

CHAPTER 3

Department of Commerce—Aeronautics Division

ARTICLE 1 GENERAL PROVISIONS

Statutory Authority: 1976 Code §§ 55-5-70, 55-5-170

3-1. Landing Aircraft on Beach.

It shall be unlawful for any aircraft to be landed or operated on any beach in South Carolina, except such areas as may be designated by the South Carolina Aeronautics Commission. (Filed in the Office of the Secretary of State August 20, 1945.)

3-3. Permit Required for Air Shows, Aerial Exhibitions, etc.

1. No person, firm, or corporation shall promote, sponsor, conduct, or cause to be displayed any aerial exhibition or air show on any airport within this State without an effective, current permit issued by the South Carolina Aeronautics Commission. Applications for permits must be filed with the South Carolina Aeronautics Commission at least ten (10) days prior to the scheduled date of proposed aerial exhibition or air show.

2. The South Carolina Aeronautics Commission shall furnish appropriate forms for application for waiver or permit without charge to the applicant. (Filed in the Office of the Secretary of State April 7, 1953.)

3-4. Pilot Regulations.

Pilots, with less than 200 hours certified time, shall not fly an aircraft, other than the model or type used in taking their primary instruction, until after they have taken three hours dual instruction under the supervision of a competent pilot on the model or type they intend to fly. Limited-commercial and private pilots, under this classification, shall, in addition to the dual instruction required above, complete two hours solo flight on the model or type aircraft they intend to fly, before carrying passengers as authorized in their certificate of competency. Both the dual and solo time required under this regulation will be certified to in the pilot's logbook by the supervising pilot. (Filed in the Office of the Secretary of State April 10, 1940.)

3-5. Registration of Spraying, Dusting and Seeding Aircraft.

1. No person piloting an aircraft shall engage in aerial spraying, dusting, seeding, or any similar operation within this state unless the aircraft being used shall have first been properly registered by the South Carolina Aeronautics Commission, which registration shall be issued without charge to applicant on appropriate forms to be furnished by the South Carolina Aeronautics Commission.

2. Prior to the issuance of a registration certificate by the South Carolina Aeronautics Commission the applicant must, under oath, certify that the aircraft which will be engaged in the operation of spraying, dusting, seeding, or any other agricultural operation or pest control shall be equipped with approved type safety belt and shoulder harness, provided further that the operator of the aircraft shall, at all times, wear the approved safety belt and shoulder harness while the aircraft is engaged in the operation of aerial dusting, spraying, seeding, or any other type of agricultural operation or pest control. (Filed in the Office of the Secretary of State April 7, 1953.)

ARTICLE 2

CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE

Statutory Authority: 1976 Code § 55-1-70

3-10. Certificate of Public Necessity and Convenience.

1.100. Authority.

No intrastate air carrier shall provide scheduled air service between points within the State of South Carolina, unless there is in force a certificate of public convenience and necessity issued by the South Carolina Aeronautics Commission authorizing such an air carrier to engage in such air transportation.

1.200. Application for Certificate.

No application for a certificate shall be received and filed by the Commission unless the same shall be in writing and verified with an original and seven copies. The application shall contain the following information:

- (1.) The name and address of the applicant and of its officers, if any, and full information concerning the financial condition and physical properties of the applicant.
- (2.) The complete route or routes over which the applicant desires to operate, together with the description of each aircraft intended to be used.
- (3.) A proposed schedule of the initial services to be offered and the fares and rates to be charged for the transportation of persons and property between the several points or localities to be served.
- (4.) Plats or maps showing the route or routes over which the applicant seeks authority to operate, on which shall be delineated the route or routes of existing air carriers, authorized by the Commission or any other responsible regulatory body to provide services competitive with or complementary to the proposed services.
- (5.) A brief statement explaining the need for the proposed new services.
- (6.) Every application filed with the Commission for a certificate shall be accompanied by a filing fee of \$500, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission, whether the application is approved or not, to defray operating expenses.

1.300. Public Hearing on Application.

Copies of the application shall be transmitted contemporaneously by certified mail, return receipt requested to the Civil Aeronautics Board, the Federal Aviation Administration and to any carrier or CAB certificated carrier which serves, or is authorized to serve, the route proposed to be served by the applicant, or any portion thereof. Copies also shall be served on the chief elected officials of the towns, cities and counties to be served. Upon receipt of the application in proper form, the commission shall set a date for public hearing which shall be conducted by the commission.

1.400. Appearance at Public Hearing.

Carriers certificated by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958, as now or hereafter amended, or by the Commission, together with any other interested party shall be afforded the right to appear and present evidence and arguments at such hearing on all issues involved. The final decision on the application shall be made by the Commission by written order setting forth its findings and served upon the parties in such manner as the Commission shall specify. The decision may grant in part or in whole the request set forth in the application or it may deny the request.

1.500. Revocation of Certificate.

Upon notice and hearing, certificates of public convenience and necessity shall be subject to revocation or suspension for violation of the Commission's rules or regulations, the regulations or laws of the United States, the State, or any authorized agency or board thereof. Any certificate revoked or suspended may be reinstated upon order of the Commission on its own motion or upon application of the air carrier, when the Commission finds reinstatement to be in the public interest. In addition to the

Commission, the chief elected officials of towns, cities, counties that the intrastate carrier serves are authorized to bring revocation actions before the Commission for disposition for good cause shown.

1.600. Special Temporary Suspension.

Upon application for suspension of any certificated point, the Commission may authorize a special temporary suspension. Such suspension, when authorized, shall be effective 30 days after the approval by the Commission and shall only remain effective, however, pending hearing and decision on the application if an interested person or party so requests. The special temporary suspension may be ordered for a maximum 90-day period, and may be renewed by the Commission for an additional 90-day period, if such additional time is required to complete the proceedings before the Commission, except that a stay of the Commission's decision on its own motion or by a court of competent jurisdiction will serve to continue the special temporary suspension until 10 days after termination of a review proceeding. Any notice of suspension shall be given to all elected officials in communities involved. It is also required that any application for suspension be accompanied by a properly executed statement setting forth the reasons for suspension. Any responses by interested persons or parties are due within 15 days of notification and filing with the Commission.

1.700. Certificate Exemption.

Upon application by an air carrier or other interested party, the Commission may, following a determination of necessity, exempt the passenger air carrier from the certificate provisions and upon a finding that such provisions impose an undue burden upon the carrier, a community, or area because of the immediate need for service including, but not limited to, conditions of national emergency, natural disaster or cessation of existing service by another carrier, except a cessation of existing service caused by a labor dispute, and that enforcement of such provision would be contrary to the public interest.

1.800. Transfer of Certificate.

No certificate of an air carrier operating under the provisions of these regulations may be sold, assigned, leased or transferred without the approval of the Commission. After public notice and public hearing, the Commission may disapprove such proposed sale, assignment, lease or transfer if it is found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith; that the proposed purchasers, assignee, lessee or transferee is unfit, unwilling or unable to undertake the services required by the certificate proposed to be sold, assigned, leased or transferred; or that the proposed sale, assignment, lease or transfer is not in the public interest. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of public convenience and necessity shall be accompanied by a transfer fee of \$150, which shall be retained by the Commission whether the lease, sale or transfer of the certificate is approved or not.

1.900. Violations.

Every person who violates or fails to comply with any rule or regulation of the Commission shall be subject to and shall pay a penalty not exceeding \$500 for each and every day of such violation. The penalty shall be recovered in any court of competent jurisdiction in the county in which the violation occurs. Suit for the penalty or penalties shall be instituted and conducted by the Attorney General of the State of South Carolina, or by the Solicitor in the county in which the violation occurs in the name of the State of South Carolina. Upon violation of any rule, regulation or order of the Commission, any circuit court of any county where such violation occurs shall have the power to restrain and enjoin any person from violating any of the rules, regulations, or orders of the Commission. Such injunctive relief may be granted upon the application of the Commission, the Attorney General, the proper Solicitor or competing air carrier. No bond shall be required when such injunctive relief is sought upon the application of the Commission, Attorney General or the Solicitor. Such relief may be granted in suits for penalties as provided in these regulations but suit for penalties shall not be a condition precedent to the injunctive relief provided hereby.

2.000. Petitions for Relief.

If any air carrier, or other party in interest be adversely affected by any decision or order of the Commission, it may appeal from such order within fifteen days after receipt to the Circuit Court of Lexington or Richland County. In an appeal from a Commission order other than a revocation or suspension of a certificate, the Commission's order shall be sustained unless there is not substantial

evidence to support it. Appeals from any Circuit Court order may be made to the Supreme Court under the rules provided in other appeals from the Circuit Court.

2.100. On Call Service

An air carrier operating “on call” as opposed to regular service between terminal points, is not subject to certification requirements; unless the Commission, after public notice and hearing, finds that the “on call” services significantly infringe on services provided under other certificates of public convenience and necessity authorized by the Commission.

2.200. Consolidation with Another Certificate.

Without the express authorization of the Commission, after public notice and hearing, no certificate of public convenience and necessity issued to one passenger air carrier under the provisions of these regulations shall be combined, united or consolidated with another such certificate issued to or possessed by another carrier.

2.300. Changes in Rates, Fares and Other Charges.

Changes in rates, fares and other charges for services authorized by certificates of public convenience and necessity must be filed with the Commission thirty (30) days in advance of the effective dates of the changes.

The Commission shall investigate, on its own or on complaints of interested parties, fare and charges and, after hearing, may suspend fares and charges which are unreasonable or unduly discriminatory or preferential.

2.400. Violation of Federal Safety Laws.

The Commission shall have the power to suspend and enforce the suspension of certificates of public convenience and necessity, issued by the Commission, upon a finding by any agency of the Federal government that an air carrier holding such certificates is operating in violation of any Federal safety law or regulation.

2.500. Additional Service.

Nothing contained in these regulations shall be construed as giving the Commission authority to require the establishment of service from or to terminals or to intermediate points not specified in the passenger air carrier’s certificate of public convenience and necessity unless the carrier makes application to establish such additional service.

2.600. Discontinuance of Service.

No air carrier holding a certificate of convenience and necessity issued by the Commission shall discontinue operations between any two or more terminals pursuant to such certificate without authority of the Commission. Operations may be discontinued upon 10 days written notice to the Commission and to such other persons as the Commission may require, upon a showing that the operations are unprofitable.

2.700. Investigation of Unlawful Activity.

When the Commission has reason to believe that any air carriers, including cargo and mail carriers are being operated without a certificate of public convenience and necessity as required or that the regulations are being violated or that a passenger air carrier is engaging in any other illegal activity, it shall investigate such activity and may, after a hearing, make its order requiring the owner or operator of the aircraft to cease and desist from any such unlawful activity. The Commission shall enforce compliance with such order under the powers vested in the Commission by these regulations.

2.800. Insurance.

The Commission shall require all air carriers including cargo and mail carriers to procure and maintain a minimum amount of insurance in such amounts as the Commission may determine.

The Commission may, after hearing, require any passenger air carrier to procure and maintain additional insurance in such amounts and upon such terms as the Commission may determine.

The Commission may at any time suspend the certificate of any passenger air carrier for failure to comply with the insurance required pursuant to this regulation or any other law.

2.900. Effective Date.

These rules and regulations shall become effective upon filing with the Secretary of State.