducting an operation in air transportation or foreign air transportation who violates any provision of this title or any rule, regulation, or order issued thereunder shall be subject to a civil penalty not exceeding \$10,000 for each such violation. If any such violation is a continuing one, each day of such violation shall constitute a separate offense.

(2) Penalty considerations. The Secretary shall have the power to assess and compromise any civil penalty. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. This subsection shall not apply to defense personnel of the United States for conduct occurring while engaged in the performance of their official duties.

(3) Aircraft subject to liens. In case a civil aircraft is involved in such violation and the violation is by the owner or operator of the aircraft, such aircraft shall be subject to a lien for the penalty.

Source: PL 9-138 § 59.

### **§ 902. Criminal penalties.**

(1) Certificate violations. Any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this title, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(2) Interference with air navigation. A person commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both, who:

(a) with intent to interfere with air navigation within the Federated States of Micronesia, exhibits within the Federated States of Micronesia any light or signal at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this title, or for a true light or signal in connection with an airport or other air navigation facility, or, after due warning by the Secretary, continues to maintain any such misleading light or signal; or

(b) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

(3) Reporting and record keeping violations. Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Secretary as required by this title, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Secretary, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file a false report, account, record, or memorandum, commits a national offense and shall upon conviction be liable for each offense to a fine of not less than \$1,000 and not exceeding \$5,000.

(4) Refusal to testify or to produce records. Every person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in

obedience to a subpoena or lawful requirement of the Secretary, commits a national offense and shall upon conviction be liable to a fine not less than \$100 and not exceeding \$5,000, or to a term of imprisonment not exceeding one year, or both.

(5) Aircraft piracy. Whoever commits or attempts to commit aircraft piracy, as herein defined, commits a national offense and shall be punished:

(a) with imprisonment for not less than twenty years; or

(b) if the death of another person results from the commission or attempted commission of the offense, with imprisonment for life.

(i) as used in this subsection, the term . aircraft piracy. means any seizure or exercise of control, by force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the Federated States of Micronesia.

(ii) an attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the Federated States of Micronesia even though the aircraft is not in flight at the time of such attempt, if the aircraft would have been within the special jurisdiction of the Federated States of Micronesia had the offense of aircraft piracy been completed.

(6) Interference with crew members. Whoever while aboard an aircraft within the special aircraft jurisdiction of the Federated States of Micronesia, assaults, intimidates, or threatens any flight crew member or flight attendant, including any steward or stewardess of such aircraft, so as to interfere with the performance by such crew member or attendant of his duties or lessens the ability of such member or attendant to perform his duties, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both. Whoever in the commission of any such act referred to in this subsection uses a deadly or dangerous weapon shall be liable to a term of imprisonment for any term of years or for life.

(7) General criminal penalty. Whoever, while on board an aircraft within the special aircraft jurisdiction of the Federated States of Micronesia, commits an act, which, if committed in the Federated States of Micronesia would be a violation of the laws of the Federated States of Micronesia, shall be punished as provided herein.

(8) Weapon and explosive violations.

(a) Whoever, while on board, or while attempting to board, any aircraft in or intended for operation in air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be accessible to such person in flight, or any person who has on or about his person, or who has placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(b) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by paragraph (a) of this subsection commits a national offense and shall upon conviction be liable to a fine not exceeding \$10,000, or to a term of imprisonment not exceeding 20 years, or both.

(c) This subsection shall not apply to law enforcement officers of the Federated States of Micronesia, who are authorized or required within their official capacities to carry arms, or to persons who may be authorized by the Secretary to carry deadly or dangerous weapons in air transportation, nor shall they apply to persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier.

(9) Interference with aircraft operations. Whoever willfully and with reckless disregard for safety of human life interferes or attempts to interfere with the safe operation of any aircraft in, or intended for operation in, the special aircraft jurisdiction of the Federated States of Micronesia, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(10) False information.

(a) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do an act which would be a crime prohibited by subsections (5) through (8) of this section, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both;

(b) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsections (5) through (8) of this section, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(11) Removal of parts of aircraft involved in accidents. Every person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard such aircraft at the time of the accident, commits a national offense and shall upon conviction be liable to a fine of not less than \$100 and not exceeding \$5,000, or to a term of imprisonment not exceeding one year, or both.

Source: PL 9-138 § 60.

## **FSMC, TITLE 20. AERONAUTICS**

### **Chapter 10: Procedures**

- [§ 1001.](#) Conduct of proceedings.**
- [§ 1002.](#) Complaints to and investigations by the Secretary.**
- [§ 1003.](#) Evidence.**
- [§ 1004.](#) Designation of agent for service.**
- [§ 1005.](#) Venue.**
- [§ 1006.](#) Judicial review of orders.**
- [§ 1007.](#) Judicial enforcement.**
- [§ 1008.](#) Procedure for civil penalties.**

#### **§ 1001. Conduct of proceedings.**

- (1) Conducting proceedings. The Secretary shall, subject to the provisions of this title, conduct his proceedings in such manner as will be conducive to the proper dispatch of business and to the ends of justice.
- (2) Conflicts of interest. No employee of the Department shall participate in any hearing or proceeding in which he has a pecuniary interest.
- (3) Appearance. Any person may appear before the Secretary and be heard in person or by an attorney.

(4) Recording and public access. Every official act of the Secretary shall be entered of record, and the proceedings thereof shall be open to the public upon request of any interested party, unless the Secretary determines that withholding from public disclosure is necessary on grounds of national interest.

Source: PL 9-138 § 62.

§ 1002. Complaints to and investigations by the Secretary.

(1) Filing of complaints. Any person may file with the Secretary a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provision of this title, or of any requirement established pursuant thereto. If the person complained against does not satisfy the complaint and there appears any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters set forth in the complaint. Whenever the Secretary is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing.

(2) Investigations. The Secretary is hereby empowered to institute an investigation at any time, on his own initiative, in any case and as to any matter or thing within his jurisdiction by any provision of this title, concerning which a complaint is authorized to be made to or before the Secretary, or concerning which any question may arise under any of the provisions of this title, or relating to the enforcement of any of the provisions of this title. The Secretary shall have the same power to proceed with any investigation instituted on his own motion as though it had been made to him by complaint.

(3) Orders to compel compliance. If the Secretary finds, after notice and hearing, in any investigation instituted upon complaint or upon his own initiative, with respect to matters within his jurisdiction, that any person has failed to comply with any provision of this title or any requirement established pursuant thereto, the Secretary shall, consistent with the provisions of this title, issue an appropriate order to compel such person to comply therewith.

Source: PL 9-138 § 63.

§ 1003. Evidence.

(1) General. The Secretary shall hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the Federated States of Micronesia.

(2) Subpoenas. For the purposes of this title, the Secretary shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(3) Compliance with subpoenas. The attendance of witnesses, and the production of books, papers, and documents, may be required from any place in the Federated States of Micronesia, at any designated place of hearing. In case of disobedience to a subpoena, the Secretary or any party to a proceeding before the Secretary, may invoke the aid of the Trial Division of the Supreme Court in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this section.

(4) Depositions.

(a) The Secretary may order testimony to be taken by deposition in any proceeding or investigation pending before him, at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his

attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and be deposed, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Secretary, as hereinbefore provided.

(b) Every person being deposed as herein provided shall be cautioned and shall be required to swear or to affirm, if he so requests, to testify to the whole truth, and shall be carefully examined. The testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Secretary.

(c) If a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a person commissioned by the Secretary or agreed upon by the parties by stipulation in a writing to be filed with the Secretary, or may be taken under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary.

Source: PL 9-138 § 64.

#### § 1004. Designation of agent for service.

(1) Designating agents. It shall be the duty of every air carrier and foreign air carrier to designate in writing an agent in the Federated States of Micronesia upon which service of all notices and process and all orders, decisions, and requirements of the Secretary may be made for and on behalf of said air carrier or foreign air carrier, and to file such designation with the Secretary. Such designation may from time to time be changed by like writing similarly filed.

#### (2) Serving agents.

(a) Service of all notices and process and of orders, decisions, and requirements of the Secretary may be made upon any air carrier or foreign air carrier by service upon its designated agent at his office in the Federated States of Micronesia or place of residence in the Federated States of Micronesia with like effect as if made personally upon such air carrier or foreign air carrier.

(b) In default or the absence of an agent, service of any notice or other process in any proceedings before the Secretary, or of any order, decision, or requirement of the Secretary, may be made by posting such notice, process, order, requirement, or decision in the Department.

(3) Service generally. Service of notices, processes, orders, rules, and regulations upon any person may be made by personal service or upon an agent designated in writing for this purpose, or by registered or certified mail addressed to such person or agent. Whenever service is made by registered or certified mail, the date of mailing shall be considered as the date when service is made.

Source: PL 9-138 § 65.

#### § 1005. Venue.

The trial of any offense under this title shall be in the Trial Division of the Supreme Court.

Source: PL 9-138 § 66.

#### § 1006. Judicial review of orders.

(1) Availability of judicial review. Any order issued by the Secretary shall be subject to review by the Trial Division of the Supreme Court upon petition filed within 60 days after the entry of such order, by any person disclosing a substantial interest in such order. A petition may be filed beyond 60 days after the entry of an

order of the Secretary only with the permission of the Trial Division of the Supreme Court upon a showing of reasonable grounds for failure to file the petition theretofore.

(2) Judicial procedures. A copy of the petition shall, upon filing, be forthwith transmitted to the Secretary by the Clerk of Courts and the Secretary shall thereupon file in the court the record, if any, upon which the order complained of was entered.

(3) Authority of court. Upon transmittal of the petition to the Secretary, the Trial Division of the Supreme Court shall have exclusive jurisdiction to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Secretary. Upon good cause shown and after reasonable notice to the Secretary, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

(4) Scope of review. The findings of facts by the Secretary, if supported by substantial evidence, shall be conclusive. No objection to an order of the Secretary shall be considered by the Trial Division of the Supreme Court unless such objection shall have been urged before the Secretary or if it was not so urged, unless there were reasonable grounds for failure to do so.

Source: PL 9-138 § 67.

§ 1007. Judicial enforcement.

(1) Jurisdiction of court. The Trial Division of the Supreme Court shall have jurisdiction to enforce obedience to any provision of this title, or any rule, regulation, requirement, or order issued thereunder, or any term, condition, or limitation of any certificate issued under this act.

(2) Civil actions to enforce this title.

(a) Where any person violates any provision of this title, or any rule, regulation, requirement, or order issued thereunder, or any term, condition, or limitation of any certificate issued under this title, the Secretary may apply to the Trial Division of the Supreme Court for the enforcement of such provision of this title, or of such rule, regulation, requirement, order, term, condition, or limitation.

(b) Upon the request of the Secretary, the Attorney General may institute in the Trial Division of the Supreme Court and prosecute all necessary proceedings for the enforcement of the provisions of this title or any rule, regulation, requirement, or order issued thereunder, or any term, condition, or limitation of any certificate issued under this title, and for the punishment of all violations hereof.

(3) Participation of Secretary. Upon request of the Attorney General, the Secretary shall have the right to participate in any proceeding in court under the provisions of this title.

Source: PL 9-138 § 68.

§ 1008. Procedure for civil penalties.

(1) Civil penalty actions. Any civil penalty imposed or assessed under this Act may be collected by proceedings in personam in the Trial Division of the Supreme Court against the person subject to the penalty and, in the case of an aircraft subject to a lien for the penalty, by proceedings in rem against the aircraft.

(2) Seizure of aircraft. Any aircraft subject to a lien for a civil penalty may be seized by and placed in the custody of the Secretary. A report of the seizure and the basis therefor shall be promptly transmitted to the Attorney General. The Attorney General shall promptly institute judicial proceedings for the enforcement of a lien against an aircraft seized by the Secretary, or notify the Secretary of his failure to so act. The aircraft shall

be released from custody of the Secretary upon:

- (a) payment of the penalty or the amount agreed upon in compromise;
- (b) seizure in pursuance of judicial proceedings in rem for enforcement of the lien;
- (c) notice by the Attorney General of failure to institute such proceedings; or
- (d) deposit of a bond in such amount as the Secretary may prescribe, conditioned upon payment of the penalty or the amount agreed upon in compromise.

Source: PL 9-138 § 69.

## FSMC, TITLE 20. AERONAUTICS

### Chapter 11: Miscellaneous Provisions

[§ 1101.](#) Hazards to safe and efficient air commerce and the preservation of navigable airspace; notice of construction.

[§ 1102.](#) International agreements.

[§ 1103.](#) Remedies not exclusive.

[§ 1104.](#) Aircraft of other countries.

§ 1101. Hazards to safe and efficient air commerce and the preservation of navigable airspace; notice of construction.

The Secretary shall, by rules and regulations, or by order, where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace.

Source: PL 9-138 § 71.

§ 1102. International agreements.

(1) In exercising and performing his powers and duties under this title, the Secretary shall do so consistently with any obligation assumed by the Federated States of Micronesia in any treaty, convention, or agreement that may be in force between the Federated States of Micronesia and any other country or countries, and shall take into consideration any applicable laws and requirements of such countries and the Secretary shall not, in exercising and performing his powers and duties with respect to certificates of convenience and necessity, restrict compliance by any air carrier with any obligation, duty, or liability imposed by any other country.

(2) This section shall not apply to any obligation, duty, or liability arising out of a contract or other agreement, heretofore or hereafter entered into between an air carrier, or any officer or representative thereof, and any other country, if such contract or agreement is disapproved by the Secretary as being contrary to the public interest.

Source: PL 9-138 § 72.

§ 1103. Remedies not exclusive.

Nothing contained in this title shall in any way abridge or alter the remedies now existing under the laws of

the Federated States of Micronesia, but the provisions of this title are in addition to such remedies.

Source: PL 9-138 § 73.

§ 1104. Aircraft of other countries.

(1) The Federated States of Micronesia is hereby declared to possess and exercise complete and exclusive national sovereignty in the airspace of the Federated States of Micronesia, including the airspace above all inland waters and the airspace above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty or convention the Federated States of Micronesia exercises national jurisdiction.

(2) Aircraft of other countries, which are not a part of the armed forces of another nation, may be navigated in the Federated States of Micronesia by airmen holding certificates or licenses issued or rendered valid by the Federated States of Micronesia or by the nation in which the aircraft is registered if such nation grants a similar privilege with respect to aircraft of the Federated States of Micronesia, and only if such navigation is authorized by permit, order, or regulation issued by the Secretary hereunder, and in accordance with the terms, conditions, and limitations thereof.

(3) In exercising his powers hereunder, the Secretary shall do so consistently with any treaty, convention, or agreement that may be in force between the Federated States of Micronesia and any other country or countries. Civil aircraft of other countries permitted to navigate in the Federated States of Micronesia under this subsection may be authorized by the Secretary to engage in air commerce within the Federated States of Micronesia except that they shall not take on at any point within the Federated States of Micronesia, persons, property, or mail carried for compensation or hire and destined for another point within the Federated States of Micronesia, unless specifically authorized by the Secretary.

(4) Nothing contained in subsections (2) and (3) of this section shall be deemed to limit, modify, or amend section 402 of this title, but any foreign air carrier holding a permit under said section 402 shall not be required to obtain additional authorization under this subsection with respect to any operation authorized by said permit.

Source: PL 9-138 § 74.

## **FSMC, TITLE 20. AERONAUTICS**

### **Chapter 12: Federated States of Micronesia Airline Corporation**

- [§ 1201.](#) Short title.
- [§ 1202.](#) Establishment of Corporation.
- [§ 1203.](#) Powers and responsibilities of the Corporation.
- [§ 1204.](#) Legal capacity of the Corporation.
- [§ 1205.](#) Debts and obligations of the Corporation.
- [§ 1206.](#) Tax liability.
- [§ 1207.](#) Board of Directors - Establishment.
- [§ 1208.](#) Board of Directors - Composition.
- [§ 1209.](#) Board of Directors - Organizational meeting.
- [§ 1210.](#) Board of Directors - Terms of office.
- [§ 1211.](#) Board of Directors - Vacancies.
- [§ 1212.](#) Board of Directors - Removal.

- [§ 1213.](#) Board of Directors - Officers.
- [§ 1214.](#) Board of Directors - Regular meetings.
- [§ 1215.](#) Board of Directors - Special meetings.
- [§ 1216.](#) Board of Directors - Quorum.
- [§ 1217.](#) Board of Directors - Executive committee - Establishment; Meetings.
- [§ 1218.](#) Board of Directors - Executive committee - Powers.
- [§ 1219.](#) Board of Directors - Record of meetings.
- [§ 1220.](#) Board of Directors - Compensation of directors.
- [§ 1221.](#) Management.
- [§ 1222.](#) Budget and finance officer.
- [§ 1223.](#) Budget preparation.
- [§ 1224.](#) Supplemental budget requests.
- [§ 1225.](#) Accounts and records.

§ 1201. Short title.

This chapter may be cited as the "Federated States of Micronesia Airline Corporation Act of 1987."

Source: PL 4-101 § 1.

§ 1202. Establishment of Corporation.

The Federated States of Micronesia Airline Corporation is hereby established as a public corporation under the laws of the Federated States of Micronesia. It may be hereinafter referred to as the "the Corporation."

Source: PL 4-101 § 2.

§ 1203. Powers and responsibilities of the Corporation.

The Corporation has the following powers and responsibilities:

- (1) to be the flag carrier of the Federated States of Micronesia, providing air transportation services throughout the Nation;
- (2) to contract with domestic and foreign persons and corporations for the provisions of aircraft and services;
- (3) to operate international and domestic air transportation services;
- (4) to train citizens as pilots and for other related professions;
- (5) to act as a "Freely Associated State Air Carrier" within the meaning of the Federal Program and Services Agreement concluded pursuant to the Compact of Free Association;
- (6) to engage in support activities; including, but not limited to, freight terminal and delivery activities and passenger services; and
- (7) to enter into joint ventures with other entities in order to effectuate its operations.

Source: PL 4-101 § 3.

§ 1204. Legal capacity of the Corporation.

In performing the functions authorized by this chapter or other law of the Federated States of Micronesia, the Corporation shall have the capacity to exercise all powers normally exercised by a corporation, including, but not limited to, the following:

- (1) to adopt, alter, and use a corporate seal;
- (2) to adopt and amend bylaws governing the conduct of its business and the exercise of its powers;
- (3) to sue and be sued in its corporate name;
- (4) to acquire, in any lawful manner, real, personal, or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease, or otherwise dispose of such property;
- (5) to acquire and take over in any lawful manner the business, property, assets, and liabilities of any entity;
- (6) to borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of air transportation services;
- (7) to retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it may deem appropriate and;
- (8) to do all such other things as may be deemed incidental to or conducive to the attainment of the responsibilities of the Corporation.

Source: PL 4-101 § 4.

§ 1205. Debts and obligations of the Corporation.

Unless otherwise provided by law, the debts and obligations of the Corporation shall not be debts or obligations of the Government of the Federated States of Micronesia, nor shall the Government of the Federated States of Micronesia be responsible for any debts or obligations.

Source: PL 4-101 § 5.

§ 1206. Tax liability.

The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, or activities. Nothing in this chapter shall be deemed to exempt employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation; and the Corporation shall be liable for employers' contributions to the Social Security System of the Federated States of Micronesia in the manner provided by law.

Source: PL 4-101 § 6.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code. The statutory provisions on Social Security and Prior Service Benefits are found in title 53 of this code.

§ 1207. Board of Directors - Establishment.

The affairs of the Corporation shall be managed and its corporate powers exercised by a Board of Directors, hereinafter referred as the "Board."

Source: PL 4-101 § 7; PL 5-25 § 1.

§ 1208. Board of Directors - Composition.

The Board shall be composed of five members. Five members shall be appointed by the President of the Federated States of Micronesia with the advice and consent of the Congress.

Source: PL 4-101 § 8; PL 8-108 § 1.

§ 1209. Board of Directors - Organizational meeting.

(1) Within 60 days of the confirmation of all members of the Board, as set forth in section 208 of this chapter, and annually thereafter on such dates as are set by the Board, the Board shall meet to select its officers and to conduct such other business as it shall deem advisable.

(2) At the first such meeting, the appointed members of the Board shall determine by lot of the length of their initial terms, with two members serving initial terms of one year, two serving initial terms of two years, and two serving initial terms of three years.

Source: PL 4-101 § 9, modified.

§ 1210. Board of Directors - Terms of office.

Terms of office shall be for a period of three years, except that the initial terms of office and the filling of vacancies shall be as provided by this chapter. The terms of office shall commence on the date of the organizational meeting of the Board.

Source: PL 4-101 § 10.

§ 1211. Board of Directors - Vacancies.

(1) Each vacancy on the Board shall be filled for the unexpired portion of the term in the same manner as originally filled. Upon determination that a vacancy exists, the chairman or, in his absence, the presiding officer of the Board shall issue a notice of vacancy to all members of the Board and the parties responsible for filling the vacancy.

(2) Any vacancy occasioned by failure to make a nomination to the Congress or a State legislature prior to the expiration of the previous term, or by failure to submit a nomination within 60 days of receipt of notice that a vacancy exists, or within ten days of receipt of notice of rejection of a nomination, shall be filled by nomination of the Speaker of the Congress or the Speaker of the State legislature, subject to advice and consent of the Congress or the legislature or an authorized committee thereof. The nomination of the President or the Governor shall be entitled to consideration if such nomination is made prior to that of the Speaker.

Source: PL 4-101 § 11, modified.

§ 1212. Board of Directors - Removal.

(1) Members of the Board may be removed from the Board for failure to attend three consecutive meetings of the Board.

(2) A member may be removed by a majority vote of all other members of the Board for neglect of duty or malfeasance in office. Notification of intent to call for removal pursuant to this subsection shall be made at least 30 days in advance, by means which shall be described in the bylaws of the Corporation, and shall include a summary of the basis of the charges against the member and identification of the witness to be called and evidence to be used.

(3) The Supreme Court of the Federated States of Micronesia shall have jurisdiction to hear claims of wrongful removal.

Source: PL 4-101 § 12, modified.

§ 1213. Board of Directors - Officers.

The Board shall elect from among its members a chairman, vice chairman, and secretary-treasurer. The chairman shall ordinarily preside at Board meetings. In his absence the vice chairman shall preside. The bylaws shall provide for determination of the presiding officer in the absence of these officers.

Source: PL 4-101 § 13.

§ 1214. Board of Directors - Regular meetings.

Regular meetings shall be held not less than once per calendar quarter, at such times and place or places as shall be determined in the bylaws.

Source: PL 4-101 § 14.

§ 1215. Board of Directors - Special meetings.

Special meetings shall be called by the chairman on his own initiative, or by petition of two of the members, pursuant to notice as shall be provided by the bylaws.

Source: PL 4-101 § 15.

§ 1216. Board of Directors - Quorum.

A quorum of all regular business of the Board shall be four members.

Source: PL 4-101 § 16.

§ 1217. Board of Directors - Executive committee - Establishment; Meetings.

There shall be an executive committee of the Board composed of the chairman, vice chairman, and secretary-treasurer, or their individually designated substitutes chosen from among the membership of the Board. The executive committee shall meet with the chief executive officer at least once per calendar quarter at such times and places as shall be determined by the bylaws.

Source: PL 4-101 § 17.

§ 1218. Board of Directors - Executive committee - Powers.

The executive committee shall be empowered to conduct all business of the Board, except that the executive committee shall not have the authority to terminate the services of the chief executive officer, to retain the services of a new chief executive officer, to alter the senior levels of the administrative structure of the Corporation, to approve the budget of the Corporation, or to increase the indebtedness of the Corporation beyond such limits as are provided in the bylaws, without the concurrence of the Board.

Source: PL 4-101 § 18.

§ 1219. Board of Directors - Record of meetings.

The secretary-treasurer, or in his absence another member designated by the bylaws, shall keep full and accurate minutes of all meetings.

Source: PL 4-101 § 19.

§ 1220. Board of Directors - Compensation of directors.

Directors who are employees or officials of the National Government or a State government of the Federated States of Micronesia shall receive no additional compensation for their service as members of the Board. The compensation of members who are not Government employees or officials shall be determined by the Board. All members of the Board shall be entitled to compensation for travel and per diem at established Federated States of Micronesia Government rates when serving the Corporation.

Source: PL 4-101 § 20.

§ 1221. Management.

There shall be a chief executive officer of the Corporation, whose compensation, title, and term of office shall be determined by the Board. The chief executive officer shall be responsible for the management of the operations of the Corporation, and shall, in accordance with the policies established by the Board, retain, direct, and terminate the services of employees. Subject to the Board's approval, in the event that the chief executive officer is not a citizen of the Federated States of Micronesia, the chief executive officer shall select and train a citizen of the Federated States of Micronesia to take over the responsibilities of the chief executive officer as soon as feasible.

Source: PL 4-101 § 21.

§ 1222. Budget and finance officer.

The chief executive officer shall appoint, with the concurrence of the Board, a budget and finance officer, for such term as shall be provided in the bylaws of the Corporation. The budget and finance officer shall receive and disburse all funds of the Corporation. The Board may require that the budget and finance officer shall execute, at the expense of the Corporation, a good and sufficient bond with sureties authorized to do business in the Federated States of Micronesia. The budget and finance officer shall serve at all times under the direct supervision of the chief executive officer.

Source: PL 4-101 § 22.

§ 1223. Budget preparation.

The budget and finance officer shall prepare in advance of each fiscal year, under the supervision of the chief executive officer, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Government of the Federated States of Micronesia. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Source: PL 4-101 § 23.

§ 1224. Supplemental budget requests.

To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized to seek appropriations from the Congress of the Federated States of Micronesia, and, to the extent approved by the President of the Federated States of Micronesia, grants from sources outside of the Federated States of Micronesia, of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the air transportation system of the Corporation.

Source: PL 4-101 § 24.

§ 1225. Accounts and records.

(1) The Board and the chief executive officer shall be jointly responsible to ensure that the budget and finance officer establishes and maintains a complete set of accounting records consistent with generally accepted accounting principles pertinent to the nature of the Corporation and its operations.

(2) The Board, not later than 90 days after the close of each governmental fiscal year, shall submit to the President, the Congress, and the Governor and legislature of each State a complete report, including financial statements, prepared in accordance with generally accepted accounting principles and standards, showing the

activities of the Corporation during the fiscal year, the present condition of the Corporation, and such other matters as the Board shall deem appropriate. Financial statements shall include at least a balance sheet, income statement, statement of changes in financial position, and statement of changes in capital.

(3) The financial statements of the Corporation shall be audited no less frequently than annually by either the Public Auditor or a certified public accountant selected by the Board of Directors.

Source: PL 4-101 § 25.

## **FSMC, TITLE 20. AERONAUTICS**

### **Chapter 13: Air Passenger Safety Instructions**

**§ 1301. Air passenger safety instructions required.**

**§ 1302. Indigenous language defined.**

**§ 1303. Regulations to impose civil penalties.**

§ 1301. Air passenger safety instructions required.

Any person providing regularly scheduled passenger air transportation service between any State of the Federated States of Micronesia and any other nation aboard aircraft capable of transporting more than 25 passengers at one time shall provide, before departure from any State in which passengers are boarded, oral air passenger safety instructions in both the English language and in the indigenous language of the State of departure. The oral instructions may be supplied by recording broadcast throughout the aircraft cabin, provided such recording is clearly audible and intelligible.

Source: PL 6-39 § 1.

§ 1302. Indigenous language defined.

As used in section 1301 of this chapter, the term "indigenous language of the State of departure" shall mean the following:

- (1) In the State of Kosrae, the Kosraean language;
- (2) In the State of Pohnpei, the Pohnpeian language as spoken on Pohnpei proper;
- (3) In the State of Truk, the Trukese language as spoken on Moen; and
- (4) In the State of Yap, the Yapese language as spoken on Yap proper.

Source: PL 6-39 § 2, modified.

§ 1303. Regulations to impose civil penalties.

The Secretary of the Department of Transportation is authorized to issue implementing regulations which shall provide for the imposition of civil penalties, not to exceed \$5,000 per offense, for the failure to provide air passenger safety instructions in the required languages. Such regulations shall be issued in accordance with the requirements of [chapter 1 of title 17](#) of this code.

Source: PL 6-39 § 3.

Cross-reference: [Chapter 1 of title 17](#) of this code is on FSM Administrative Procedures.

**FSMC, TITLE 20. AERONAUTICS**

**Chapter 14: Prohibitions on  
Passenger Aircraft**

**§ 1401. Smoking prohibited on regularly scheduled passenger aircraft.**

**§ 1402. Fines for violations.**

**§ 1403. Notice of prohibition by airline; Penalties.**

§ 1401. Smoking prohibited on regularly scheduled passenger aircraft.

It shall be unlawful for any person to smoke tobacco or any other plant product in any aircraft used in conducting regularly scheduled passenger air transportation between or among the States of the Federated States of Micronesia or between any State and any other nation while such aircraft is operating within the territorial jurisdiction of the Federated States of Micronesia.

Source: PL 8-2 § 1.

§ 1402. Fines for violations.

A knowing violation of section 1401 of this chapter shall be punishable by a fine not exceeding \$100 for a first violation, by a fine not exceeding \$200 for a second violation within one year, or by a fine not exceeding \$500 for a third and each subsequent violation within one year.

Source: PL 8-2 § 2, modified.

§ 1403. Notice of prohibition by airline; Penalties.

Any carrier or person providing regularly scheduled passenger air transportation service between or among the States of the Federated States of Micronesia or between any State and any other nation shall provide oral advice of the requirements of section 1401 of this chapter upon departure of flights which shall traverse the territorial jurisdiction of the Federated States of Micronesia, and shall prohibit passengers from smoking within the aircraft while it is operating therein. A willful violation of this section is punishable by a civil penalty not to exceed \$1,000 per offense.

Source: PL 8-2 § 3, modified.