

CHAPTER 4**Air Carrier Economic Regulation****SECTIONS**

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§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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: The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on

Administrative Procedure are found in title 17 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 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: The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code.

§ 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.

Cross-reference: Title 39 of this code is on the Postal System.

§ 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.

Cross-reference: Title 39 of this code is on the Postal System.

§ 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.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

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