

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Agency

#### SUBCHAPTER I—AIRPORTS [NEW]

[Reg. Docket No. 1374]

#### PART 165—WAKE ISLAND CODE [NEW]

Pursuant to section 48 of the Hawaii Omnibus Act (74 Stat. 411, 424) the President has by Executive Order<sup>1</sup> named the Secretary of the Interior as responsible for the civil administration of Wake Island, and has vested in him all executive and legislative authority necessary for that administration and all judicial authority respecting Wake Island other than the authority contained in the Act of June 15, 1950, as amended (48 U.S.C. 644a), to be exercised through such agency, officers and employees of the Government as may be agreed upon by such agency and the Secretary of the Interior. The Secretary of the Interior and the Administrator of the Federal Aviation Agency have entered into an Agreement<sup>2</sup> providing that all executive, legislative and judicial authority vested in the Secretary of the Interior shall be exercised by such persons as may be designated by the Administrator of the Federal Aviation Agency.

This part, to be known as the Wake Island Code, provides a scheme for the civil administration of Wake Island. Civil and criminal laws to be applied in the administration of the Island are included.

Prior to the publication of this part, civil acts and deeds taking place on Wake Island were determined and adjudicated as provided in the Act of June 15, 1950 (64 Stat. 217; 48 U.S.C. 644a) according to the laws of the United States relating to such acts as if occurring on board a merchant vessel or other vessel belonging to the United States on the high seas. This part is not intended to diminish the application of those laws, and they continue to apply as fully as before. This part adds to the substantive civil law applicable to Wake Island by a recital of further specific civil provisions in the part itself, and by providing that where the civil rights, powers, and duties of any person on Wake are not otherwise prescribed by the civil maritime laws or this part, the civil rights, powers and duties as they obtain under the laws of

the State of Hawaii shall apply. Thus, where the effect of a civil act on Wake cannot be determined by reference to the maritime laws or this part, the laws of Hawaii will determine the effect.

Similarly, prior to the publication of this part, as provided in the Act of June 15, 1950, offenses and crimes committed on Wake Island were deemed to have been committed on the high seas on board a merchant vessel or other vessel belonging to the United States and were adjudged and punished according to the laws of the United States relating to such offenses on such vessels on the high seas. In addition, certain other criminal statutes of the United States applied to acts committed on Wake, included among them the provisions of Title 18 of the United States Code relating to the special maritime and territorial jurisdiction of the United States.

The provisions of this part are not intended to disturb the application of United States criminal laws at Wake as they applied before the publication of this part. This part is designed to incorporate and apply all criminal laws of the United States as they applied previously, so far as that is deemed necessary to continue the applicability of those laws, and, in addition, includes a list of Petty Offenses and other minor criminal provisions for Wake and penalties therefor.

The jurisdiction of the United States District Court for the District of Hawaii remains the same as prior to the publication of this part.

The civil jurisdiction of the local court created by this part, the Wake Island Justice Court, extends to actions where the claimed amount is \$1000 and less. It is thus intended to serve as a court for the adjudication of small claims.

The criminal jurisdiction of the Wake Island Justice Court extends to violations of Subparts E, I, J, K, and L of this part. The regulations in Subpart M are promulgated under Section 10 of the International Aviation Facilities Act (62 Stat. 453; 49 U.S.C. 1159) and are federal offenses cognizable in the U.S. District Court for the District of Hawaii or before the U.S. Commissioner for Wake Island.

Subparts N, O, and P relating to landing charges, utility service, and medical and hospital services on Wake Island are based on present Parts 575, 576, and 577 of the Regulations of the Administrator. Their applicability to Canton Island will be recodified in proposed Part 163 [New] in Subchapter I "Airports" [New].

In order to avoid its issuance, and then immediate reissuance in a recodified form, this amendment is issued as a part of the program of the Federal Aviation Agency to recodify its regulatory material. In the "Outline and Analysis" for the proposed recodification, contained in Draft Release 61-25 and published in the FEDERAL REGISTER on November 15, 1961 (26 F.R. 10698), provision is made for a new subchapter I "Airports" [New] in Chapter I of Title 14. This amendment, as the first final rule to be published in that subchapter, adds the new subchapter I "Airports" [New] to Chapter I of Title 14. Other new parts will be added to the subchapter at a later date, in conformity with the "Outline and Analysis".

<sup>1</sup> See E.O. 11048, Title 3, *supra*.

<sup>2</sup> See F.R. Doc. 62-8984, Notices Section, *infra*.

The definitions in Part 1, "Definitions and Abbreviations" [New] apply to the new subchapter I.

Since FAA management and public property are involved, compliance with the notice, procedure, and effective date provisions of section 4 of the Administrative Procedures Act is not required.

In consideration of the foregoing, effective September 4, 1962, Chapter I of Title 14 is amended by adding a Subchapter I, "Airports" [New], as set forth below.

Issued in Washington, D.C., on September 4, 1962.

N. E. HALABY,  
Administrator.

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#### Subpart A—General

**AUTHORITY:** Subpart A issued under sec. 10, 62 Stat. 453; 49 U.S.C. 1159; sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of the Interior, Feb. 5, 1962.

##### § 165.1 Applicability.

(a) The local civil and criminal laws of Wake Island consist of this part and applicable provisions of the laws of the United States.

(b) For the purposes of this part, Wake Island includes Wake, Peale, and Wilkes Islands, and the appurtenant reefs, shoals, shores, bays, lagoons, keys, territorial waters, and superadjacent airspace of them.

##### § 165.3 Purpose.

The purpose of this part is to provide—

(a) For the civil administration of Wake Island;

(b) Rules applicable to the Wake Island Airport, prescribed under section 10 of the International Facilities Act (49 U.S.C. 1159);

(c) For vesting powers and duties in appropriate officials of the United States for the civil administration of Wake Island, including judicial and executive functions;

(d) Civil laws for Wake Island; and

(e) Certain criminal provisions applicable to Wake Island, and penalties for their violation.

#### Subpart B—The Island Governor

**AUTHORITY:** Subpart B issued under sec. 10, 62 Stat. 453; 49 U.S.C. 1159; sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

##### § 165.11 Appointment and removal.

The executive authority at Wake Island is vested in the Island Governor. The Governor is appointed from among Federal Aviation Agency employees, and is subject to removal, by the FAA Assistant Administrator for the Pacific Region. The Assistant Administrator may designate a person to serve as Acting Island Governor in the event of the absence, disability, or death of the Island Governor. While so serving, the Acting Governor is vested with the authority prescribed in this part for the Island Governor.

##### § 165.13 Permits.

Subject to reasonable restrictions and conditions that he considers appropriate, the Island Governor may issue Island permits for the following:

(a) Businesses, including any trade, profession, calling, or occupation, and any establishment where food or beverages are prepared, offered, or sold for human consumption.

(b) Self-propelled motor vehicles, except aircraft; including attached trailers.

(c) Vehicle operators.

- (d) Boats.
- (e) Dogs.
- (f) Food handlers.
- (g) Explosives and guns and pistols (including those operated by air, gas, or spring).
- (h) Drugs, narcotics, and poisons.
- (i) Construction.
- (j) Burials.

**§ 165.15 Authorized functions, powers, and duties.**

The Island Governor may, personally or through his official staff—

(a) Issue citations for violations of Subpart I of this part (the Motor Vehicle Code).

(b) Abate any public nuisance upon the failure of the person concerned to comply with a removal notice.

(c) Make sanitation and fire prevention inspections.

(d) Perform marriages, and maintain records of vital statistics.

(e) Inspect motor vehicles for roadworthiness, and boats for seaworthiness.

(f) Confiscate property used in committing a crime.

(g) Investigate accidents and suspected crimes.

(h) Control the use of the Island airport and the assigned area used for its immediate support.

(i) Deputize any person to serve as a Peace Officer.

(j) Move unlawfully parked vehicles, boats, or aircraft.

(k) Take possession of lost or abandoned property and dispose of it in accordance with law.

(l) Delay or restrict the departure of any aircraft for reasonable cause.

(m) Impose quarantines.

(n) Impound and destroy unsanitary food, fish, or beverages.

(o) Evacuate any person from a hazardous area.

(p) Issue arms and ammunition to Peace Officers.

(q) Commission notaries public, as required.

(r) Establish and maintain a facility for the lawful restraint or confinement of persons and provide for their care.

(s) Remove any person from Wake Island for cause.

(t) Issue traffic regulations that are not inconsistent with this part, and post traffic signs.

(u) Perform any other acts, not inconsistent with this part or other applicable laws or regulations, that he considers necessary for protecting the health and safety of persons and property on Wake Island.

(v) Issue any order or notice necessary to implement this section.

**§ 165.17 Emergency authority.**

During the imminence and duration of any major emergency, the Island Governor may perform any acts necessary to protect life and property.

**Subpart C—Civil Law**

**AUTHORITY:** Subpart C issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

**§ 165.21 Applicable law.**

Civil acts and deeds taking place on Wake Island shall be determined and adjudicated as provided in this part; and otherwise, as provided in the Act of June 15, 1950 (64 Stat. 217) (48 U.S.C. 644a), according to the laws of the United States relating to such an act or deed taking place, on the high seas, on board a merchant vessel or other vessel belonging to the United States.

**§ 165.23 Civil rights, powers, and duties.**

In any case in which the civil rights, powers, and duties of any person on Wake Island are not otherwise prescribed by the laws of the United States or this part, the civil rights, powers, and duties as they obtain under the laws of Hawaii apply to persons on Wake Island.

**Subpart D—Criminal Law**

**AUTHORITY:** Subpart D issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

**§ 165.31 General.**

In addition to any act made criminal in this part, any act committed on Wake Island that would be criminal if committed on board a merchant vessel or other vessel belonging to the United States is a criminal offense and shall be adjudged and punished according to the laws applicable on board those vessels on the high seas.

**Subpart E—Petty Offenses**

**AUTHORITY:** Subpart E issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

**§ 165.41 General criminal offenses.**

No person may, while on Wake Island—

(a) By design or any false pretense, and with intent to defraud, obtain any money, goods, or other things of value from any other person;

(b) Possess, sell, give away, or transport any narcotic or dangerous drug named in § 165.45 unless it is prescribed or administered by a licensed physician or with the specific permission of the Island Governor;

(c) Carry on his person any weapon or explosive unless he is a member of the armed forces on active duty, a peace officer, or is otherwise authorized to do so by law, or holds an Island permit therefor;

(d) Store, carry, or use any explosive, hazardous material, or dangerous weapon (including any device or instrument primarily designed for the purpose of inflicting bodily injury, and including guns and pistols, whether fired by air, gas, spring, or other means), except at places, and under conditions, prescribed by the Island Governor;

(e) Sell or give an alcoholic beverage manufactured for consumption (including beer, ale, or wine) to any person who is not at least 18 years of age, without the permission of that person's parent or guardian;

(f) Procure for, engage in, aid or abet in, or solicit for prostitution;

(g) Use any building, structure, vehicle, or public lands for the purposes of lewdness; assignation, or prostitution;

(h) Possess or display (publicly or privately) any pornographic literature, film, device, or any matter containing obscene language, that tends to corrupt morals;

(i) Make any obscene or indecent exposure of his person;

(j) Commit any disorderly, obscene, or indecent act;

(k) Commit any act of voyeurism (Peeping Tom) or perversion;

(l) Enter upon any assigned residential quarter or areas immediately adjacent thereto, without permission of the assigned occupant;

(m) Mischievously destroy, deface, or damage the property of any other person or of the United States;

(n) Throw away any paper, debris, refuse, garbage, litter, bottle, or can, except into a receptacle or area designated for that purpose;

(o) Commit any act of nuisance;

(p) With intent to provoke a breach of the peace or under such circumstances that a breach of the peace may be occasioned thereby, act in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to any other person;

(q) Be drunk in any public place;

(r) Use any profane or vulgar language in a public place;

(s) Loiter or roam about Wake Island, without any lawful purpose, at late and unusual hours of the night;

(t) Lodge or sleep in any place without the consent of the person in legal possession of that place;

(u) Corruptly give or promise to any employee or officer of the United States any gift, gratuity, service, or benefit, with intent to influence his official judgment or action;

(v) If he is an officer or employee of the United States, accept any gift, gratuity, service or benefit, the giving of which is prohibited by subparagraph (u) of this section;

(w) Impersonate or improperly assume the prerogatives of any Peace Officer, civil officer of the United States, or officer of the armed forces;

(x) Interfere, or attempt to interfere, with any Peace Officer during an arrest or official investigation, or with any personnel while engaged in crash, firefighting, or emergency activities.

(y) Instigate, conspire in, willfully attempt, cause, or participate in, any riot;

(z) Grossly waste any potable water;

(aa) Contribute to the delinquency of any person who is less than 18 years of age, or by force, persuasion, or demonstration induce such a person to violate any provision of this part, or any applicable criminal statute;

(bb) Assist, aid, abet, or give comfort to any other person who is committing a crime, or before or after that person has committed a crime;

(cc) Temporarily appropriate and drive or use any boat, aircraft, motor vehicle, or bicycle of any other person without his consent;

(dd) Knowingly participate in any action prohibited by subparagraph (cc) of this section;

## RULES AND REGULATIONS

(ee) Wrongfully issue a personal check against any bank account knowingly without sufficient funds on deposit therein, or forge or alter a check of any other person with intent to deceive to the detriment of another;

(ff) Being a male, knowingly enter any area, building, or quarter reserved for women, except in accordance with established visiting procedures;

(gg) Use or attempt to use a coin-operated machine that requires the deposit of a coin for its use without first depositing the coins required by the instructions on the machine;

(hh) Place or attempt to place, in a coin-operated machine, a slug, foreign coin, or object other than the coin required by the instructions on the machine;

(ii) Knowingly and falsely impart or convey information that any aircraft has been sabotaged, is unairworthy, or carries or may carry a bomb or other device hazardous to the safety of flight; or

(jj) Having taken an oath or affirmation before a competent tribunal, officer, or person, in any case in which the law authorizes such an oath or affirmation to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to that oath or affirmation state or subscribe to any material matter that he does not believe is true.

#### § 165.43 Criminal offenses on the airport.

No person may, while on the airport (including the assigned area used for its immediate support)—

(a) Consume or carry any alcoholic beverage manufactured for consumption (including beer, ale, and wine) in an unsealed container without an Island permit;

(b) Smoke or ignite any fire in any designated and posted "No Smoking" area, or in the immediate proximity of any aircraft or fueling pit;

(c) Enter any airplane parking area or ramp, unless he is on duty therein, as a passenger under appropriate supervision, or is authorized by the Island Governor to enter that place;

(d) Interfere or tamper with any aircraft or servicing equipment or facility, or put in motion the engine of any aircraft without the permission of its operator;

(e) Spit, or deposit human waste, anywhere on the airport, except directly into a fixture designed for that purpose;

(f) Place any fabric, food, trash, or any other foreign object in any plumbing fixture on the airport;

(g) Gamble, wager, operate, or participate in a lottery;

(h) Loiter or loaf, or fail to leave the airport premises when directed by authorized personnel;

(i) Solicit alms, funds, or fares except by permission of the Island Governor;

(j) Engage in any sport or play in which a ball, stone, or other firm substance is thrown or propelled through the air;

(k) Bring onto the airport any animal, except by permission of the Island Governor, and then only if the animal is restrained by a leash or other adequate means of control;

(l) Post, distribute, or publicly display advertisements, signs, circulars, or similar materials, except by permission of the Island Governor; or

(m) Participate in any picket activity except at an area that is specifically assigned for that purpose by the Island Governor.

#### § 165.45 Narcotics and dangerous drugs.

(a) For the purposes of this part, narcotic drugs include opium, cocoa leaves, cocaine, isonipecaine, opiate, diethyl barbituric acid (barbital), marijuana, or any compound, manufacture, salt, or derivative, whether produced from vegetable origin or through chemical synthesis.

(b) For the purposes of this part, dangerous drugs are any drugs that are unsafe for self-medication, including—

(1) Any hypnotic drugs, including acetyluria derivatives, barbituric acid derivatives, chloral, paraldehyde, sulfonmethane derivatives, or any compound, mixture, or preparation that may be used for producing hypnotic effects;

(2) Aminopyrine, or compounds or mixtures thereof;

(3) Amphetamine, desoxyephedrine, or compounds or mixtures thereof, except preparations for use in the nose and unfit for internal use;

(4) Cinchophen, neocinchophen, or compounds or mixtures thereof;

(5) Diethyl-stilbestrol, or compounds or mixtures thereof;

(6) Ergot, cotton root, or their contained or derived active compounds or mixtures thereof;

(7) Oils of croton, rue, saving, or tansy, or their contained or derived compounds or mixtures thereof;

(8) Sulfanilamide or substituted sulfanilamides, or compounds or mixtures thereof, except preparations for topical application only containing not more than five percent strength;

(9) Thyroid and its contained or derived active compounds or mixtures thereof;

(10) Phenylhydantoin derivatives;

(11) Any drug that bears the legend: "Caution: Federal law prohibits dispensing without prescription";

(12) Hypnotic drugs that are combined and compounded with nonhypnotic drugs.

However, preparations of drugs named in subparagraphs (5), (6), (8), and (9) of paragraph (b) of this section, designed for the purpose of feeding or treating animals (other than man) or poultry, and are so labeled, are not dangerous drugs for the purposes of this part.

#### Subpart F—Penalties

**AUTHORITY:** Subpart F issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

#### § 165.51 Petty offenses.

Whoever is found guilty of a violation of any provision of Subpart E of this

part is subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

#### § 165.53 Motor vehicle violations.

Whoever is found guilty of a violation of Subpart I of this part is subject to a fine of not more than \$100, imprisonment of not more than 30 days, or suspension or revocation of his motor vehicle operator's permit, or any combination or all of these punishments.

#### § 165.55 Violations of Subparts J, K, or L of this part.

(a) Whoever is found guilty of a violation of Subparts J, K, or L of this part is subject to a fine of not more than \$100, or imprisonment of not more than 30 days, or both.

(b) The penalties prescribed in paragraph (a) of this section are in addition to and do not take the place of any criminal penalty otherwise applicable and currently provided by the laws of the United States.

#### § 165.57 Contempt.

Justices of the Wake Island Justice Court may, in any civil or criminal case or proceeding, punish any person for disobedience of any order of the court, or for any contempt committed in the presence of the court, by a fine of not more than \$100, or imprisonment of not more than 30 days, or both.

#### § 165.59 Substitution of penalty.

Whenever the sentence imposed includes a fine, the sentence may further provide that, if the fine is not paid, the person fined shall, in addition to any other period of confinement adjudged be further confined one day for each \$10 of the unpaid fine.

#### Subpart G—Justice Court and Rules of Procedure

**AUTHORITY:** Subpart G issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

#### § 165.60 Establishment; employees; sessions.

(a) There is created a "Wake Island Justice Court" which is vested with the judicial authority provided in this Part. The Court consists of a Chief Justice and such number of Associate Justices as are considered advisable. The Justices are appointed by the FAA Assistant Administrator for the Pacific Region. The Chief Justice shall assign matters to Justices of the court, and shall determine whether the Justices will sit individually or en banc.

(b) A Clerk of the Court shall be appointed by the FAA Assistant Administrator for the Pacific Region. The Clerk shall maintain a public docket containing such information as the Chief Justice may prescribe.

(c) Sessions of the Court are held on Wake Island at times and places designated by the Chief Justice.

#### § 165.61 Island Attorney.

The FAA Assistant Administrator for the Pacific Region shall appoint an Island Attorney to represent the United

States in any civil or criminal case in the Wake Island Justice Court, and before the Assistant Administrator.

§ 165.63 Jurisdiction.

(a) The Wake Island Justice Court has jurisdiction over all actions of a civil nature, whether cognizable as cases at law or in equity, where the amount claimed or involved is not more than \$1000, exclusive of interest and costs, and all petty offenses and other violations of this Part, except violations of subpart M of this Part that are under the jurisdiction of the United States District Court for the District of Hawaii.

(b) The Justice Court does not have jurisdiction over divorce actions.

§ 165.65 Rules of Civil Procedure; general.

(a) The Federal Rules of Civil Procedure apply to civil actions in the Justice Court to the extent the Presiding Justice considers applicable under the circumstances.

(b) There is one form of action called the "Civil Action".

(c) Except as otherwise provided in this part, there is no trial by jury.

(d) A civil action begins with the filing of a complaint with the Justice Court. The form of the complaint is as follows except as it may be modified to conform as appropriate to the particular action:

IN THE WAKE ISLAND JUSTICE COURT
Civil Action No. -----

(Plaintiff)
vs.
(Defendant)
Complaint

----- plaintiff alleges that the defendant is indebted to plaintiff in the sum of \$-----; that plaintiff has demanded payment of said sum; that defendant has refused to pay; that defendant resides at ----- on Wake Island; that plaintiff resides at -----

(Plaintiff)

§ 165.67 Summons.

Upon the filing of a complaint, a Justice or Clerk of the Court shall issue a summons in the following form and deliver it for service to a peace officer or other person specifically designated by the court to serve it:

IN THE WAKE ISLAND JUSTICE COURT
Civil Action No. -----

(Plaintiff)
vs.
(Defendant)
Summons

To the above named Defendant:
You are hereby directed to appear and answer the attached cause at ----- on ----- day of ----- 19--, at ----- a.m.

----- p.m. and to have with you all books, papers and witnesses needed by you to establish any defense you have to said claim.

You are further notified that in case you do not appear, judgment will be given against you, for the amount of said claim.

together with cost of this suit and the service of this order.

Dated: ----- 19--

(Clerk, Wake Island Justice Court)

§ 165.69 Service of complaint.

(a) A peace officer or other person designated by the Justice Court to make service shall serve the summons and a copy of the complaint at Wake Island upon the defendant personally, or by leaving them at his usual place of abode with any adult residing or employed there.

(b) In the case of a corporation, partnership, joint stock company, trading association, or other unincorporated association, service may be made at Wake Island by delivering a copy of the summons and complaint to any of its officers, a managing or general agent, or any other agent authorized by appointment or by law to receive service.

§ 165.71 Delivery of summons to plaintiff.

The Clerk of the Court shall promptly provide a copy of the summons to the plaintiff, together with notice that if the plaintiff fails to appear at the Court at the time set for the trial, the case will be dismissed. The trial shall be set at a date that will allow each party at least seven days, after the pleadings are closed, to prepare.

§ 165.73 Answer.

(a) The defendant may, at his election, file an answer to the complaint.

(b) The defendant may file a counterclaim, set-off, or any reasonable affirmative defense.

(c) If the defendant elects to file a counterclaim, set-off, or affirmative defense, the Court shall promptly send a copy of it to the plaintiff and shall allow him enough time to prepare his position with regard thereto.

§ 165.75 Proceedings; record; judgment.

(a) The presiding Justice is responsible for the making of an appropriate record of each civil action.

(b) All persons shall give their testimony under oath or affirmation. The Chief Justice shall prescribe the oath and affirmation that may be administered by any Justice or the Clerk of the Court.

(c) Each party may present witnesses and other forms of evidence. In addition, the presiding Justice may informally investigate any controversy, in or out of the Court, if the evidence obtained as a result is adequately disclosed to all parties. Witnesses, books, papers, documents or other objects may be subpoenaed as provided in § 165.97 for criminal cases.

(d) The Court may issue its judgment in writing or rally from the bench. However, if an appeal is taken from the judgment, the presiding Justice shall, within 10 days after it is filed, file a memorandum of decision as a part of the record. The Justice shall place in the memorandum findings of fact, conclusions of law, and any comments that he

considers will be helpful to a thorough understanding and just determination of the case on appeal.

§ 165.77 Appeals.

(a) Any party to a civil action may, within 15 days after judgment, appeal to the FAA Assistant Administrator for the Pacific Region, by filing a notice of appeal with the Clerk of the Wake Island Justice Court and serving a copy on the opposing party. The judgment is stayed while the appeal is pending.

(b) Upon receiving a notice of appeal, with proof of service on the opposing party, the Clerk shall forward the record of the action to the Assistant Administrator.

(c) The appellant shall serve and file a memorandum setting forth his grounds of appeal with the Assistant Administrator within 10 days after the date of the Court's memorandum of opinion. The appellee may serve and file a reply memorandum within 10 days thereafter.

(d) After expiration of the date for filing memoranda under paragraph (c) of this section, the Assistant Administrator shall render his decision.

(e) The decision of the Assistant Administrator shall be in writing and based on the record prepared at Wake Island Justice Court and any memoranda that are filed. If the Assistant Administrator considers that the record is incomplete, he may remand the case to the court for supplemental proceedings. The decision of the Assistant Administrator is final.

§ 165.79 Execution of judgment.

(a) If, after 60 days after the date of entry of judgment (or such other period as the court may prescribe), the judgment debtor has not satisfied the judgment, the judgment creditor may apply to the court for grant of execution on the property of the judgment debtor.

(b) Upon a writ issued by the court, any peace officer may levy execution on any property of the judgment debtor except—

(1) His wearing apparel up to \$300 in value;

(2) His beds, bedding, household furniture and furnishings, stoves and cooking utensils, up to \$300 in value; and

(3) Mechanics tools and implements of the debtor's trade up to \$200 in value.

(c) Within 60 days after levy of execution, a peace officer shall sell the seized property at public sale and shall pay the proceeds to the Clerk of the court. The Clerk shall apply the proceeds as follows:

(1) First, to the reasonable costs of execution and sale and court costs.

(2) Second, to the judgment.

(3) Third, the residue (if any) to the debtor.

(d) In any case in which property has been seized under a writ of execution, but not yet sold, the property seized shall be released upon payment of the judgment, court costs, and the costs of execution.

§ 165.81 Garnishment.

(a) If a judgment debtor fails to satisfy a judgment in full within 60 days

after the entry of judgment (or such other period as the court may prescribe, the court may, upon the application of the judgment creditor issue a writ of garnishment directed to any person having money or property in his possession belonging to the judgment debtor or owing money to the judgment debtor. The following are exempt from judgment:

(1) 90 percent of so much of the gross wages as does not exceed \$200 due to the judgment debtor from his employer.

(2) 80 percent of so much of the gross wages as exceeds \$200 but does not exceed \$500 due to the judgment debtor from his employer;

(3) 50 percent of so much of the gross wages as exceeds \$500 due to the judgment debtor from his employer.

(b) The writ of garnishment shall be served on the judgment debtor and the garnishee and shall direct the garnishee to pay or deliver from the money or property owing to the judgment debtor such money or property as the court may prescribe.

(c) The garnished amount shall be paid to the Clerk of the court, who shall apply it as follows:

(1) First, to satisfy the costs of garnishment and court costs.

(2) Second, to satisfy the judgment.

(3) Third, the residue (if any) to the judgment debtor.

(d) Funds of the debtor held by the United States are not subject to garnishment.

#### § 165.83 Rules of criminal procedure; general.

(a) Sections 165.83 through 165.101 govern the procedure in criminal proceedings in the Wake Island Justice Court. They shall be construed to secure simplicity in procedure, fairness in administration, and to eliminate unjustifiable expense and delay.

(b) Before proceeding with the hearing of any criminal matter the Justice Court shall satisfy itself that it has jurisdiction to try the accused as charged.

(c) The Justice of the court who presides at any trial or other criminal proceeding is responsible for the making of an appropriate record of the proceeding.

(d) Due to the location of Wake Island, there is no public defender to be made available to an accused.

#### § 165.85 Bail.

(a) A person who is arrested on Wake Island for a violation of this Part is entitled to be released on bail in an amount set by a Justice or Clerk of the Justice Court or by the Governor. The court or Governor may refuse to set bail if, in his judgment, the release of the defendant would not be in the public interest. On payment of the amount, in cash, to the Clerk of the court, the accused is entitled to be released from detention. If the accused fails to appear for arraignment, for trial, or for sentencing, or otherwise breaches any condition of bail, the court may direct a forfeiture of the whole or part of the bail and may on motion after notice to the surety or sureties, if any, enter a

judgment for the amount of the forfeiture.

(b) When an offense has been charged by a citation issued by a peace officer, bail shall be in the amount prescribed by the Chief Justice for the violation. The bail shall be paid in cash to the Clerk of the Court and may be forfeited by the accused. Such a forfeiture terminates the proceeding.

#### § 165.87 Seizure of property.

Any property seized in connection with an alleged offense (unless the property is perishable) is retained pending trial in accordance with the orders of the Court. The property must be produced in Court, if practicable. At the termination of the trial, the Court shall restore the property or the funds resulting from the sale of the property to the owner, or make such other proper order as may be required and incorporate its order in the record of the case.

#### § 165.89 Information.

(a) Any offense may be prosecuted by a written information signed by the Island Attorney. However, if the offense is one for which a peace officer is entitled to issue citations and a citation for the offense has been issued, the citation serves as an information.

(b) A copy of the information shall be delivered to the accused, or his counsel, as soon as practicable after it is filed.

(c) Each count of an information may charge one offense only and must be particularized sufficiently to identify the place, the time, and the subject matter of the alleged offense. It shall refer to the provision of law under which the offense is charged, but any error in this reference or its omission may be corrected by leave of Court at any time before sentence and is not grounds for reversal of a conviction if the error or omission did not mislead the accused to his prejudice.

#### § 165.91 Motions and pleas.

(a) Upon motion of the accused at any time after filing of the information or copy of citation, the Court may order the prosecutor to allow the accused to inspect and copy or photograph designated books, papers, documents, or tangible objects obtained from or belonging to the accused, or obtain from others by seizure or process, upon a showing that the items sought may be material to the preparation of his defense and that the request is reasonable.

(b) When the Court is satisfied that it has jurisdiction to try the accused as charged, it shall require the accused to identify himself and state whether or not he has counsel. If he has no counsel, but desires counsel, the Court shall give him a reasonable opportunity to procure counsel.

(c) When both sides are ready for arraignment, or when the Court determines that both sides have had adequate opportunity to prepare for arraignment, the Court shall read the charges to the accused, explain them (if necessary), and, after the reading or stating of each charge in Court, ask the accused whether he pleads "guilty" or "not guilty". The

Court shall enter in the record of the case the plea made to each charge.

(d) The accused may plead "guilty" to any or all of the charges against him, except that the Court may at its discretion refuse to accept a plea of guilty, and may not accept a plea without first determining that the plea is made voluntarily with understanding of the nature of the charge.

(e) The accused may plead "not guilty" to any or all of the charges against him. The Court shall enter a plea of not guilty if the answer of the accused to any charge is such that it does not clearly amount to a plea of guilty or not guilty.

(f) The accused may, at any stage of the trial, with the consent of the Court, change a plea of not guilty to one of guilty. The Court shall then proceed as if the accused had originally pleaded guilty.

#### § 165.93 Sentence after plea of guilty.

If the Court accepts a plea of guilty to any charge or charges, it shall make a finding of guilty on that charge. Before imposing sentence, the Court shall hear such statements for the prosecution and defense, if any, as it requires to enable it to determine the sentence to be imposed. The accused or his counsel may make any reasonable statement he wishes in mitigation or of previous good character. The prosecution may introduce evidence in aggravation, or of bad character if the accused has introduced evidence of good character. The Court shall then impose any lawful sentence that it considers proper.

#### § 165.95 Trial.

(a) If the accused pleads not guilty, he is entitled to a trial on the charges in accordance with procedures prescribed in the Rules of Criminal Procedure for the United States District Courts, except as otherwise provided in this Part, to the extent the Presiding Justice considers practicable and necessary to the ends of justice. There is not trial by jury.

(b) All persons shall give their testimony under oath or affirmation. The Chief Justice shall prescribe the oath and affirmation that may be administered by any Justice or the Clerk of the Court.

(c) Upon completion of the trial, the Court shall enter a judgment consisting of a finding or findings and sentence or sentences, or discharge of the accused.

(d) The Court may suspend any sentence imposed, may order the revocation of any automobile Island permit in motor vehicle cases, and may place the accused on probation. It may delay sentencing pending the receipt of any presentencing report ordered by it.

#### § 165.97 Subpoenas.

(a) The Clerk of the Court shall issue subpoenas for the attendance of witnesses. The subpoena must include the name of the Court and the title, if any, of the proceeding; and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The Clerk shall

issue a subpoena to a party requesting it, setting forth the name of the witness subpoenaed.

(b) The Clerk may also issue a subpoena commanding the person to whom it is directed to produce the books, papers, documents, or other objects designated therein. The Court may direct that books, papers, and documents designated in the subpoena be produced before the Court at a time before the trial or before the time when they are to be offered in evidence. It may, upon their production, allow the books, papers, documents, or objects or portions thereof to be inspected by the parties and their representatives.

(c) Any Peace Officer or any other person who is not a party and who is at least 18 years of age may serve a subpoena. Service of a subpoena shall be made by delivering a copy thereof to the person named.

#### § 165.99 Appeals.

(a) The defendant in any criminal case may appeal from any judgment of the Wake Island Justice Court to the FAA Assistant Administrator for the Pacific Region by filing a notice of appeal with the Clerk of the Wake Island Justice Court, and serving a copy on the Island Attorney. The United States may not appeal.

(b) The notice must be served and filed within 15 days after the judgment of the Court.

(c) Upon receiving a notice of appeal, with proof of service on the Island Attorney, the Clerk shall forward the record of the case to the Assistant Administrator.

(d) The appellant must serve and file a memorandum with the Assistant Administrator within 10 days after filing notice of appeal setting forth the grounds for appeal. The Island Attorney may file a reply memorandum within 10 days thereafter.

(e) The Assistant Administrator may affirm, dismiss, or modify the order of the Court, or exercise any of the other powers of the Justice Court. The judgment of the Assistant Administrator is final.

#### § 165.101 New trial.

A justice of the Court may order a new trial as required in the interest of justice, or vacate any judgment and enter a new one, on motion made within a reasonable time after discovery by the moving party of matters constituting the grounds upon which the motion for new trial or vacation of judgment is made.

#### Subpart H—Special Procedures

**AUTHORITY:** Subpart H issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

#### § 165.111 Revocation or suspension of permits.

(a) The Island Governor may, after notifying the holder of an Island permit and giving him an opportunity to be heard, order the permit suspended or revoked for cause, including—

(1) Lack of physical fitness required to hold the permit;

(2) Lack of roadworthiness of a vehicle, or of seaworthiness of a boat;

(3) Lack of need for the permit;

(4) Breach of any term or condition of the permit; and

(5) Conviction for violation of any regulation of this part where the violation is related to activities conducted under the permit.

(b) In any case in which he determines that an emergency exists requiring immediate action, the Governor may issue an order of suspension or revocation, effective immediately, without notice. However, the Permit holder may, within 10 days after the suspension or revocation, request a hearing. If he so requests a hearing he is entitled to it. The emergency order is not stayed pending the hearing.

#### § 165.113 Disposition of confiscated, lost, or abandoned property.

Whenever the Island Governor confiscates property under this Part, or takes custody of lost or abandoned property (and is unable to ascertain the owner), he shall hold it for at least 30 days before disposing of it by auction, destruction, or donation for civic benefit, or in the case of lost or abandoned property, return it to the finder, as he considers appropriate.

#### § 165.115 Abatement of nuisance.

Whenever the Island Governor determines that, on any premises on Wake Island, a condition exists that is unsanitary or hazardous, that may be injurious to the public, or is otherwise a nuisance, he may order the condition abated. If the legal custodian of the premises concerned does not take action to abate the nuisance within 30 days after the order is issued, the Governor may enter on the premises and abate the nuisance for, and at the expense of, the custodian.

#### § 165.117 Vital statistics.

(a) The Island Governor shall maintain a Register of Vital Statistics on Wake Island, with a duplicate copy in the FAA Regional Office in Honolulu, Hawaii.

(b) Upon application and payment of a reasonable fee prescribed by the Governor, any person may obtain a copy of any Certificate of Birth, Marriage, or Death on Wake Island.

#### § 165.119 Service of civil process.

Any peace officer may serve any civil process on Wake Island that is allowed to be served under a Federal or State law. The officer serving the process shall execute any required affidavit of service.

#### § 165.121 Marriage ceremonies.

The Island Governor, or any clergyman authorized by him, may perform marriage ceremonies on Wake Island. The person performing the marriage shall execute a Certificate of Marriage for each marriage that he performs.

#### § 165.123 Autopsies.

The medical officer on Wake Island, or any other qualified person under his supervision, may perform autopsies upon the authorization of the Island Governor, or a Justice of the Wake Island Justice Court.

#### § 165.125 Arrests.

(a) Any person may make an arrest on Wake Island, without a warrant, for any crime (including a petty offense) that is committed in his presence.

(b) Any Peace Officer may, without a warrant, arrest any person on Wake Island who violates any provision of this part or commits a crime that is not a violation of this part, in his presence, or that he reasonably believes that person to have committed.

(c) In making an arrest, a Peace Officer must display a warrant, if he has one, or otherwise clearly advise the person arrested of the violation alleged, and thereafter require him to submit and be taken before the appropriate official on Wake Island.

(d) In making an arrest, a Peace Officer may use only the degree of force needed to effect submission, and may remove any weapon in the possession of the person arrested.

(e) A Peace Officer may, whenever necessary to enter any building, vehicle, or aircraft to execute a warrant of arrest, force an entry after verbal warning.

(f) A Peace Officer may force an entry into any building, vehicle or aircraft whenever—

(1) It appears necessary to prevent serious injury to persons or damage to property and time does not permit the obtaining of a warrant;

(2) To effect an arrest when in hot pursuit; or

(3) To prevent the commission of a crime which he reasonably believes is being committed or is about to be committed.

#### § 165.127 Warrants.

(a) The Island Governor or any Justice of the Wake Island Justice Court may issue a warrant for arrest if, upon complaint, it appears that there is probable cause to believe an offense has been committed and that the person named in the warrant has committed it. The issuing officer shall—

(1) Place the name of the person charged with the offense in the warrant, or if his name is not known, any name or description by which he can be identified with reasonable certainty;

(2) Sign the warrant;

(3) Describe in the warrant the offense charged;

(4) Issue the warrant to a peace officer for execution; and

(5) Place in the warrant a command that the person charged with the offense be arrested and brought before him.

(b) Each person making an arrest on Wake Island shall take the arrested person, without unnecessary delay, before the Island Governor, a Justice of the Wake Island Justice Court, or the United States Commissioner on Wake Island, as appropriate.

(c) The official before whom an arrested person is brought shall inform him of the complaint against him and his right to counsel. The official shall also advise the arrested person that he is not required to make a statement and that any statement made by him may be used against him. If the arrested person requests it, the official shall allow

him reasonable time to consult counsel and shall admit him to bail as provided in § 165.85.

§ 165.129 Citation in place of arrest.

In any case in which he may make an arrest without a warrant, a peace officer may, under such limitations as the Island Governor may impose, issue and serve a citation to a person in place of arresting him if the officer considers that the public interest does not require an arrest. The citation must briefly describe the offense charged and direct the accused to appear before the Wake Island Justice Court at a designated time and place.

§ 165.130 Notaries public.

(a) Each notary public commissioned by the Island Governor shall file his signature and deposit an impression of his seal in the office of the Clerk of the Wake Island Justice Court.

(b) Each notary public may take and certify acknowledgments or proof of powers of attorney, mortgages, deeds, and other instruments in writing; may take depositions and administer oaths and affirmations; and may take affidavits to be used before any justice or other official on Wake Island. Each notary public may also perform such other acts, for use and effect beyond Wake Island, as may be performed by notaries public according to the laws of the United States, any State or Possession, the District of Columbia, or any foreign government in amity with the United States.

(c) In any case in which a prothonotarial certificate is required, the Clerk of the Court shall issue it.

Subpart I—Motor Vehicle Code

AUTHORITY: Subpart I issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

§ 165.131 Applicability.

This subpart applies to self-propelled motor vehicles (except aircraft), including attached trailers.

§ 165.133 Right-hand side of road.

Each person driving a motor vehicle on Wake Island shall drive on the right-hand side of the road, except where necessary to pass or where a sign declaring one-way traffic is posted.

§ 165.135 Speed limits.

Each person operating a motor vehicle on Wake Island shall operate it at a speed—

(a) That is reasonable, safe, and proper, considering road and weather conditions, the kind of motor vehicle, and the proximity to persons or buildings, or both; and

(b) That does not exceed 40 miles an hour or such lesser speed limit as may be posted.

§ 165.137 Right-of-way.

(a) A pedestrian has the right-of-way over vehicular traffic when in the vicinity of a building, school, or residential area, or when on the airport.

(b) In any case in which two motor vehicles have entered an intersection at

the same time, the vehicle on the right has the right-of-way.

(c) If the driver of a motor vehicle enters an intersection with the intent of making a left turn, he shall yield the right-of-way to any other motor vehicle that has previously entered the intersection or is within hazardous proximity.

(d) When being overtaken by another motor vehicle, the driver of the slower vehicle shall move it to the right to allow safe passing.

(e) Each driver of a motor vehicle shall yield the right-of-way to an emergency vehicle on an emergency run.

§ 165.139 Arm signals.

(a) A signal for a turn or stop is made by fully extending the left arm as follows:

(1) Left turn—extend left arm horizontally.

(2) Right turn—extend left arm upward.

(3) Stop or decrease speed—extend left arm downward.

(b) A signal light or other device may be used in place of an arm signal prescribed in paragraph (a) of this section if it is visible and intelligible.

§ 165.141 Making turns.

(a) Each person making a right turn in a motor vehicle shall make the approach and turn as close as practicable to the right hand curb or road edge.

(b) Each person making a left turn in a motor vehicle shall make the approach and turn immediately to the right of the center of the road, except that on multi-lane roads of one-way traffic flow he may make the turn only from the left lane.

(c) No person may make a U-turn in a motor vehicle if he cannot be seen by the driver of each approaching vehicle within a distance of 500 feet.

(d) No person may place a vehicle in motion from a stopped position, or change from or merge into a lane of traffic, until he can safely make that movement.

§ 165.143 General operating rules.

No person may, while on Wake Island—

(a) Operate a motor vehicle in a careless or reckless manner;

(b) Operate or occupy a motor vehicle while he is under the influence of a drug or intoxicant;

(c) Consume an alcoholic beverage (including beer, ale, or wine) while he is in a motor vehicle;

(d) Operate a motor vehicle that is overloaded or is carrying more passengers than it was designed to carry;

(e) Ride on the running board, step, or outside of the body of a moving motor vehicle;

(f) Ride a moving motor vehicle with his arm or leg protruding;

(g) Operate a motor vehicle in a speed contest or drag race;

(h) Park a motor vehicle for a period longer than the posted time limit;

(i) Stop, park, or operate a motor vehicle in a manner that impedes or blocks traffic;

(j) Park a motor vehicle in an unposted area, except adjacent to the right-hand curb or edge of the road;

(k) Park a motor vehicle in a reserved or restricted parking area that is not assigned to him;

(l) Sound the horn of a motor vehicle, except as a warning signal;

(m) Operate a tracked or cleated vehicle in a manner that damages a paved or compacted surface, except with the permission of the Island Governor;

(n) Operate any motor vehicle contrary to a posted traffic sign;

(o) Operate a motor vehicle as to follow any other vehicle closer than is safe under the circumstances;

(p) Operate a motor vehicle off of established roads, or in a cross-country manner, except when necessary in conducting business; or

(q) Operate a motor vehicle at night on the traveled part of a street or road, without using operating headlights.

§ 165.145 Operating requirements.

(a) Each person operating a motor vehicle on Wake Island shall—

(1) Dim the headlights of his vehicle when approaching an oncoming vehicle at night; and

(2) Comply with any special traffic instruction given by an authorized person.

(b) Each person operating a motor vehicle that is involved in an accident or collision on Wake Island shall immediately report it to the Island Governor. In addition, if the Governor so requests, the operator of such a motor vehicle shall send a written report of the accident to the Governor.

(c) Each person operating a bicycle, mechanized crane, item of heavy motorized equipment, or item of self-propelled ramp equipment on Wake Island shall conform as nearly as practicable to the rules applicable to motor vehicles.

§ 165.147 Motor bus operation.

Each person operating a motor bus on Wake Island shall—

(a) Keep its doors closed while the bus is moving with passengers on board; and

(b) Refuse to allow any person to board or alight from the bus while it is moving.

§ 165.149 Motor vehicle operator qualifications.

(a) No person may operate a privately-owned motor vehicle on Wake Island unless he has an Island operator's permit.

(b) The Island Governor may issue—

(1) A student operator's permit to any person who is at least 14 years of age, to be exercised only when the holder is accompanied by a qualified operator who assumes full responsibility for operating the vehicle; and

(2) An unlimited operator's permit to any person who is at least 16 years of age and satisfactorily demonstrates safe-driving knowledge, ability, and physical fitness.

(c) No person may operate, on Wake Island, a motor vehicle owned by the United States unless he holds a current operator's permit issued by the United States.

(d) Each person operating a motor vehicle on Wake Island shall present

his operator's permit to any peace officer, for inspection, upon request.

**§ 165.151 Motor vehicle maintenance and equipment.**

(a) Each person who has custody of a motor vehicle on Wake Island shall present that vehicle for periodic safety inspection, as required by the Island Governor.

(b) No person may operate a motor vehicle on Wake Island unless it is in a condition that the Island Governor considers to be safe and operable.

(c) No person may operate a motor vehicle on Wake Island unless it is equipped with—

- (1) A horn;
- (2) A wiper, for any windshield;
- (3) A rear vision mirror;
- (4) Head lights and tail lights;
- (5) A muffler; and
- (6) Properly functioning spark or ignition noise suppressors.

(d) No person may operate a motor vehicle on Wake Island if that vehicle is equipped with a straight exhaust or muffler cutoff.

**§ 165.153 Motor vehicle operations on the airport.**

(a) No person operating a motor bus may load or unload passengers on the airport except at designated locations.

(b) No person may park a motor vehicle on the airport (except in the public airport parking lot) unless that vehicle is secured by handbrakes.

(c) No person may operate a privately-owned motor vehicle on a ramp, taxiway, or runway of the airport, unless authorized by the Island Governor.

(d) No person may operate a motor vehicle on a ramp, taxiway, or runway of the airport unless it is required in performing official or tenant business.

**Subpart J—Registration and Island Permits**

**AUTHORITY:** Subpart J issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

**§ 165.161 Registration of certain property.**

(a) Each person who has custody of any of the following on Wake Island shall register it with the Island Governor:

- (1) A privately-owned motor vehicle as described in § 165.131.
- (2) A privately-owned boat.
- (3) An animal.
- (4) Any device or instrument primarily designed for inflicting bodily injury, including a gun, pistol, or other firearm operated by air, gas, spring, or otherwise.
- (5) A narcotic or dangerous drug described in § 165.45, or any poison.
- (6) Any known explosive.

(b) Each person who obtains custody of an article described in subparagraphs (4), (5), or (6) of paragraph (a) of this section shall register it immediately upon obtaining custody. Each person who obtains custody of any other article described in paragraph (a) of this section shall register it within 10 days after obtaining custody.

**§ 165.163 Island permit for boat, vehicle, or firearm.**

(a) No person may use a privately-owned motor vehicle, boat, or a firearm, gun, or pistol operated by air, gas, or spring, or otherwise, on Wake Island unless he has an Island Permit for it.

(b) The operator of a motor vehicle shall display its registration number on the vehicle in a place and manner prescribed by the Island Governor.

**§ 165.165 Activities for which permit is required.**

No person may engage in any of the following on Wake Island unless he has an Island Permit:

(a) Any business, commercial, or recreational activity conducted for profit, including a trade, profession, calling, or occupation, or an establishment where food or beverage is prepared, offered, or sold for human consumption (except for personal or family use).

(b) The practice of any medical profession, including dentistry, surgery, osteopathy, and chiropractic.

(c) The erection of any structure or sign, including a major alteration or enlargement of an existing structure.

(d) The discharge of explosives or fireworks or of firearms, guns, or pistols operated by air, gas, spring or otherwise.

(e) The burial of any human or animal remains, except that fish and ball scrap may be buried at beaches where fishing is permitted, without obtaining a permit.

(f) Keeping or maintaining an animal.

**§ 165.167 Expiration of permits.**

(a) Each Island permit expires on the earliest of the following dates:

- (1) Two years after the date it is issued.
- (2) The date specified on the permit.
- (3) In the case of a motor vehicle, boat, or firearms, the date its custody is transferred to any person other than the holder of the permit therefor.
- (4) The date it is revoked by the Island Governor.

(b) Notwithstanding subparagraph (1) of paragraph (a) of this section, the Island Governor may issue a permit for a period longer than two years to coincide with the terms of any agreement between the FAA Pacific Region and the permit holder, applicable to Wake Island.

**Subpart K—Health and Sanitation**

**AUTHORITY:** Subpart K issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

**§ 165.171 Inspections.**

The following areas of Wake Island are subject to sanitation and health inspection by the Island Governor:

(a) Any place or building (except residential quarters) where food or beverages are stored or dispensed, or any equipment therein for handling or processing food or beverages.

(b) Any facility available to the public or to business visitors of a tenant.

(c) Any residential quarters where there is reason to believe that an infec-

tious, communicable, or loathsome disease or unsanitary condition may exist.

(d) Any potable water storage area or distribution or dispensing facility or equipment.

(e) Any area where there is reason to believe that there are rodents, pests, or infected animals.

**§ 165.173 Reporting of diseases.**

The head of any household shall immediately report, to the Island Governor, any infectious, communicable, or loathsome disease in that household.

**Subpart L—Public Safety**

**AUTHORITY:** Subpart L issued under sec. 48, 74 Stat. 424; E.O. 11048; Agreement between FAA and Department of Interior, Feb. 5, 1962.

**§ 165.181 Emergency requirements and restrictions.**

In the event of any fire, crash, search and rescue, natural disaster, national peril, radiological hazard, or other calamitous emergency—

(a) No person may impede or hamper any officer or employee of the United States or any other person who has emergency authority;

(b) No unauthorized persons may congregate at the scene of the emergency; and

(c) Each person present shall promptly obey the instructions, signals, or alarms of any peace officer, fire or crash crew, or other authorized person, and any orders of the Island Governor.

**§ 165.183 Fire hazards.**

(a) Each person engaged in a business or other non-FAA activity on Wake Island shall, at his expense, provide and maintain (in an accessible location) fire extinguishers of the type, capacity, and quantity that the Island Governor considers satisfactory for protecting life and property in the areas under that person's control.

(b) To minimize fire hazards, no person may store any waste or inflammable fluids or materials except in a manner and at a place prescribed by the Island Governor.

**§ 165.185 Use of special areas.**

The Island Governor may regulate the use of designated or posted areas on Wake Island, as follows:

(a) Restricted areas—which no person may enter without lawful permission.

(b) Prohibited activities areas—in which no person may engage in any activity that is specifically prohibited.

(c) Special purpose areas—in which no person may engage in any activity other than that for which the area is reserved.

**§ 165.187 Unexploded ordnance material.**

Any person who discovers any unexploded ordnance material on Wake Island shall refrain from tampering with it and shall immediately report its site to the Island Governor.

**§ 165.189 Boat operations.**

The operator of each boat used at Wake Island shall conform to the limitations on its operations as the Island

Governor may prescribe in the public interest.

#### § 165.191 Floating objects.

No person may anchor, moor, or beach any boat, barge, or other floating object on Wake Island in any location or manner other than as prescribed by the Island Governor.

#### Subpart M—Airport Rules

**AUTHORITY:** Subpart M issued under sec. 10, 62 Stat. 453, 49 U.S.C. 1159.

#### § 165.201 Tenants; cleaning of premises.

(a) Each person engaged in a business or other non-FAA activity on the airport shall—

(1) Keep the surface of the premises assigned to him (including ramp areas) free and clear of oil, grease, and other inflammable materials;

(2) Clear and clean any joint-use area promptly after using it; and

(3) Remove any potentially injurious spillage immediately.

(b) In any case in which a person covered by this section neglects or refuses to clean and clear the premises assigned to him, the Island Governor may perform the necessary work and assess a charge against the tenant for that service.

#### § 165.203 Tenants; unlawful activities.

No person engaged in a business or other non-FAA activity on the airport may knowingly allow property under his control to be used or occupied for an unlawful purpose or activity.

#### § 165.205 Tenants and other users; property and equipment.

(a) Each person engaged in a business or other non-FAA activity on the airport and each other user of facilities at the airport shall stow all materials, supplies, tools, and equipment in a neat, safe, and workmanlike manner satisfactory to the Island Governor.

(b) Each person using ramp servicing shall return the equipment to its assigned location or area promptly after using it.

#### § 165.207 Notice of accidents.

(a) Each person concerned shall immediately notify the Island Governor of—

(1) Any personal injury on the airport;

(2) Any property damage to the airport; and

(3) Any accident on the airport involving property damage of more than \$50.

(b) Subparagraph (3) of paragraph (a) of this section does not apply to motor vehicle accidents required to be reported under § 165.145(b).

#### § 165.209 Discrimination.

All services performed in operating a facility at the airport must be without discrimination or segregation as to race, creed, color or national origin.

#### § 165.211 Parked aircraft; responsibility.

The United States is not responsible for the care or protection of any aircraft parked at the airport.

#### § 165.213 General operating rules.

No person on the airport may—

(a) Leave an aircraft unattended unless it is properly secured;

(b) Park an aircraft in an improper place or obstruct ground traffic;

(c) Run-up an aircraft engine except in a designated area;

(d) Start or run-up an aircraft unless a certificated pilot or knowledgeable mechanic is at the controls;

(e) Start an aircraft unless its main landing wheels are firmly secured by blocks or adequate locking brakes; or

(f) Taxi or operate any aircraft on the ground so as to allow the propeller wash or engine exhaust to endanger persons or property.

#### § 165.215 Disabled aircraft.

(a) Each person who is in command of an aircraft that becomes disabled on the airport shall immediately notify the Island Governor. The operator of the aircraft shall, if so directed by the Governor, promptly move it to a safer area.

(b) If the operator of a disabled aircraft neglects or refuses to comply promptly with a removal order, the Governor may, without liability for any damage thereto, move the aircraft as he considers necessary for aviation safety and may assess a charge for the service.

#### § 165.217 Fueling operations.

(a) No person may fuel or defuel an aircraft on the airport while—

(1) Its engine is running or is being warmed by applying external heat;

(2) It is in a hangar or enclosed space;

(3) It is within 50 feet of any hangar or other building on the airport; or

(4) Passengers are in the aircraft, unless a passenger loading ramp is in place at the cabin door, that door is open, and a cabin attendant is at or near that door.

(b) No person other than those covered by subparagraph (4) of paragraph (a) of this section and those persons necessarily engaged in the fueling or defueling may be within 100 feet of an aircraft that is being fueled or defueled.

(c) No person may smoke within 100 feet of an aircraft that is being fueled or defueled on the airport.

(d) No person may operate a radio transmitter or receiver, or switch electrical appliances on or off, in an aircraft on the airport, while it is being fueled or defueled.

(e) During the fueling of an aircraft, on the airport, the dispensing apparatus and the aircraft must both be grounded to a point of zero electrical potential.

(f) Each person engaged in fueling or defueling, on the airport, shall exercise care to prevent the overflow of fuel, and must have adequate fire extinguishers within ready reach.

(g) During the fueling or defueling of an aircraft, on the airport, no person may use any material that is likely to cause a spark or be a source of ignition, or start the engine if there is any gasoline on the ground underneath it.

(h) Each hose, funnel, or appurtenance used in fueling or defueling an aircraft on the airport must be maintained in a safe, sound, and nonleaking condition and must have a grounding device to prevent ignition of volatile liquids.

#### § 165.219 Fire hazards.

(a) Each person engaged in a business or other non-FAA activity on the airport shall provide suitable metal receptacles, with self-closing covers, for storing waste, rags, and other rubbish, and shall remove all rubbish from its premises each day.

(b) No person may conduct an open-flame operation on the airport without the specific permission of the Island Governor.

(c) No person may store an inflammable, explosive, or hazardous liquid, gas, flare, or material on the airport except in proper receptacles and in areas designated by the Island Governor.

(d) No person may store any material on the airport in a manner that constitutes a fire hazard.

(e) No person may clean an aircraft, engine, or appliance on the airport with an inflammable volatile liquid having a flash point of less than 110 degrees Fahrenheit, except in designated open-air areas.

(f) No person may use a portable aircraft ground-power unit, operated by an internal combustion engine, on the airport, unless it has a muffler and a proper spark arresting device on the exhaust system.

#### § 165.221 Operation of motor vehicles in air traffic areas.

(a) No person may operate a motor vehicle on any surface on the airport that is under air traffic control, unless he has a tower clearance.

#### Subpart N—Airport Charges

**AUTHORITY:** Subpart N issued under sec. 10, 62 Stat. 453; 49 U.S.C. 1159.

#### § 165.231 Landing charges.

The charge for each landing of an aircraft at the airport is 30 cents for each 1,000 pounds of aircraft weight. There is no additional charge for takeoffs. In addition, there is no landing charge for—

(a) A civil or public aircraft that is not engaged in commercial operations;

(b) An aircraft engaged in a test flight, not including a survey or proving run; or

(c) An aircraft compelled to return after takeoff.

#### § 165.233 Parking charges.

(a) The charge for parking an aircraft in a hangar at the airport is 5 cents for each 1,000 pounds of aircraft weight for each 6-hour period, or fraction thereof.

(b) The charge for parking an aircraft on the airport, other than in a hangar, is two and one-half cents for each 1,000 pounds of aircraft weight for each 6-hour period, or fraction thereof, beginning 6 hours after the aircraft lands.

(c) The FAA official in charge of the airport may assess excess parking fees of \$5 an hour, or fraction thereof, for aircraft that fails to conform to assignments of space on the airport.

#### § 165.235 Computation of weight for payment of charges.

For the purposes of §§ 165.231 and 165.233, the weight of an aircraft is the maximum takeoff weight permitted for that aircraft by the appropriate aero-

nautical authority of the country in which it was made, computed to the nearest 1,000 pounds.

**§ 165.237 Charges for aircraft based at the airport.**

The Assistant Administrator of the Pacific Region fixes charges for aircraft based at the airport without regard to the charges prescribed in §§ 165.231 and 165.233.

**§ 165.239 Payment of charges.**

Charges due under this subpart must be paid in United States currency at the time the airport is used. However, scheduled air carriers and other aircraft operators may make prior financial arrangements with the FAA official in charge of the airport, including provision to pay on a monthly or other suitable basis.

**Subpart O—Utility Services**

**AUTHORITY:** Subpart O issued under sec. 10, 62 Stat. 453; 49 U.S.C. 1159.

**§ 165.241 Applicability.**

This subpart prescribes the conditions under which the Administrator provides water, electric power, sewerage, and communications service at Wake Island to persons and organizations engaged directly or indirectly in aeronautical activity, except agencies of the United States.

**§ 165.243 Services available.**

The services available under this subpart are limited to those that are excess to the needs of the FAA and are within the capacities of installed facilities. If additional services are desired, permission may be given to build additional complementary facilities or extensions to the system involved.

**§ 165.245 Applications.**

A person desiring service under this subpart must apply in writing to the Assistant Administrator, FAA Pacific Region, P.O. Box 4009, Honolulu, Hawaii, setting forth in detail the type, location, and amount of service desired, the maximum demand, and other pertinent information, including, for electric power applications, information on all motor loads of more than two horsepower.

**§ 165.247 Connections to sewer and water systems.**

(a) A connection to an existing sewer and water system (other than an extension of the system) is made by the user, with the written approval of the Chief of the Facilities Division of the FAA Pacific Region (in this subpart called the "Facilities Chief"). The method of connection and workmanship are subject to inspection and approval of the Island Structural Maintenance Engineer.

(b) For the purpose of this section, an extension to an existing sewer or water system includes additional lateral or trunk sewers, manholes, or sewerage disposal facilities, water mains, and water collection, production, storage or pumping facilities, as distinguished from a connection to the system to provide service to an individual user.

(c) When necessary, meters are furnished, installed, and serviced by FAA. In addition, FAA maintains the fresh water connection between the main and the building of the user, but the user shall maintain the sewer connection between the building and the lateral sewer, subject to the inspection and approval of the Island Structural Maintenance Engineer.

**§ 165.249 Connections to electric power systems.**

(a) A connection to existing electric power systems is made by and at the expense of the FAA.

(b) For the purposes of this section, a connection is limited to providing a meter, installing and connecting the meter to the service drop, and connecting the service drop to the power supply line. Any other work is considered to be an extension to the existing system.

(c) The user shall provide, install, and maintain a safety switch, a meter socket, a one-span service drop, and the work and materials necessary to distribute the power from the service drop.

(d) The workmanship, materials, and equipment provided by the user under this section must conform to FAA Technical Standard Order N 17A.

**§ 165.251 Connections to communications systems.**

(a) Only the FAA makes connections to the existing communications system.

(b) For the purposes of this section, a connection is limited to providing and installing telephones and lines from the service drop, adding or removing telephone extensions on either private or party lines, and changing the location of an authorized telephone. Any other work or materials that are necessary to provide the user with communications services is considered to be an extension to an existing system.

(c) Title to the communication system is in the United States. The system is maintained by the FAA.

**§ 165.253 Extensions to systems.**

(a) An extension to an existing water, sewerage, electric power, or communications system may be made only with the written approval of the Facilities Chief.

(b) Based on circumstances, as determined by the Facilities Chief, an extension to a facility is made by the user at his expense, or by the FAA.

(c) An extension made by the user becomes the property of the United States upon being incorporated into the system.

**§ 165.255 Rates of payment; electric power.**

The charge for electric power is \$0.060 a kilowatt-hour.

**§ 165.257 Rates of payment: water and sewerage.**

(a) The charge for fresh water at Wake Island is \$0.02 a gallon, and for brackish water is \$150 a year for each building connection. However, the Chief of the Facilities Division of the FAA Pacific Region may set a higher rate for

brackish water, based on the number of exterior hose bibbs, water closets, and use, for a building with more than two exterior hose bibbs or more than one water closet.

(b) The charge for sewerage at Wake Island is \$60 a year for a family residence and \$210 a year for any other building. However, the Facilities Chief may set a higher rate, based on the number of connections, for the service to a building with more than 10 sewerage fixture connections.

**§ 165.259 Rates of payment: communications.**

(a) The charge for individual line service for telephones is \$8.75 a month and for two-party service is \$7.75 a month, plus \$5 a month for each additional instrument connection.

(b) The charge for an extension to an existing telephone system or for relocating an existing telephone connection is \$10.

**§ 165.261 Rates of payment: measurement, adjustment, and billing.**

(a) Fresh water and electric power use are measured by meter. However, in an exceptional circumstance, use may be based on estimates agreed to by the user and the Facilities Chief.

(b) Rates prescribed in this subpart may be adjusted equitably as circumstances warrant. However, each user shall be notified at least 30 days before any rate is adjusted.

(c) Each utility user is billed monthly for services used. Each user shall pay his bill as previously arranged between the user and the FAA Assistant Administrator for the Pacific Region.

**§ 165.263 Liability of the United States.**

The United States is not liable for any loss, damage, or injury of any user of the utility services authorized by this subpart, or of any third party, because of a part or complete failure or shutdown of a utility, unless the loss, damage, or injury was caused by a negligent or wrongful act or omission of an employee of the United States acting within the scope of his employment, under circumstances where the United States would, if it were a private person, be liable to the claimant for the loss, damage, or injury under the law of the place where it occurred.

**Subpart P—Medical and Hospital Services**

**AUTHORITY:** Subpart P issued under sec. 10, 62 Stat. 453, 49 U.S.C. 1159.

**§ 165.271 Applicability.**

This subpart prescribes the conditions under which the Administrator provides medical services, medical supplies, and hospitalization at Wake Island.

**§ 165.273 Supervision.**

The medical services, medical supplies, and hospitalization furnished by the FAA at Wake Island are under the administrative control of the Island Governor and the professional direction of the designated Island Medical Officer.

## RULES AND REGULATIONS

**§ 165.275 Transportation for treatment purposes.**

In any case in which the Island Medical Officer determines that the medical services or facilities on the Island are inadequate, an FAA employee who is under the jurisdiction of the Bureau of Employees' Compensation is entitled to transportation, without cost to him, to adequate services or facilities in Honolulu, Hawaii, or to the closest place where they are adequate. The employing agency must provide transportation in similar cases for persons other than FAA employees.

**§ 165.277 Treatment in non-compensation cases.**

(a) Subject to the charges prescribed in §§ 165.279, 165.281, and 165.283, general treatment of injury or disease, other than that authorized by § 165.279, is provided for—

(1) Civilian employees of the United States;

(2) Members of the armed forces on active duty;

(3) Employees of a non-United States agency that is engaged in aeronautical activity who are at an Island location under temporary or permanent assignment;

(4) The spouse, child (including an unmarried stepchild or adopted children) under 21 years of age or mentally or physically incapable of supporting himself, or parent, of a person covered by subparagraph (1), (2), or (3) of this paragraph, who receives more than one-half of his support from that person; and

(5) Transient persons, not otherwise covered by this section, who are on the Island for a period of less than one month in connection with an aeronautical activity.

(b) In any case in which the Island Medical Officer determines that the medical services or facilities on the Island cannot provide proper treatment for an FAA employee covered by this section, or his dependent covered by subparagraph (4) of paragraph (a) of this section, the employee or dependent shall be sent without cost to him, to Honolulu, Hawaii, or to the closest other place, where proper treatment can be provided. Transportation in similar cases for other persons must be provided by the employing agency, or by the patient if he is a transient covered by subparagraph (5) of paragraph (a) of this section.

**§ 165.279 Charges for medical services and supplies.**

(a) Charges for medical services at Wake Island are as follows:

(1) For civilian employees of the United States who are under the jurisdiction of the Bureau of Employees' Compensation, and members of the armed forces on active duty—no charge for treatment of injury incurred while performing their duties or disease proximately caused by conditions of their employment.

(2) For civilian employees of the United States, members of the armed forces on active duty, and the dependents of either of them—

(i) For each call at the FAA dispensary during regular hours—\$0.50 for the services of a technician; \$1 for the services of a nurse; and \$3 for the services of a doctor; and

(ii) For each call at the dispensary outside of regular hours or at a place other than the dispensary—\$1 for the services of a technician; \$2 for the services of a nurse; and \$5 for the services of a doctor.

(3) For employees of a non-United States agency and their dependents—an apportionment of all items of cost involved in the furnishing of supplies and services as fixed in written agreements with the employing agency.

(4) For transients—an apportionment of all items of cost involved in the furnishing of services and supplies.

(b) The charge for medical supplies not administered by the medical staff at Wake Island is determined administratively but may not be more than \$3 for any one supply furnished.

**§ 165.281 Charges for hospitalization.**

(a) Except as provided in paragraph (b) of this section, the charge for hospital services is \$7.50 a calendar day, or fraction thereof, for each person, not including meals (which must be otherwise provided and charged for), but including the services of the doctor and nurse, medical supplies, drugs, X-rays, and other medical services and supplies available on the Island that the doctor considers necessary for treating the patient.

(b) The charge for maternity care is \$125, including prenatal, delivery, and postnatal care and attendance, and hospitalization, for a period of not more than 3 days, but not including meals (which must be otherwise provided and charged for).

**§ 165.283 Charges for miscellaneous services.**

(a) Except where required in connection with employment by the United States, the charge for each immunization (including vaccine and administering it) is not more than \$3 if the cost of the vaccine is not more than \$3. However, if the cost of the vaccine is more than \$3, the charge is the cost of the vaccine.

(b) The following laboratory or special treatment charges apply to all persons:

- (1) Diathermy treatments—\$1 each.
- (2) X-rays—\$3 each.
- (3) Complete blood count—\$3 each.
- (4) Wassermann—\$3 each.
- (5) Urinalysis—\$1 each.

(c) The charge for each physical examination not required in connection with employment by the United States is \$10.

(d) The charge for services and treatment not otherwise covered by this section or §§ 165.279 or 165.281 are as prescribed by the FAA Assistant Administrator for the Pacific Region.

(e) A list of the charges authorized by or under this subpart is posted in a prominent place in each Island Dispensary.

**§ 165.285 Method of payment.**

(a) Amounts due from civilian employees of the United States, members of the armed forces, and the dependents of either of them, shall be paid as administratively determined. However, in the case of an FAA employee, amounts due under this subpart may not be deducted from his pay.

(b) Amounts due from employees of a non-United States agency must be paid at the time the service is performed, unless the employing agency has made a written arrangement with the FAA for payment on a periodic basis or unless immediate payment is not practicable in a particular case.

(c) Amounts due from transients must be paid at the time the service is performed unless immediate payment is not practicable in a particular case. If not paid immediately, the transient's home or business address must be noted before he leaves the Island so that he may be contacted later to pay the charges.

**§ 165.287 Processing of payments.**

Payments for medical and hospital services at Wake Island shall be collected as provided in this subpart and sent promptly to the Island Governor. The Island Governor schedules them and sends them to the FAA Assistant Administrator for the Pacific Region, in accordance with prescribed procedure.

**§ 165.289 Exceptions.**

The Island Governor may waive any requirement of this subpart when he determines that it is appropriate in an emergency case or is required for humanitarian reasons. The Island Governor shall report once each year to the Administrator, through the FAA Assistant Administrator for the Pacific Region, on the waivers granted by him under this section during the preceding fiscal year.

[F.R. Doc. 62-8985; Filed, Sept. 5, 1962; 10:12 a.m.]