

## **CHAPTER 2**

### **Duties and Customs**

**Editor's note:** Former chapter 2 of this title on Import and Export Taxes (§§ 201-205) was repealed in its entirety by PL 9-139 § 2.

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## **SUBCHAPTER I**

### **General Provisions**

#### **§ 211. Short title.**

This chapter may be cited as the “Customs Act of 1996”.

**Source:** PL 9-139 § 5.

#### **§ 212. Definitions.**

In this chapter, except where otherwise specified, the following terms shall have the meanings stated below:

- (1) “*Ad valorem*” (Latin for “according to the value”) means a tax imposed at a rate equal to a percentage of value.
- (2) “Aircraft” includes airplanes, seaplanes, airships, balloons or any other means of aerial locomotion.
- (3) “Airport” means an official port of entry for aircraft as identified in or pursuant to title 18 of this code and amendments thereto.

(4) “Approved form” means a form approved by the Secretary of Finance.

(5) “Arrival” means the first time goods or passengers become subject to Customs control within the FSM or any subsequent time before reaching their final destination.

(6) “*Cannabis*” means a *cannabis* plant, whether living or dead, which includes, in any form, any flowering or fruiting tops, leaves, seeds, stalks or any other part of a cannabis plant and any mixture of parts of a *cannabis* plant.

(7) “CIF” means “costs, insurance, and freight” incurred for imported goods, and includes all costs and charges associated with the goods up through the time they are delivered to and unloaded at an FSM port of entry or post office.

(8) “Commissioner” means the Commissioner of Customs.

(9) “Congress” means the Congress of the FSM.

(10) “Container” means an article of transport equipment:

(a) of a permanent character and accordingly strong enough to be suitable for repeated use;

(b) specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading; and

(c) designed to be secured and/or readily handled, having corner fittings for these purposes.

(d) In addition, the following shipping term used with containers has the following meaning: “CY-CY” means all the goods packed in the container are for the one consignee and the container is consigned from container yard to another container yard and will not normally be unpacked at the wharf.

**Editor’s note:** Former subsection 212(10)(d)(i) has been incorporated into the main body of subsection 212(10)(d) for format consistency.

(11) “Controlled substance” means those described in sections 1119, 1121, 1123, 1125, and 1127 of title 11 of this code or successor provision of law.

(12) “Customs” means the FSM Department of Finance, Division of Customs.

(13) “Customs officer” means a person:

(a) employed by the FSM Department of Finance, Division of Customs;

(b) authorized in writing by the Secretary under this chapter to perform all of the functions of a Customs officer; or

(c) deputized in accordance with the provisions of section 268 of this chapter.

(14) “Duty” means any tax payable on the importation of goods, and “dutiable goods” means those goods subject to tax on their importation.

(15) “FOB” (“free on board”) means the value of goods when shipped for export, and includes all costs and charges up to the time of delivery of the goods on board the exporting vessel or aircraft.

(16) “Forfeiture” means the surrender of ownership of property to the FSM government following a breach of certain provisions of this chapter; it is independent of and in addition to any penalty imposed by this chapter.

(17) “FSM” means the Federated States of Micronesia.

(18) “Goods” means any type of merchandise, product, commodity, vehicle, moveable personal property, or commercial wares.

(19) “Importer” means any person by or for whom any goods are imported, and includes the consignee and any other person who is beneficially interested in the goods.

(20) “Master” means:

(a) In relation to a vessel the person in charge or command of the vessel;

(b) In relation to an installation the person in charge of the installation.

(21) “Narcotic drug” means those described in subsection (15) of section 1112 of title 11 of this code or successor provision of law.

(22) “On or about the body” means on or within the body, clothing, footwear, purse, handbag, or similar article.

(23) “Owner” means:

(a) In respect to goods, any person being or holding himself or herself out to be the owner, importer, exporter, consignee, agent or person possessed of, or having control of, or power of disposition over the goods;

(b) In respect of a vessel or aircraft, the owner of record, or a person acting as agent on behalf of the owner of record.

(24) “Package” includes every means by which goods for transportation may be cased, covered, enclosed, contained, or packed.

(25) “Person” means any individual, company, corporation, partnership, unincorporated association, or other business entity.

(26) “Pilot” means the person in charge or in command of an aircraft.

(27) “Place” means any location, building or site, and includes moveable locations such as a vessel or aircraft.

(28) “Port” or “Port of entry” means an official port of entry identified in or pursuant to title 18 of this code and amendments thereto.

(29) “President” means the President of the FSM.

(30) “Prohibited goods” means any goods the importation or exportation of which is prohibited under FSM law.

(31) “Regulations” means any regulations promulgated pursuant to this chapter.

(32) “Secretary” means the Secretary of the FSM Department of Finance.

(33) “Smuggling” means any importation or exportation, attempted importation or exportation, with the intent to defraud the FSM.

(34) “Stamp” means device or instrument used by a Customs officer to make a distinctive impression or imprint, to identify and evidence the clearance of imported or exported goods and the clearance of vessels or aircraft.

(35) “Unlawfully imported, exported, or carried goods” means any smuggled goods and any goods imported, exported, or carried in breach of the provisions of this chapter, or any other law of the FSM, or whose sale, possession or use is prohibited or contrary to restrictions imposed by the State into which the importation took place. The above defined phrase carries a like meaning wherever similarly stated in this chapter.

(36) “Vehicle” means every description of motorized carriage or other contrivance used or capable of being used as a means of transport on land.

**Source:** PL 9-139 § 6, modified.

**Cross-reference:** Title 11 of this code is on Crimes. Title 18 of this code is on Territory, Economic Zones and Ports of Entry.

### **§ 213. Limitations on liability.**

A Customs officer acting in good faith and according to the provisions of this chapter shall be immune from civil suit. The FSM Government is not liable for any loss or damage to any goods subject to the control of Customs except by the gross negligence or willful wrong of a Custom officer.

**Source:** PL 9-139 § 7.

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

**Editor’s note:** The word “Liability” in the title of this section has been changed to “liability” for grammatical consistency.

## **SUBCHAPTER II**

### **Import Duties**

#### **§ 221. Levy and rates.**

The following import duties are hereby levied on all products specified herein which are imported into the FSM:

(1) cigarettes, at the rate of \$0.025 per cigarette, provided that this rate shall increase by \$0.005 per cigarette on January 1 of each of the years 2007, 2009, 2011, 2013 and 2015;

- (2) tobacco, other than cigarettes, at the rate of 50 percent *ad valorem*;
- (3) perfumery, cosmetics, and toiletries, including cologne and other toilet waters, articles of perfumery, whether in sachets or otherwise, and all preparations used as applications to the hair or skin, lipsticks, pomades, powders, and other toilet preparations not having medicinal properties, at the rate of 25 percent *ad valorem*;
- (4) soft drinks, drink mixes, drink preparations, coffee, tea, and nonalcoholic beverages, at the rate of 25 percent *ad valorem*, provided, however, that any beverage having a fruit juice content of 25 percent or more by volume shall be at the rate of three percent *ad valorem*;
- (5) beer and malt beverages, at the rate of \$0.25 per 12 fluid ounces;
- (6) distilled alcoholic beverages, at the rate of 12 dollars per gallon;
- (7) wine at the rate of 30 percent *ad valorem*;
- (8) foodstuffs for human consumption, at the rate of three percent *ad valorem*; provided, however, that fresh and frozen fish and seafood, shall be at the rate of 25 percent *ad valorem*;
- (9) gasoline and diesel fuel, at the rate of five cents per gallon;
- (10) laundry bar soap, at the rate of 25 percent *ad valorem*; and
- (11) all other imported products, except those specified above, at the rate of four percent *ad valorem*.

**Source:** PL 9-139 § 9, modified; PL 13-60 § 1.

## **§ 222. Exemptions.**

(1) *Damaged, pillaged or faulty goods.* Upon receipt of a written request within 28 days of the goods' release from Customs control, the Secretary may authorize a refund of the whole or part of the duty paid, where any of the following conditions exist:

- (a) goods have been damaged, pillaged, lost or destroyed during the voyage;
- (b) goods have, while subject to the control of Customs, been damaged, pillaged, lost or destroyed; or
- (c) the Commissioner is satisfied that, owing to a fault or defect in any goods, the importer has received a reduction or a refund, in whole or part, of the price paid for the goods.

(2) *Goods imported for subsequent export.*

(a) Upon application to and approval by the Secretary, import duty paid on the following goods shall be refunded: goods imported for processing in the FSM, not otherwise used in the FSM, and subsequently exported from the FSM. For purposes of this subsection, raw materials or ingredients which are worked into or otherwise become part of a different or more finished product are deemed exported when that product is exported.

(b) Goods imported for processing are eligible for the duty refund when the finished products which the imported goods were processed into have been loaded on an aircraft or vessel for direct removal from the FSM and that aircraft or vessel has departed from the port. After they have been so loaded, the goods shall again be subject to import duty if they are unloaded or used in the FSM. With respect to importers primarily

engaged in importing for processing and subsequent export, the Secretary shall provide for waiving, by regulation rather than collecting and subsequently refunding, duties.

(c) Upon application to and approval by the Secretary, import duty shall be waived on the following goods: goods imported for transshipment through the FSM, not to be used in the FSM, which are securely stored while in the FSM and which are exported from the FSM within a reasonable time of import to the FSM, as defined by regulation. Should these goods not be exported within a reasonable time, the importer will be subject to a penalty equal to one-quarter of the import duty that would have been due if the goods were to be used in the FSM. Should these goods be removed from the secure storage facility or used in the FSM, they will be subject to the full import duty.

(d) The burden of proving that goods imported are for subsequent export shall be upon the importer/exporter as specified in regulations.

(3) *Goods carried in per trip abroad.* Each time an individual person enters or returns to the FSM from a foreign jurisdiction, he or she is entitled to bring into the FSM the following goods duty free, provided that such goods are for that person's own personal use or consumption and not for resale or exchange, and provided further that such person is permitted by applicable State law to possess, use, and consume such goods:

(a) up to 200 cigarettes;

(b) up to one pound of tobacco or 20 cigars;

(c) up to 52 fluid ounces or 1500 milliliters of distilled alcoholic beverages; and

(d) up to two hundred dollars (\$200) worth of goods other than tobacco products, beer and malt beverages, distilled alcoholic beverages, and wine.

(4) *Visitors' personal effects.* A visitor to the FSM may import *bona fide* personal effects into the FSM duty free, provided the goods are for the visitor's own personal use and will be taken with the visitor when he or she leaves the country.

(5) *Returning goods.* Goods produced or properly entered in the FSM which are subsequently removed from the FSM may be returned to the FSM duty free. The burden shall be on the owner of the goods to establish that the goods were either produced in the FSM or previously and properly entered.

(6) *Goods used in foreign aid projects.* An international organization, foreign contractor, or other foreign entity may import goods into the FSM duty free in connection with the performance of services or other conduct of business in furtherance of a foreign aid agreement entered into by the FSM, the terms of which require that such import shall not be subject to taxation by the FSM; provided that if and when such goods are subsequently sold in the FSM, import duty shall be due based on the sale amount. The duty, together with penalties and interest, shall be the joint and several personal liability of the importer and the purchaser and shall be secured by first liens on the goods and on the importer's property as hereinafter provided.

(7) *Certain fishing vessels and equipment.* Fishing vessels basing in the Federated States of Micronesia under a valid permit or license issued pursuant to title 24 of this code shall not be subject to the import duty on either the vessel or equipment installed in the vessel. This exemption shall apply to replacement parts and equipment imported by these fishing vessels as well.

(8) *Parcels which would generate a de minimis duty.* Parcels mailed or otherwise sent into the FSM, which would otherwise generate a *de minimis* duty, shall be exempt from import duty, provided that such goods are for the recipient's own personal use or consumption and not for resale or exchange. Parcels with values up to the amount specified in subsection (3)(d) of this section, shall be exempt.

(9) *Health, education and welfare related goods donated for humanitarian use.* Upon application to and



approval by the Secretary, the import duty on goods related to health, education or welfare donated without cost for humanitarian purposes, and not for resale, shall be waived or refunded; provided, however, that if and when any of such goods are subsequently sold in the FSM, import duty shall be due based on the sale amount. The duty, together with penalties and interest, shall be the joint and several personal liability of the importer and the purchaser and shall be secured by first liens on the goods and on the importer's property as hereinafter provided.

**Source:** PL 9-139 § 10; PL 10-10 § 1; PL 10-136 § 1; PL 10-149 § 1; PL 11-43 § 1; PL 11-70 § 1; PL 11-82 § 1, modified; PL 15-58 § 1.

**Cross-reference:** Title 24 of this code is on Marine Resources.

### **§ 223. Basis of import duty.**

(1) For purposes of determining the basis of import duties levied by this subchapter, the term “ad valorem” shall mean the CIF price of the subject item.

(2) If the Customs officer can reasonably determine the CIF price of imported goods, the import duty shall be payable on the CIF price.

(3) If the Customs officer cannot reasonably determine the CIF price of imported goods, the value for payment of duty shall be determined by the first of the following methods which is reasonably available to the Customs officer:

(a) FOB price plus actual insurance, freight, and other charges from the FOB location to the CIF location;

(b) The value of identical goods at the CIF location; or

(c) The value of identical goods at an earlier point plus actual insurance, freight, and other charges from that point to the CIF location.

(4) If the Customs officer cannot determine the CIF price or its equivalent through one of the foregoing methods, the value for payment of duty shall be determined by the appraisement, the cost of which shall be borne by the owner.

(5) No deduction of any kind shall be allowed from the CIF amount because of any special or sample discount, or on account of any other consideration by which a special reduction in price has been or might be obtained.

(6) Where there is a relationship between the buyer and seller of imported goods the consignee may be required to provide reasonable proof that the relationship did not influence the price paid or payable for the goods.

(a) To demonstrate the acceptability of the price paid or payable for the goods, the consignee shall supply to Customs details of:

(i) The way in which the buyer and seller organize their commercial relationship;

(ii) The way in which the price in question was arrived at; and

(iii) The price of identical merchandise, or similar merchandise, in sales to unrelated buyers in the FSM.

(b) Where Customs officials determine that the relationship has influenced the price paid or payable the CIF shall be determined by appraisalment, the cost of which shall be borne by the owner.

(7) If the value of imported goods is stated in a currency other than that of the FSM, then the basis of the import tax of such goods shall be calculated according to the ruling rate of exchange at the date of export of the goods.

**Source:** PL 9-139 § 11.

#### **§ 224. Lien on imported goods.**

All duties imposed on goods under this chapter, together with any penalties and interest thereon, shall constitute a lien on those goods having priority over all other claims and liens, except as provided in the Secured Transactions Act, and may be collected by levy upon those goods in the same manner as the levy of an execution.

**Source:** PL 9-139 § 12; PL 14-34 § 84.

#### **§ 225. Personal liability of importer.**

If any imported goods are removed, whether legally or illegally, from the dock, airport, or post office before payment of the full and correct duties thereon, the importer of the goods shall be personally liable for the payment of any duties not so paid, together with any penalties and interest thereon. If there is more than one importer, all such importers shall be jointly and severally liable.

**Source:** PL 9-139 § 13.

#### **§ 226. Lien on importer's property.**

The personal liability of an importer provided for in this chapter shall be secured by a lien on any personal property of that importer, having priority over all other claims and liens, except as provided in the Secured Transactions Act, and with the exception of liens imposed pursuant to subsection (2) of section 135 of this title, and may be collected by levy upon such property in the same manner as the levy of an execution.

**Source:** PL 9-139 § 14; PL 14-34 § 85.

#### **§ 227. Civil penalties and interest.**

The following penalties and interest shall be separate from and in addition to the criminal penalties imposed elsewhere in this chapter. It is the duty of an importer to know and declare, fully and accurately, the types, quantities, and values of all dutiable goods which he or she imports, and civil penalties and interest may not be avoided through lack of knowledge, however innocent such lack of knowledge may be.

(1) *Understatement.* If the amount of duty due on goods is understated when reasonably calculated on the basis of the documentary and other information provided to Customs officers, there shall be added to the amount of the understatement a penalty equal to the following percentage of the amount of the understatement:

- (a) 100% if the understatement is discovered by Customs officials before release of the goods;
- (b) 100% if the understatement is discovered and reported to Customs by an importer or owner and the full and correct duty, including penalties and interest, is paid within ten days after release of the goods; or
- (c) 200% otherwise.

(2) *Late payment.* Unless goods are entered and the duty thereon is paid within the time limit for entry established in section 238 of this chapter, there shall be added to the amount of duty due five percent of the duty if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not to exceed 100% in the aggregate.

(3) *Interest.* Any duty which is not paid before the earlier of the time limit for entry or release of the goods shall thereafter bear interest at the rate of 18% per annum until paid.

**Source:** PL 9-139 § 15, modified.

### SUBCHAPTER III

#### Customs Procedures and Offenses

##### **§ 231. Administration of Customs.**

(1) The Secretary of Finance shall appoint Customs officers.

(2) *Customs locks and seals.*

(a) *Official locks and seals.* All courts and all persons shall take notice of any official lock or seal used by an officer during the course of his/her duties and shall presume, until shown otherwise, that the lock or seal was fastened by the proper authority.

(b) *National offense.* Any person who willfully disregards, alters, breaks, or interferes with a lawfully affixed Customs lock or seal is guilty of a National offense.

(c) *Penalty.* A person convicted under this subsection shall be subject to a fine not exceeding \$1,000, or imprisonment of not more than one year, or both.

(3) *Customs stamps.*

(a) *Stamped impression.* All courts and all persons shall take notice of a stamped impression made by an officer during the course of his/her duties and shall presume, until shown otherwise, that the impression was made by the proper authority.

(b) *National offense.* Any person who willfully disregards, alters or attempts to alter, or unlawfully duplicates a Customs stamp is guilty of a National offense.

(c) *Penalty.* A person convicted under this subsection shall be subject to a fine not exceeding \$1,000, or imprisonment of not more than one year, or both.

(4) *Working days and hours.* The working days and hours of the Division of Customs are Monday through Friday, 8:00 a.m. through 5:00 p.m., except for National holidays or as prescribed by Public Service System Regulations.

(a) Except when the working of overtime is authorized in advance by the Commissioner, cargo should be cleared and passengers landed from vessel or aircraft only on working days and during working hours.

(b) Any person may request that the Commissioner arrange for an officer to be made available to perform a function at a place outside of the hours prescribed under paragraph (a) of this section. Such person shall pay to the FSM Government such fee as is set by the Secretary, reflecting the cost of making officers available.

(5) *Insurance.* The Commissioner is authorized to provide insurance coverage for Customs officers who undertake hazardous duties.

(6) *Annual report.* Within 60 days of the end of each fiscal year the Division of Customs will provide for Congress an annual report on its activities setting out the following details:

- (a) overview;
- (b) revenue:
  - (i) revenue collected;
  - (ii) cost of collection;
  - (iii) costs recovered;
  - (iv) entries passed;
- (c) enforcement:
  - (i) invoices appraised;
  - (ii) vessels and aircraft searched;
  - (iii) goods seized;
  - (iv) prosecutions and convictions;
- (d) Staff;
- (e) Plan for the next year.

(7) *Customs officers' authority to arrest.*

(a) When authorized by the Secretary, a Customs officer shall have the authority given to a policeman under section 211 of title 12 of this code, or successor provision of law, to make an arrest without warrant for an offense defined under this chapter.

(b) The Secretary shall, on consultation with the Attorney General, establish procedures for arrest and disposition of criminal suspects by Customs officers.

**Source:** PL 9-139 § 17.

**Cross-reference:** Title 12 of this code is on Criminal Procedure. The statutory provisions on the President and Executive are found in title 2 of this code.

### **§ 232. Duties of controlling authorities.**

(1) The controlling authority of every port, airport or transit building shall provide and maintain at the port, airport or transit building, to the satisfaction of the Secretary the following;

(a) staff accommodation and facilities for the use of Customs officers, at such place or places as the Secretary may direct; and

(b) suitable transit buildings as the Secretary may declare as necessary in respect to the port or airport, together with suitable weighing appliances for use by Customs officers.

(2) The controlling authority of every port, airport or transit building shall store goods subject to the control of Customs in such manner and place as the Commissioner or other proper officer of Customs may direct.

**Source:** PL 9-139 § 18.

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

### **§ 233. Cooperation with other National and State authorities.**

The Secretary is authorized to enter into Memorandums of Understanding with other National and State authorities to allow the Division of Customs to provide assistance in the enforcement of any National or State law.

(1) *Taxation.* The Division of Customs is authorized to exchange information with other National or State authorities to ensure the proper and correct collection of taxes.

(2) *Statistics.*

(a) The Division of Customs is responsible for the collection of statistical data on the importation and exportation of goods and providing this information to the Division of Statistics.

(b) The Secretary is authorized to introduce classification schedules and associated computer software to assist with this function.

(3) *Quarantine.* The Secretary may accept an appointment made by the Secretary of the FSM Department of Resources and Development, regarding the empowering of Customs officers to perform agriculture quarantine inspections, pursuant to section 407 of title 22 of this code or any successor provision.

(4) *Food safety.* The Secretary may accept an appointment by the Secretary of the FSM Department of Health Services regarding the empowering of Customs officers to perform food safety inspections pursuant to 41 F.S.M.C. 1013 (National Food Safety Act) or any successor provision.

(5) *Immigration.* The Secretary may accept an appointment made by the FSM Office of the Attorney General regarding the empowering of Customs officers perform immigration inspections pursuant to section 108 of title 50 of this code or any successor provision.

(6) *Community, social, environmental and antiquities protection.* The Division of Customs will monitor imports and exports on behalf of other National and State agencies to ensure compliance with legislation and international agreements, ratified by the FSM, dealing with community, social, environmental and antiquities protection.

**Source:** PL 9-139 §19, modified.

**Cross-reference:** Title 22 of this code is on Agriculture and Livestock. Title 41 of this code is on Public Health, Safety, and Welfare. Chapter 10 of title 41 is on the National Food Safety Act. Title 50 of this code is on Immigration.

### **§ 234. Customs control of goods.**

(1) *Goods subject to Customs control:*

(a) Imported goods, from the time of their importation until applicable duties are paid and the goods are released or until their exportation to any country outside of the FSM.

(b) All goods for export, from the time such goods are brought to any port, airport or other place for export until their exportation to any country outside of the FSM.

(c) Goods imported or exported through the Post Office are subject to the control of the Customs in the same manner as goods otherwise imported or exported.

(2) *Non-routine examinations.* Where, for the purposes of section 235 of this chapter, examination at the dock or airport is impracticable, shipments may, subject to approval by a customs officer of a written undertaking in the approved form, be removed to the owner's premises for examination.

(3) *CY-CY Containers.*

(a) CY-CY container shipments or similar shipments may be delivered to a final destination other than the dock, upon the approval of a Customs officer.

(b) The consignee shall notify the Division of Customs of the delivery of the shipment and shall not open the container without the approval of a Customs officer.

(c) Customs officers shall be given access to any CY-CY container or similar shipment at the owner's premises for the purposes of any section of this chapter.

(4) *Removal of goods.* Goods removed from the dock or airport pursuant to subsections (2) and (3) of this section remain subject to Customs control until the examination has been undertaken and a Customs officer has authorized their release.

(5) *National offense.* Any person who, otherwise than by authority and in accordance with this chapter, moves, alters or interferes with goods subject to the control of Customs, is guilty of a National offense.

(6) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 20.

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

### **§ 235. Right of examination.**

A Customs officer shall have the right to examine all goods subject to Customs control.

(1) *Examination of goods.* In carrying out the examination of goods:

(a) Any Customs officer may open packages and examine, weigh, mark and seal any goods.

(b) Where, shipment has been removed to the owner's premises for examination, Customs officers shall be granted access to the shipment for the purposes of this section. The expenses of the examination, including the cost of removal to the place of the examination, shall be borne by the owner.

(2) *Search of residences, building and premises.* Any officer, with legally sufficient grounds to believe goods that may be forfeited pursuant to section 253 of this chapter are present and, pursuant to a search warrant required by law, may enter any residence, building or premise to search for and seize such goods.

(3) *Search of persons.*

(a) Where a Customs officer on reasonable grounds believes a person who has just landed from or is about to board a vessel or aircraft has dutiable or prohibited goods on or about his or her person, the officer may, subject to the following conditions, search and detain that person and may use reasonable force to carry out the search.

(b) No search shall be undertaken unless another officer or person is present as a witness.

(c) Searches shall be undertaken by an officer or person of the same gender unless there are reasonable grounds for believing the person being searched may resist the search or, despite diligent efforts to procure an officer or person of the same gender, no such person is available to undertake the search.

(d) Body cavity searches shall be carried out by a qualified medical officer.

**Source:** PL 9-139 § 21.

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

**§ 236. Use of aids by Customs officers.**

In exercising any power of examination or search under this chapter, any officer of Customs or any member of the Police assisting him may have with him and reasonably use for the purposes of examination or searching, any trained animal, or any mechanical, electrical, or electronic device generally accepted for use in such activities.

**Source:** PL 9-139 § 22.

**§ 237. Owners having possession of dutiable goods.**

An owner shall be personally liable for any duty payable when, while in possession or custody of goods subject to the control of Customs, that person fails to;

- (1) keep them safely, or
- (2) satisfactorily account for them to an officer of Customs.

**Source:** PL 9-139 § 23.

**§ 238. Importation of goods.**

(1) *Arrival procedures.* On arrival of a vessel or an aircraft at any port in the FSM the master or pilot of such vessel or aircraft shall deliver to the Customs officer:

- (a) Copies of the manifest; and
- (b) All bills of lading and air waybills for cargo to be discharged at that particular port.

(2) *Time limit for entry.* Each consignee of imported goods shall make entry of those goods at the local Customs office within 15 days after departure of the importing vessel or aircraft, exclusive of Sundays and FSM national holidays. To enter goods means to notify Customs officials of the arrival of those goods and to comply with all Customs requirements in connection therewith.

(3) *Verification of entry:*

(a) Entry shall be verified by the presentation to Customs by the consignee, or authorized agent of the consignee, of a completed and signed entry form together with a non-negotiable bill of lading or an air waybill and vendor's invoices for the imported goods.

(b) The consignee shall answer any questions relating to the goods and, upon request of a Customs officer, furnish any other documentation deemed necessary for:

- (i) a proper assessment of the duties on the merchandise;
  - (ii) the proper collection of accurate statistics with respect to the merchandise being imported;
- and
- (iii) a determination of whether any other applicable legal requirements have been met.



(c) The approved entry from shall set forth such facts in regard to the importation as the Secretary may require for the inspection, appraisalment, payment of import taxes and for the collection of statistics.

(4) *Releasing of goods.* Customs personnel shall, on satisfactory examination of the above documents, and payment of the correct duty, stamp and release the imported goods.

(5) *Personal Baggage.* Goods that are the personal baggage of passengers in a vessel or aircraft and are not taxable goods may be released without entry.

(6) *Importation defined:*

(a) Goods shall, except where otherwise expressly provided, be deemed to be imported into the FSM as soon as and in any manner, whether lawfully or unlawfully, they are brought or come within the territorial limits of the FSM from any country outside those limits. For purposes of this chapter, the territorial limits of the FSM include the territorial sea, as defined in chapter 1 of title 18 of this code.

(b) Goods whose destination is outside the territorial limits of the FSM, including ship's stores and aircraft stores, shall not be deemed to be imported unless, while they are within those limits, they are removed from the vessel or aircraft in which they arrived there.

(c) Imported goods intended for use, sale, or other disposition within the territorial sea or internal waters of the FSM must first be brought to a port of call and cleared through Customs.

(d) Vessels or aircraft entering into the territorial limits of the FSM solely in transit or for loading, unloading, transshipping, provisioning, refueling, other resupply, equipping, maintenance, repair, overhaul, and other like purposes shall not be deemed to be goods imported into the FSM unless such vessels or aircraft thereafter become based in the FSM.

(7) *Import tax rate.* Dutiable goods shall be liable to the duty rates at the time when the aircraft or vessel first arrives at a designated port of entry within the FSM.

(8) *Clearing goods prior to arrival.* Each consignee of imported goods, may, provided he or she has the required documentation, clear those goods prior to arrival of the vessel or aircraft. This does not waive or limit the authority of Customs to examine those goods on arrival.

(9) *Exempt goods.* All tax exempt goods shall be identified and cleared on the official clearance form.

(10) *Abandoned goods:*

(a) Goods remaining unentered three months after the departure of the importing vessel or aircraft shall be treated as goods abandoned to the National Government and may be sold by public auction.

(b) Proceeds of such sale shall be deposited in the General Fund and used first to pay expenses of sale, duties, storage charges, and any lien for freight changes, in said order. Surplus proceeds may be paid to the owner upon proof of his or her interest therein.

**Source:** PL 9-139 § 24, modified.

**Cross-reference:** Chapter 1 of title 18 (Territory, Economic Zones and Ports of Entry) is on Territorial Boundaries and Economic Zones.

**§ 239. Prohibited and restricted imports.**

It shall not be lawful to import into the FSM any goods whose use, sale, possession or import is prohibited or contrary to restrictions imposed by the FSM or the State into which the goods are imported, unless the importer has a valid permit or license to import such goods.

**Source:** PL 9-139 § 25.

**§ 240. Prohibited and restricted exports.**

It shall not be lawful to export from the FSM any goods whose use, sale, possession or export is prohibited or contrary to restrictions imposed by the FSM or the State from which they are being exported, unless the exporter has a valid permit or license to export such goods.

**Source:** PL 9-139 § 26.

**§ 241. Production of documents.**

(1) Where a Customs officer is not satisfied with the facts as presented in documents relating to a particular shipment or arrival or departure of a vessel or an aircraft, the officer may require the owner to produce further documents and answer any questions relating to them.

(2) *Summons.*

(a) For the purpose of enforcing this chapter and determining the amount of duty due, the Secretary shall be authorized to summon the importer or owner of imported goods to appear before the Secretary or his designee and at such appearance to produce such documents as specified in the summons and to answer any questions relating to said documents.

(b) The provisions of paragraph (a) of this subsection shall also apply to any officer, employee or agent of the person(s) described in paragraph (a) of this subsection, or any third party having possession, custody, or care of the documents relating to the goods in question.

**Source:** PL 9-139 § 27.

**§ 242. Boarding and searching vessels and aircraft on arrival.**

(1) *Boarding, searching, and answering questions.* A Customs officer may:

(a) board any vessel or aircraft on its arrival in the FSM. The hoisting or displaying of a foreign flag will be taken as consent to board;

(b) search any vessel or aircraft on arrival in the FSM;

(c) require all persons found on the vessel or aircraft to answer questions, and produce documents in relation to:

- (i) the vessel or aircraft, its voyage or flight, and its cargo, stores, crew and passengers; or
- (ii) the presence of those persons on the vessel or aircraft.

(2) *Arming of officers.*

(a) Where the Commissioner has reasonable cause to believe any person on board any vessel or aircraft bears firearms, the Commissioner is authorized to direct that the officers boarding the vessel or aircraft be armed.

(b) All occasions when Customs officers are armed while boarding shall be reported to the FSM Office of the Attorney General.

**Source:** PL 9-139 § 28, modified.

**Cross-reference:** Chapter 1 of title 18 (Territory, Economic Zones and Ports of Entry) is on Territorial Boundaries and Economic Zones.

**Editor's note:** In subsection (1) of this section, the first word in all of the paragraphs of this subsection are changed to lower case to comport with standard code formatting.

### **§ 243. Patrolling of coasts and inspections of airports and ports.**

Any Customs officer and any person acting in his aid may, at any time and using such means of transport as the officer, or person, considers appropriate:

(1) patrol upon and pass freely along and over any part of the seashore or on the shores, banks or beaches of any port, bay or harbor, or over any part of the land immediately adjoining the seashore, shores, or banks, and on any structures extending from the seashore, shores, or banks; and

(2) enter and inspect any airport or port, their facilities and goods therein; and may remain in any such area to carry out investigations and to exercise surveillance for the detection of offenses against this chapter and for these purposes may make use of any examination or surveillance aids.

**Source:** PL 9-139 § 29.

**Editor's note:** The first letter of subsection 243(2) has been changed to lower case for format consistency.

### **§ 244. Mooring vessels of Customs.**

The officer in charge of any vessel employed in the service of Customs may haul the vessel upon any part of the seashore or of the shores or banks of any port, bay, or harbor, or upon any part of the land immediately adjoining the seashore, shores or banks, and moor the vessel there.

**Source:** PL 9-139 § 30.

#### **§ 245. Stopping of vehicles.**

(1) A Customs officer or officer of the FSM National Police may, on reasonable suspicion, stop and search any vehicle for the purpose of ascertaining whether any dutiable or prohibited goods are contained therein.

(2) The driver shall stop and permit such search when signaled to do so.

(3) Any driver who willfully fails to stop and permit such search, when signaled to do so, is guilty of a National offense.

(4) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 31.

#### **§ 246. Bringing to or landing other than at official port of entry.**

(1) The master of a vessel or pilot of an aircraft who willfully fails to comply with section 201 of title 18 of this code is guilty of a National offense.

(2) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 32.

**Cross-reference:** Section 201 of title 18 (Territory, Economic Zones and Ports of Entry) is on Ports of Entry.

#### **§ 247. Bringing to or landing on signal.**

(1) If the master of a vessel within the territorial limits of the FSM willfully fails to bring the vessel to for boarding on being approached by, or hailed or signaled from:

(a) a vessel or aircraft in the service of Customs, that has hoisted the Customs flag; or

(b) a vessel or aircraft in the service of the FSM Government, that has hoisted the proper ensign and pendant or displays the proper signal; the master is guilty of a National offense.

(2) If the pilot of an aircraft within the territorial limits of the FSM willfully fails to bring the aircraft to the nearest airport for boarding on being approached by, or hailed or signaled from:

(a) a vessel or aircraft in the service of Customs, that has hoisted the Customs flag; or

(b) a vessel or aircraft in the service of the FSM Government that has hoisted the proper ensign and pendant or displays the proper signal; the pilot is guilty of a National offense.

(3) *Penalty.* A person convicted under this section shall be subject to fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 33.

**Editor's note:** The first word "A" in all of the paragraphs of this section are changed to lower case to comport with standard code formatting.

#### **§ 248. Facilitation of boarding.**

(1) Where for the purposes of sections 242 and 247 of this chapter, a master of a vessel or a pilot of an aircraft willfully fails to facilitate by all reasonable means boarding by a person authorized under this chapter, such master or pilot is guilty of a National offense.

(2) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 34.

#### **§ 249. Report of cargo.**

(1) The master, owner or pilot of a vessel or aircraft arriving from a place outside the FSM is guilty of a National offense if that person willfully fails:

(a) to report, within one day after the arrival at a port or airport, the vessel or aircraft and her cargo by delivering to Customs an inward manifest, in duplicate, of goods for the port or airport;

(b) to answer questions relating to the vessel or aircraft and her cargo, crew, passengers, stores and voyage; or

(c) to produce documents relating to the vessel or aircraft and her cargo.

(2) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 35.

**Editor's note:** The first word "To" in all of the paragraphs of this section are changed to lower case to comport with standard code formatting.

### **§ 250. Report of wrecked vessel or aircraft.**

(1) When any vessel from outside the FSM is lost or wrecked upon the coast, the master or owner shall without unreasonable delay make report of the vessel and her cargo to the Customs office nearest to the place where the vessel was lost or wrecked.

(2) When any aircraft arriving from outside the FSM is lost or wrecked at any place within the FSM, the pilot or owner shall, without unreasonable delay, make report of the aircraft and cargo to the Customs office nearest to the place where the aircraft was lost and wrecked.

(3) Any master or owner of a vessel lost or wrecked, or pilot or owner of an aircraft lost or wrecked, who fails to report such loss or wreck to Customs is guilty of a National offense.

(4) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$1,000, or imprisonment of not more than one year, or both.

**Source:** PL 9-139 § 36.

### **§ 251. Vessel and aircraft adapted for smuggling.**

(1) The master or owner of a vessel or the pilot or owner of an aircraft shall be guilty of a National offense if the vessel or aircraft comes or is found within the territorial limits of the FSM having;

(a) false bulkheads, bows, sides, or bottoms, or any other secret or disguised place adapted for the purpose of concealing goods; or

(b) any hole, pipe, or device adapted for the purpose of unlawfully importing or exporting goods.

(2) *Penalty.* A person convicted under this section shall subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 37.

**Editor's note:** In subsection (1) of this section, the first word in the two paragraphs of this subsection are changed to lower case to comport with standard code formatting.

### **§ 252. Forfeited vessels and aircraft.**

The following vessels and aircraft may be forfeited to the FSM Government:

- (1) Any vessel or aircraft used to unlawfully import, export, or carry any goods, where an owner or master knew or, but for the intentional disregard of objective facts, should have known, that such vessel was so used;
- (2) Any vessel the master of which has refused to permit such vessel to be boarded following a lawfully made request to do so;
- (3) Any aircraft failing to land at an airport, or the master of which has refused to permit such aircraft to be boarded, after being properly requested to do so; and
- (4) Any vessel or aircraft from which goods are thrown overboard, staved or destroyed to prevent seizure by Customs.

**Source:** PL 9-139 § 38.

### **§ 253. Forfeited goods.**

The following goods may be forfeited to the FSM Government:

- (1) All goods which are unlawfully imported, exported, or carried;
- (2) All goods found on any vessel or aircraft after arrival in any port or airport which are not specified or referred to in the inward manifest and are not baggage belonging to crew or passengers and have not been satisfactorily accounted for;
- (3) All goods subject to the control of Customs that are moved, altered or interfered with in violation of the provisions of this chapter;
- (4) All goods which are, as specified by statute or as directed by a Customs officer, to be moved or dealt with in any way and which are not moved or dealt with in any way and which are not moved or dealt with accordingly;
- (5) Any vehicle or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods;
- (6) All goods, except a passenger's baggage, found on any vessel or aircraft after clearance and not specified or referred to in the outward manifest and not accounted for to the satisfaction of the Commissioner;
- (7) All dutiable goods concealed in any manner;
- (8) Any package in which there are concealed goods:
  - (a) not included in the clearance documents; or
  - (b) so packed as to deceive the officer.
- (9) All dutiable goods found in the possessions or in the baggage of any person who has got out of, landed from or gone on board any vessel or aircraft and who has denied that he or she has any dutiable goods in his or her possession, or who when questioned by a Customs officer has not fully disclosed that such goods are in his or her possession or baggage;
- (10) Any stolen or counterfeit goods.

**Source:** PL 9-139 § 39.

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

**Editor's note:** In subsection (8) of this section, the first word in the two paragraphs of this subsection are changed to lower case to comport with standard code formatting.

### **§ 254. Seizure of goods.**

(1) A Customs officer or officer of the FSM National Police may seize any forfeited goods or any goods that the officer believes on reasonable grounds are forfeited goods.

(2) The power to seize goods under subsection (1) of this section may, without limiting the power of that subsection, be exercised at sea or in any other waters.

(3) All seized goods shall be taken to the nearest National Government warehouse or to such other place of security as the Commissioner directs.

(4) All seized goods must be endorsed on an appropriate receipt.

(5) If the Commissioner determines that any goods are of a perishable nature or are live animals, such goods may be sold by the Commissioner without delay.

**Source:** PL 9-139 § 40.

### **§ 255. Notice of seizure.**

(1) Where any vessel, aircraft or goods have been seized as forfeited, the seizing officer shall give written notice of the seizure and of the cause of it to the master, pilot or owner of the vessel, aircraft or goods delivering the notice:

(a) personally; or

(b) by letter addressed to him or her and transmitted by post to or delivered at his or her last known place of abode or business.

(2) If the master, pilot or owner is present at the time of the seizure verbal notice is sufficient.

**Source:** PL 9-139 § 41.



**Editor's note:** In subsection (1) of this section, the first word in the two paragraphs of this subsection are changed to lower case to comport with standard code formatting.

### **§ 256. Return of seized goods on security.**

The Secretary may authorize any vessel, aircraft or goods seized, other than controlled substances or narcotic drugs, to be delivered to the owner or agent upon production of adequate security.

**Source:** PL 9-139 § 42.

### **§ 257. Appeal procedures on the forfeiture of goods.**

(1) Any person claiming an interest in goods, or acting on behalf of a person claiming an interest in goods, may appeal their forfeiture.

(2) Form and time of appeal:

(a) The Secretary or his designee may prescribe the form of the notice of appeal and statement of claim.

(b) Notice of appeal, supported by a statement of claim, shall be filed with the Secretary or his designee within 30 days of the date of issuance of the notice of seizure.

(c) With the permission of the Secretary or his designee, the appellant may file supplementary documents after the 30 day period lapses.

(d) Every statement of claim shall set out the interest of the appellant in the goods and shall be accompanied by proof of the existence and nature of the interest. In addition to this the statement will set forth clear and specific reasons why forfeiture should not proceed.

(3) On any such appeal, the Secretary or his designee may waive the forfeiture either in whole or in part, and may impose conditions on the waiver of forfeiture.

(4) Any such waiver may require that there shall be paid to the National Government in respect of the goods, a sum equal to the whole or any part of any one or more of the following:

(a) any costs or expenses incurred by the Customs;

(b) any duty (including penalties and interest) not already paid;

(c) any duty (including penalties and interest) already refunded.

(5) Goods seized shall be deemed to be forfeited to the National Government, if no notice of appeal and statement of claim is filed with the Secretary or his designee within 30 days of the date of issuance of the seizure notice.

(6) Any decision of the Secretary or his designee in respect of forfeiture may be appealed to the Trial Division of the Supreme Court within 60 days after the decision is rendered.

**Source:** PL 9-139 § 43.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The statutory provisions on Judicial Procedures are found in title 6 of this code.

**Editor's note:** In subsection (4), the first word "Any" in all of the paragraphs of this subsection are changed to lower case to comport with standard code formatting.

### **§ 258. Disposal of forfeited goods, aircraft, and vessels.**

All forfeited goods, aircraft, and vessels shall become the property of the National Government and shall be sold, destroyed, or otherwise disposed of as the Secretary or Commissioner may direct.

**Source:** PL 9-139 § 44.

### **§ 259. Conspiracy for unlawful purposes.**

(1) If two or more persons willfully conspire for the purpose of:

(a) importing prohibited or restricted imports;

(b) exporting prohibited or restricted exports;

(c) smuggling; or

(d) preventing the seizure of any prohibited or restricted imports, prohibited or restricted exports, or smuggled goods, then each of them is guilty of a National offense.

(2) So far as it relates to prohibited and/or restricted imports and exports, this section also applies to all controlled substances and narcotic drugs.

(3) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$10,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 45.

**Cross-reference:** Chapter 11 of title 11 (Crimes) of this code is on Controlled Substances.

**Editor's note:** In subsection (1) of this section, the first word in all of the paragraphs of this subsection are changed to lower case to comport with standard code formatting.

**§ 260. Smuggling and unlawful importing and exporting.**

(1) A person commits a National offense if that person willfully smuggles or otherwise unlawfully imports, exports or carries goods as defined in section 212 of this chapter.

(2) A person commits a National offense if that person is the owner or master of a vessel or the owner or pilot of an aircraft who uses or willfully permits the vessel or aircraft to be used:

(a) in smuggling; or

(b) for the other unlawful importation, exportation, or carriage of any goods as defined by section 212 of this chapter.

(3) *Penalty.* A person convicted under this section will be subject to a fine not exceeding \$10,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 46.

**Editor's note:** In subsection (2) of this section, the first word in the two paragraphs of this subsection are changed to lower case to comport with standard code formatting.

**§ 261. Attempts, solicitations, conspiracies.**

Any person who willfully attempts, solicits, or conspires to commit any National offense defined in this chapter shall be subject to the penalties provided in chapter 2 of title 11 of this code except where otherwise provided in this chapter.

**Source:** PL 9-139 § 47.

**Cross-reference:** Chapter 2 of title 11 (Crimes) of this code is on Inchoate Crimes.

**§ 262. Bribery.**

For the purpose of section 531 of title 11 of this code, regarding bribery, or its successor provision, each Customs officer has a "known legal duty" to enforce the law, including investigating each container, vessel or aircraft to the best of that officer's ability and levying the correct duties, as provided by law.

**Source:** PL 9-139 § 48.

**Cross-reference:** Section 531 of title 11 (Crimes) of this code is on Bribery in official and political matters.

**§ 263. Offenses in relation to drugs.**

(1) A person is guilty of a National offense who:

(a) without any reasonable excuse has in his or her possession, on board any vessel or aircraft, any controlled substances, *cannabis*, or narcotic drugs;

(b) imports or attempts to import any controlled substances, *cannabis*, or narcotic drugs;

(c) exports or attempts to export any controlled substances, *cannabis*, or narcotic drugs;

(d) without reasonable excuse has in his or her possession, or attempts to obtain possession of, any controlled substances, *cannabis*, or narcotic drugs which have been imported into the FSM in contravention of this chapter;

(e) conspires with another person or other persons to import, bring, or cause to be brought into the FSM any controlled substances, *cannabis*, or narcotic drugs;

(f) knowingly aids, abets, counsels or procures, or is in any way concerned in, the importation or exportation into the FSM of any controlled substances, *cannabis*, or narcotic drugs;

(g) fails to disclose to a Customs officer on demand any knowledge in that person's possession or power concerning the importation or exportation, or intended importation or exportation, into the FSM of any controlled substances, *cannabis*, or narcotic drugs;

(2) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

**Source:** PL 9-139 § 49.

**Cross-reference:** Chapter 11 of title 11 (Crimes) of this code is on Controlled Substances.

**Editor's note:** In subsection (1) of this section, the first word in all of the paragraphs of this subsection are changed to lower case to comport with standard code formatting.

**§ 264. Miscellaneous offenses.**

(1) A person commits a National offense if that person:

(a) evades any duty that is payable;

(b) willfully prepares, passes, alters or presents a document purporting to be a genuine invoice that is not in fact a genuine invoice;

(c) willfully makes, in a declaration or document produced to a Customs officer, a statement that is untrue in any particular;

(d) willfully produces or delivers to a Customs officer a declaration or document containing a statement that is untrue in any particular;

(e) willfully misleads any Customs officer in any particular likely to affect the discharge of the officer's duty; or

(f) refuses or fails to answer questions to the best of that person's knowledge and belief, or to produce all documents relating to the concerned subject.

(2) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$1,000, or imprisonment of not more than one year, or both.

**Source:** PL 9-139 § 50.

**Editor's note:** In subsection (1) of this section, the first word in all of the paragraphs of this subsection are changed to lower case to comport with standard code formatting.

### **§ 265. Liability of principal for acts of agents.**

(1) Every act done by an agent in the course of his agency in relation to the provisions of this chapter, shall be deemed to have been made or done by his or her principal also, and the principal shall be liable accordingly for all civil penalties imposed by this chapter.

(2) For the purpose of this section the knowledge and intent of the agent within the course and scope of his agency shall be attributed to the principal in addition to his own.

**Source:** PL 9-139 § 51.

### **§ 266. Written authority of agents.**

Any Customs officer may require any person acting as or claiming to act as the agent of any person in any matter relating to this chapter to produce written authority from his principal, and if such authority is not produced the officer may refuse to recognize the agency.

**Source:** PL 9-139 § 52.

### **§ 267. Regulations.**

The Secretary of Finance may adopt, amend, or rescind regulations for the administration of this chapter

pursuant to chapter 1 of title 17 of this code.

**Source:** PL 9-139 § 53.

**Cross-reference:** Chapter 1 of title 17 (Administrative Procedure) of this code is on FSM Administrative Procedures.

### **§ 268. Assistance from the public.**

(1) Where necessary, a Customs officer may call upon and deputized any member of the public to assist in the execution of that officer's duty under this chapter.

(2) Any such member of the public, so deputized, shall have the same powers and immunity as the officer such person is assisting.

**Source:** PL 9-139 § 54.

### **§ 269. Implementation.**

(1) To give effect to the provisions of this chapter the Secretary is authorized to:

- (a) draw up and implement procedures and guidelines;
- (b) distribute such procedures and guidelines to interested parties;
- (c) appoint appraisers in each of the States to examine invoices presented to Customs.

(2) The Division of Customs is authorized to become a member of and to send representatives to meetings of;

- (a) organizations that foster cooperation between Pacific Island Nations Customs Divisions;
- (b) organizations that will increase the expertise and efficiency of the Customs Division.

**Source:** PL 9-139 § 55.

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

**Editor's note:** In this section, the first word in all of the paragraphs of the two subsections are changed to lower case to comport with standard code formatting.

**§ 270. Protests against the decision of a Customs officer.**

Decisions of the appropriate Customs officer are final and conclusive upon all parties unless a protest is filed. The following conditions apply:

- (1) A protest must be in writing and set forth clearly and specifically:
  - (a) each decision by a Custom officer to which the protest is made;
  - (b) each category of merchandise affected by each such decision to which the protest is made;
  - (c) the nature of each objection and the reasons therefor; and
  - (d) the correct amount of duty payable, if the protest were upheld.
- (2) The protest shall be lodged with the Customs office where the decision under protest was made.
- (3) The protest must be filed within 30 calendar days after the date of the decision that is protested.
- (4) Failure to pay the levied duty in full will be a basis for denial of the protest. If the protest is upheld, any excessive levy of import duty will be returned to the importer.
- (5) The Secretary or his designee shall review the evidence and render a decision on the protest.
- (6) A decision in respect of a protest may be appealed to the Trial Division of the Supreme Court within 60 days after the decision is rendered.

**Source:** PL 9-139 § 56.

**Cross-reference:** The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The statutory provisions on Judicial Procedures are found in title 6 of this code.

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**Editor's note:** In subsection (1) of this section, the first word in all of the paragraphs of this subsection are changed to lower case to comport with standard code formatting.