

## CHAPTER 1

# Authority and Organization

### 1.1 AUTHORITY

The Federated States of Micronesia Communication Act of 1991 provides for the regulation of communication by radio so as to make available, so far as possible, to the people of the Federated States of Micronesia such communication services required for the purpose of conducting personal business, promoting safety of life and property, providing public service, and allowing for the efficient and economic use of the radio frequency spectrum.. This Act is printed in Title 21 of the Code of the Federated States of Micronesia, beginning with Section 101.

The Secretary of the Department of Transportation, Communications and Infrastructure shall, in accordance with the requirements of chapter 1 of Title 17 of the Code of the Federated States of Micronesia, promulgate regulations, which shall have the force and effect of law and be binding upon persons seeking to perform or performing the act of providing radio communications within the Federated States of Micronesia. (Title 17 of the FSMC is reproduced in its entirety in Annex A)

The Federated States of Micronesia Radiocommunication Act of 1991 is reproduced in its entirety in Annex A of these Regulations.

### 1.2 ADMINISTRATION AND FUNCTION

The Secretary of the Department of Transportation, Communications and Infrastructure has delegated to the Division of Communication the responsibilities and functions to administer these regulations in its entirety.

The personnel official(s) of the division, upon prior notice may enter and inspect any stations, vessels, aircraft, vehicles, premises or any place in which any equipment or apparatus is installed or being installed, and anything in or on it and may:

- a). test the equipment;

- b). examine and take copies of or extract from any document or register relating to the equipment.

The owner, licensee, or person in-charge of the station, vessels, aircraft, vehicles, premises or any place shall afford the division officials all necessary facilities for purposes of the inspection.

Where in the finding of the division official a breach of this regulation has been committed in respect of the installations or operations of any equipment or apparatus, the official may:

- a). order the owner, licensing, operator or person in charge of the equipment or apparatus, to cease the operation of or, to dismantle to the satisfaction of the official, the equipment or apparatus;
- b). where the officials decided necessary:
  - i) take position of the equipment or apparatus;
  - ii) make it incapable of operation.

A person aggrieved by an order pursuant to this section may appeal to the Secretary of the Department pursuant to section 108 of the FSMC Title 17. Any order made pursuant to this section shall remain in force, until countermanded by the Secretary of the Department after its hearing.

### 1.3 ADMINISTRATIVE SANCTION

1. The Department may revoke any radio license:
  - a) for false statements knowingly made either in the application or in the statement of fact which may be required in the application for a station license;
  - b) because of conditions coming to the attention of the Department which would warrant it in refusing to grant a license or permit on an original application;
  - c). for willful or repeated failure to operate

substantially as set forth in the license;

d). for willful or repeated violations of, or willful or repeated failure to observe any provisions of these Regulations or by treaty or agreement ratified by the Federated States of Micronesia;

e). for violation of or a failure to observe any final cease and desist order issued by the Department under this Section;

f). for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station, other than a non-commercial educational broadcast station, by a legally qualified candidate for federal elective office on behalf of his candidacy.

g). for willful or repeated transmission of communications over an AM or FM radio or television station or any other licensed radiocommunication station containing profane or obscene words, language, or meaning.

## 2. Cease and Desist Orders

The Department may issue cease and desist orders where any person has failed to operate substantially as set forth in a license; has violated or failed to observe any rule or regulation by the Department authorized by these Regulations or by a treaty ratified by the Federated States of Micronesia, the Department may order such person to cease and desist from such action

## 3. Issuance of orders to show cause

Before revoking a license pursuant to subsection 1 above, or issuing a cease and desist order pursuant to subsection 2 above, the Department shall serve upon the licensee or person involved an order to show cause why an order of revocation or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Department is inquiring and shall call upon said licensee or person to appear before the Department at a time and place stated in the order, but in no event less than thirty days after

the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Department may provide in the order for a shorter period. If after hearing, or waiver thereof, the Department determines that an order of revocation or a cease and desist order should be issued, it shall issue such order, which shall include a statement of the findings of the Department and the grounds and reasons therefore and specify the effective date of the order, and shall cause the same to be served on said licensee or person.

## 4. Burden of proof

In any case where a hearing is conducted pursuant to the provisions of this Section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Department.

## **1.4 THE TELECOMMUNICATIONS CORPORATION OF THE FEDERATED STATES OF MICRONESIA**

The Telecommunications Corporation of the Federated States of Micronesia was established by the Federated States of Micronesia Telecommunications Corporation Act of 1981. The Corporation was established as a public corporation to operate as the sole provider of all telecommunications services, except radio and television broadcasting, within the Federated States of Micronesia and between points in the Federated States of Micronesia and points outside thereof.

The Federated States of Micronesia Telecommunications Corporation of 1981 is reproduced in its entirety in Annex A of these Regulations.