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Embassy of the Federated States of Micronesia

Public Comment

Docket Number: FMCSA-2025-0622

Dear Secretary Duffy,

I am writing on behalf of the Government of the Federated States of Micronesia ("FSM") to bring to your attention a gap in the interim final rule, Commercial Driver's License Standards: Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDLs), Docket Number FMCSA-2025-0622.

Citizens of the FSM live and work in the U.S. under special statutory and legal authority that is similar to lawful permanent residents, but regrettably are not included in the interim final rule. Our government has no substantive comments on the requirements of the rule but ask that it be amended to take into account our citizens' legal status, which is recognized under Public Law 118-42 and other statutory authorities discussed below. As drafted, the interim final rule could inadvertently block FSM citizens lawfully living and working in the U.S. from being issued non-domiciled CDLs.

As background, the FSM is a sovereign nation in the western Pacific Ocean, located near Guam, with a unique defense and security relationship with the U.S. The relationship, established by an agreement called the "Compact of Free Association (the "Compact")" gives the U.S. military the right to operate in our territory and (for example) set up defense sites to advance U.S. military interests in the Western Pacific. As a part of the overall reciprocal package, the Compact also gives FSM citizens special immigration privileges to work, study, and reside in the U.S. on a nonimmigrant status without a visa. Because of this right, FSM citizens may remain in the U.S. indefinitely and are not required to have any identification besides their FSM passport and I-94 form as evidence of their lawful status in the U.S. This is not a new status but one that has existed since the FSM became a sovereign nation in 1986 and is widely recognized in U.S. law.

However, the interim final rule inadvertently overlooks the unique status of our citizens by restricting the issuance of non-domiciled CDLs to select visa holders. Under the Compact, citizens of the FSM are not required to obtain a visa to live and work in the U.S. As drafted, the interim final rule doesn't mention our citizens and unless amended, inadvertently disqualifies FSM citizens from accessing a non-domiciled CDL to which they are entitled. The rule, as written, fails to reflect the agreements between the governments (including defense rights for the U.S. and special legal status for FSM citizens) and incorrectly limits opportunities for FSM citizens who are legally authorized to work in the United States.

This comment is organized into three sections. First, it outlines and clarifies the nonimmigrant status of FSM citizens residing in the U.S under the Compact between the FSM and the U.S. mentioned above. Second, it discusses a similar issue involving Real ID eligibility and the Trump Administration's earlier fix through the REAL ID Act Modification for Freely Associated States Act. Third, it identifies how the interim final rule on non-domiciled CDLs overlooks FSM citizens and recommends specific regulatory changes to address the oversight.

I. The Compacts of Free Association—Background

The Compacts of Free Association (“COFA”) between the United States and the Freely Associated States ((FAS)) consisting of the FSM, the Republic of the Marshall Islands, and the Republic of Palau) establish a special relationship between the U.S. and each nation. The COFA between the U.S. and the FSM took effect on Nov. 3, 1986 (COFA Act of 1985 (Public Law 99-239)) and has since been amended twice to extend expiring provisions, in 2003 (COFA Amendments Act of 2003 (Public Law 108-188)) and 2023 (Consolidated Appropriations Act 2024 (Public Law 118-42)).¹

As a result of COFA, FSM citizens admitted to the U.S under the Compact as nonimmigrants may reside, work, and study indefinitely in the U.S.² Title One, Article IV, Section 141 of the FSM Compact states: “In furtherance of the special and unique relationship that exists between the United States and the Federated States of Micronesia . . . any person . . . may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions.”

¹ U.S. Citizenship and Immigration Services, Status of Citizens of the Freely Associated States of Micronesia and the Republic of the Marshall Islands Fact Sheet (Sept. 2020), <https://www.uscis.gov/sites/default/files/document/fact-sheets/FactSheetVerifyFASCitizens.pdf>.

² 2019-19024 (84 FR 46556) (“The Compacts of Free Association (COFAs) between the United States and the Freely Associated States allow most citizens of the Federated States of Micronesia (FSM), the Republic of Palau, and the Republic of the Marshall Islands (RMI) to be admitted to the United States as nonimmigrants without having to obtain a visa, and to indefinitely reside, work and study in the United States.”).

An FSM citizen's stay in the U.S. is not limited to any period of authorized stay or duration of stay, does not require reapplication for retention, and is perpetual. There is not an expiration date on an FSM citizen's lawful status. As a result, the status of FSM citizens living in the U.S. is closer to lawful permanent residents than to individuals with a temporary immigration status.

To prove lawful status, FSM citizens living in the United States maintain unexpired passports issued by the FSM and Form I-94s without an expiration date. For employment anywhere in the U.S., FAS citizens do not need to obtain a visa or obtain an employment authorization document.³

II. REAL ID Act Modification for Freely Associated States Act

The special immigration status of FSM citizens is recognized in numerous U.S. statutes. Among other authorities, in December 2018, President Trump signed the REAL ID Act Modification for Freely Associated States Act (REAL ID Modification Act).⁴ The REAL ID Modification Act authorized states to issue full-term REAL ID-compliant driver's licenses and identification cards to FAS citizens admitted under the COFAs.

Before the enactment of this Act, FSM citizens were only eligible for temporary REAL ID driver's licenses and identification cards. To remedy this issue, the Act amended the REAL ID Act to create a separate and special lawful status category for FSM citizens to make them eligible for full driver's licenses and identification cards.

To implement this Act, the Department of Homeland Security ("DHS") designated additional identity documents through a Federal Register notice to designate as acceptable evidence of identity for purposes of 6 CFR § 37.11(c)(1): "A valid unexpired passport issued by the Republic of the Marshall Islands, the Republic of Palau, or the Federated States of Micronesia with an approved Form I-94, documenting the applicant's most recent admission to the United States under the Compact of Free Association between the United States and the nation that issued the passport."

³ 2019-19024 (84 FR 46556) n. 7 ("Citizens of all three FAS nations admitted under the Compacts are authorized to work incident to that status, *i.e.*, they can obtain an EAD as evidence of work authorization but do not need to obtain one in order to be authorized to work. Under the amended Compacts with the Federated States of Micronesia and the Republic of the Marshall Islands, an unexpired passport and I-94 combination is acceptable evidence of identity and employment authorization. As a result, many FAS citizens do not find it necessary to obtain an EAD in order to exercise their right to work in the United States, although some may still find it more convenient to obtain and use an EAD for this purpose, since many employers are much more familiar with the EAD and/or the individual's passport may have expired.").

⁴ The ties are also reflected in the fact that FSM citizens serve in the U.S. military under a special provision of the Compact.

The notice states:

DHS believes it is appropriate to designate this identity documentation for FAS citizens given the unique relationship between the United States and the FAS and considering that to live and work for indefinite periods, FAS citizens are not required to obtain a visa or EAD, which are documents currently required to establish identity for REAL ID purposes. DHS also believes the designation is consistent with the intent of Congress to facilitate the issuance of REAL ID licenses and identification cards to FAS citizens as demonstrated by enactment of the REAL ID Modification Act. This accommodation for FAS citizens also is consistent with the spirit of the COFAs, although it is not required under any provision of the COFAs.

III. Application to Non-Domicile CDL Interim Final Rule

The interim final rule, “Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL)”, like the original REAL ID Act, fails to account for FSM citizens by not including in the list of “evidence of lawful immigration status” documents at 49 C.F.R. § 383.5 an exception or category for FSM citizens. As a result, FSM nonimmigrants lawfully present in the United States, sometimes indefinitely, will not be able to access non-domiciled CDLs.

The new definition of “evidence of lawful immigration status” reads:

(1) For applicants domiciled in a foreign jurisdiction (except Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands):

(i) An unexpired foreign passport; and

(ii) An unexpired Form I-94/94A issued by the U.S. Department of Homeland Security indicating one of the following classifications: H-2A—Temporary Agricultural Workers, H-2B—Temporary Non-Agricultural Workers, or E-2—Treaty Investors.

(2) For applicants domiciled in Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands: any of the documents specified in Table 1 of section 383.71.⁵

The FMCSA’s press release, “Protecting American’s Roads Restoring Integrity to Non-Domiciled CDLs” explains that this definition, “Requires non-citizen applicants (except for

⁵ 49 C.F.R. § 383.5.

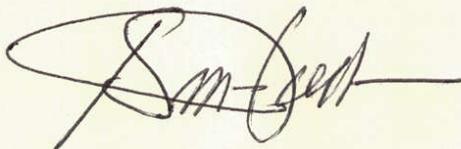
lawful permanent residents) to provide an unexpired foreign passport and an unexpired Form I-94/94A (Arrival/Departure Record) indicating one of the specified employment-based nonimmigrant categories, specifically H2-B, H2-A, and E-2 visas, at every issuance, transfer, renewal, and upgrade action defined in the regulation.”⁶

However, as explained, FAS citizens are not required to obtain a visa to work in the United States. As a result, FAS citizens lawfully present to work do not have the documentation required by the new interim final rule to access a non-domiciled CDL.

We request that the interim final rule be amended to properly account for FSM citizens lawfully living and working in the United States and to restore FSM citizens’ access to non-domiciled CDLs. We believe this could be accomplished by including in the definition of evidence of lawful immigration status (49 C.F.R. § 383.5) a category similar to that added for the REAL ID Act (6 C.F.R. § 37.11(c)(1)). For example, the definition of evidence of lawful immigration status at 49 C.F.R. § 383.5 could read:

An unexpired Form I-94/94A issued by the U.S. Department of Homeland Security indicating one of the following classifications: H-2A—Temporary Agricultural Workers, H-2B—Temporary Non-Agricultural Workers, or E-2—Treaty Investors; or an acceptable Form I-94/94A, documenting the applicant's most recent admission to the United States under the Compact of Free Association between the United States and the nation that issued the passport. The appropriate I-94 Classifications for Freely Associated States are as follows: CFA/FSM, CFA/RMI, and CFA/PAL.

As explained by DHS as relevant to REAL IDs, this amendment to the interim final rule would be consistent with the spirit of the COFAs and is necessary for many of our citizens lawfully living and working in the United States to engage in occupations that require a CDL.



Jackson T. Soram
FSM Ambassador to the United States of America



⁶ FMCSA, “Protecting America’s Roads Restoring Integrity to Non-Domiciled CDLs” (Sept. 2025), https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2025-09/Fact%20Sheet_Protecting%20America%27s%20Roads_Restoring%20Integrity%20to%20Non-Domiciled%20CDLs%20%285%29.pdf.