

FEDERATED STATES OF MICRONESIA

IMMIGRATION REGULATIONS

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FEDERATED STATES OF MICRONESIA

TITLE 50 - IMMIGRATION

REGULATIONS

PART 1. GENERAL PROVISIONS

1.1 Authority. These regulations are promulgated under the authority of the Immigration Act, 50 FSMC §111, and pursuant to the provisions of the Immigration Act, 50 FSMC §101 *et seq*, as amended by Public Law 12-65. These regulations repeal and replace all previous regulations. These regulations and any amendments hereto shall have the force and effect of law.

1.2 Delegation of Authority. Pursuant to 50 FSMC §106 the power to enforce the Act and these regulations is hereby delegated to the Secretary and the Chief as described herein.

1.3 Purpose and Applicability. The purpose of these regulations is to implement the provisions of the FSM Immigration Act and to control the entry, presence and departure of non-citizens, foreign vessels and foreign aircraft in the FSM. These regulations apply to all non-citizens, foreign vessels and foreign aircraft unless otherwise provided.

1.4 Definitions. For the purposes of these regulations, the following terms shall have the following meaning:

- a. “Chief” means the Chief of the Division of Immigration & Labor of the Department of Justice, Government of the Federated States of Micronesia.
- b. “Commercial Vessel” means any seagoing vessel whose primary use is the commercial transportation of passengers or freight, fishing, dredging, or other commercial use.
- c. “Dependents” means a spouse or unmarried child under the age of 18.
- d. “Division” means the Division of Immigration and Labor within the Department of Justice of the Federated States of Micronesia.
- e. “FSM” means the Federated States of Micronesia.
- f. “Immigration Laws” includes Title 50 and all other laws, conventions, and treaties of the FSM relating to the immigration, exclusion, deportation, or expulsion of non-citizens.

- g. “Non-citizen” means a person who is not a citizen of the FSM.
- h. “Non-Commercial Vessel” means any seagoing vessel whose primary use is not the commercial transportation of passengers or freight, fishing, dredging, or other commercial use.
- i. “Secretary” means the Secretary of the Department of Justice of the Government of the FSM.

PART 2. ENTRY OF NON CITIZENS

2.1 Point of Entry. All non-citizens and any foreign vessels or aircraft shall enter the FSM only at officially designated Ports of Entry as listed in 18 FSMC §202, as amended. Non-citizens, vessels or aircraft attempting to enter at any other location shall be immediately instructed to proceed to a designated Port of Entry.

2.2 Documents Required. All non citizens entering the FSM shall have in their possession at the time of their entry the following documents, and shall present such documents for inspection upon entry and upon demand at other reasonable times. Travel on commercial aircraft between states of the FSM is considered to be international travel and as such, non-citizens are required to comply with these requirements upon arrival to any state of the FSM from a commercial aircraft regardless of the point of boarding.

- a. A valid passport issued by the government of the country of the non citizen’s citizenship or nationality. The passport must be valid at the time of entry and for a period of not less than 120 days beyond the authorized duration of stay in the FSM. The passport shall show no qualification impairing the holder from effective and timely departure from the FSM.
- b. A completed Immigration and Departure Control Record Form 5004 for the date of arrival.
- c. In the case of non-citizens who require entry permits, a valid entry permit.
- d. In the event that the non-citizen is entering the FSM from an area infected with small pox, yellow fever, or cholera, as cited in the Local Infected Area List as published in the World Health Organization Epidemiological Record, the non citizen must possess a valid international certificate of vaccination, or its local equivalent. Any other disease may from time to time be added to this list by the Chief, in consultation with the Department of Health, Economic and Social Affairs.

2.3 Entry Permits Required. All non-citizens, except for U.S. citizens and certain visitors and crew members of commercial vessels as set forth in these regulations, must have an entry permit in order to enter the FSM. The Division shall have the discretion to issue the type of entry permit most suitable to the activities and intended length of stay of the non citizen.

2.4 Activities Permitted. Non-citizens must comply with the terms of the entry permit and may only engage in the employment, business or other activities for which the permit is issued. Any non citizen may enroll in an educational institution or provide volunteer services without pay under any permit. In order to engage in activities other than those permitted the non citizen must apply for a different permit and fees will apply to such application.

2.5 Application Before Entry. Non-citizens who require entry permits must apply and pay for their entry permits prior to arrival in the FSM and have their entry permit in their possession upon entry into the FSM. If the non-citizen enters without an entry permit, prior to issuance of the entry permit the non-citizen will be required to comply with the change of status requirements pursuant to 2.8, including payment of applicable fees.

2.6 Police and Medical Clearance. The application for an entry permit must include a police clearance, from the last place in which the non citizen resided for at least six months, showing that the non-citizen has no record of conviction of a felony or crime against moral turpitude, and written certification by a medical doctor that the non citizen is in good health. A non-citizen who applies for an entry permit after residing in the FSM for six months prior to the application shall not require police or medical clearance.

2.7 Local Address. All correspondence including notice of actions affecting a non-citizen's legal status may be sent to the non-citizen's most recent address on file with the Division. It is the non-citizen's responsibility to inform the Division in writing of any change of address.

2.8 Renewal. All permits are renewable unless otherwise specified. A non citizen applying for a renewal shall present themselves to the nearest Division office with their passport and current entry permit and provide any information as requested by the Division. Applications for renewal should be made at least 30 days prior to expiration of the current entry permit and must be made before the current permit expires. Non-citizens do not have to leave the FSM in order to apply for a new entry permit.

2.9 Change of Status. Immigration status may not be changed except in accordance with these procedures.

- a. A change in status occurs when a non-citizen with an entry permit obtains a different type of entry permit. A renewal of an entry permit of the same class is not a change in status.

b. A non-citizen must apply for a permit reflecting the new status and pay the required fees, including a fee for changing status and a fee for the new entry permit; however, citizens of the Republic of the Marshall Islands or the Republic of Palau shall not be required to pay a fee to change status.

c. A non-citizen staying in the FSM who departs the FSM holding a valid or expired entry permit and applies for an entry permit of a different class while abroad must pay the change in status fee unless they can show that they do not reside in the FSM. Residence means presence in the territory of the FSM for 180 days out of the last 365 days and having ties to the FSM that indicate residence such as a home, vehicle, bank accounts or personal property

d. A non citizen who does not reside in the FSM and entered the FSM as a short term visitor without an entry permit may apply for an entry permit without payment of a change in status fee.

2.10 Registration required. All non-citizens who have resided in the FSM for 90 or more days of the preceding or current calendar year, or intend to reside in the FSM for 90 or more days of the current calendar year, must register annually with the Division by appearing in person at their nearest Division office by January 31 of each year. Non-citizens living on an island besides Kosrae Island, Pohnpei Island, Yap Island or the islands inside Chuuk Lagoon shall register by June 30 of each year, but in any event shall register during their first trip during any calendar year to one of these locations. If a non-citizen residing on an outer island writes to the Division before March 31 stating that it would be a hardship for them to register in person, the Division may allow registration by mail.

2.11 Revocation of entry permits. If the contract or relationship on which basis an entry permit is issued is terminated, such as dismissal from employment or dissolution of marriage, the entry permit is revocable at any time after termination. If a foreign-investment business permit is cancelled, revoked, expired or otherwise rendered invalid, all entry permits issued pursuant to the foreign-investment business permit shall also be revocable at any time after the permit is rendered invalid.

2.12 False information. The willful giving of any false or misleading information on an application for a permit or in any other written or oral information provided to the Immigration Division or its agents shall be grounds for the denial, revocation, or cancellation of the permit of the person giving the information. All information given to the Division goes to the non-citizen's truthfulness, history as a responsible citizen, and willingness to cooperate in the administration of the immigration laws and therefore is deemed material to the issuance of an entry permit.

PART 3. VISITORS

3.1 Short Term Visitors Not Requiring Entry Permit. No written entry permit shall be required for a non-citizen entering the FSM for 30 days or less. Any visitor who wishes to remain in the FSM beyond the initial 30 day visit shall appear in person to the nearest Immigration Office and make a written application for extension of their short term visitor status including a statement of the reasons for the extension. An extension may be granted for an additional 60 days. Activities as a short term visitor may include short term contract employment (less than 90 days), in which case the visitor engaged in short term employment shall provide a copy of the employment contract to the Division. Citizens of the Republic of the Marshall Islands and the Republic of Palau may enter the FSM as a short term visitor for up to 365 days without an entry permit.

3.2 Long Term Visitors Requiring Entry Permit. A non-citizen may be granted a visitor entry permit for a stay beyond 90 days for a maximum total stay of one year. A non-citizen applying for a visitor permit must comply with the requirements of Part 2 applicable to all entry permits and provide a detailed description of the activities the non-citizen intends to engage in during their stay in the FSM, including any supporting documentation as necessary.

3.3 Proof of onward travel required. Every visitor shall provide proof of his ability to depart the FSM by the end of the visitation period and to travel onward to a destination where his travel documents will be accepted for entry. The proof shall take the form of a valid ticket on a commercial carrier to a destination beyond the FSM or any other proof satisfactory to the Chief. Visitors arriving in the FSM without a ticket for onward travel may, at the discretion of the Chief, be permitted entry to the FSM provided that the non-citizen shall be required to purchase such a ticket immediately, and such purchase shall be considered satisfactory proof of onward travel. A visitor who does not demonstrate proof of onward travel may be denied entry, excluded or deported.

3.4 Exchange of onward ticket prohibited.

a. No non-citizen shall sell, exchange, give away, transfer or otherwise relinquish his or her ticket that was used as proof of onward travel without the written permission of the Chief or his designee. Such permission shall not be withheld if the non-citizen can otherwise satisfy the requirements of proof of timely onward travel.

b. No commercial carrier or agent or employee of a commercial carrier or agent shall refund, exchange, transfer or otherwise cancel a non-citizen's ticket for onward travel beyond the FSM without the written consent of the Chief or his designee, provided that such carriers may exchange such tickets if they are replaced with tickets for travel to some other destination outside of the FSM such that the non-citizen's ability to leave the FSM remains timely and unimpaired. A violation of this section shall make the violator liable to the FSM Government for any costs incurred by the Government in providing onward transportation to a non-citizen who is without the financial ability to travel to outside the FSM.

PART 4. NONRESIDENT WORKER PERMITS

4.1 Government workers. This permit shall be issued to a person entering the FSM for purposes of employment with the FSM national, state or municipal government. Such permit shall be issued upon presentation of the employment contract or other similar documentation. The permit shall be issued for the duration of the employment contract.

4.2 Non-government workers. This permit shall be issued to a person entering the FSM for the purposes of non government employment. Such permit shall be issued upon application by the employer and proof of compliance with the requirements of Title 51. The permit shall be issued for the duration of the employment contract.

PART 5. BUSINESS RELATED PERMITS

5.1 Foreign Investor Permits. An application shall be made by the person in whose name the foreign investment permit, pursuant to Title 32 or relevant state laws, is to issue. In the event the foreign investment permit is issued in the name of more than one person or in the name of a corporation, the application shall be made by any one person so named or by the president or secretary of the corporation. The application shall include a copy of the foreign investment permit and such other information as required. Foreign investor permits will be issued to the non-citizens named in the foreign investment permit. If the foreign investment permit does not name individuals, then permits will be issued to the individual or individuals as named by the national or state issuer of the foreign investment permit. Foreign investor entry permits shall be issued for a length of time equal to the period of validity of the related foreign investment permit.

5.2 Expatriate Worker Authorization Permit. The holder of a foreign investment permit may, upon the allocation of an expatriate worker authorization (EWA) under Title 32 or relevant state laws, submit to the immigration authorities an application for an entry permit for a nominee to fill the position to which the EWA applies. The application shall include a copy of the foreign investment permit. The EWA permit shall remain valid during the entire period that the corresponding foreign investment permit and EWA remains valid.

5.3 Additional workers. If during the course of the investor's activities pursuant to a foreign-investment business permit the investor finds it necessary to hire additional non-citizen workers, application for permits for such workers shall be made pursuant to Title 51 and Part 4.2.

5.4 Salesperson Permit. A person entering the FSM for the purpose of engaging in sales whose activities do not qualify as engaging in business, as defined in Title 32, and therefore does not require a permit under Title 32, shall be issued a salesperson's permit. The applicant must demonstrate that their activities do not qualify as engaging in business under Title 32. The Chief may refer the application to the Department of Economic Affairs to ensure that the activities do not require a foreign investment permit. The permit shall be valid for the stated duration of the sales activities but not longer than 6 months.

PART 6. SPOUSE AND DEPENDANT PERMITS

6.1 Spouse. This permit shall be issued upon adequate evidence of the marriage between the applicant and an FSM citizen. The permit shall be issued for a period of 1 year and shall be renewed annually upon a reasonable showing that the marriage is still intact. A spouse permit may be revoked or denied upon a finding that (i) the parties are divorced, the parties are irreconcilably separated, or the citizen-spouse is deceased; and (ii) the revocation or denial is in the best interests of the FSM. Except in extraordinary circumstances, no action to revoke or deny a spouse permit on the grounds of death of the citizen-spouse shall be taken for a period of six months from the date of death of the citizen-spouse.

6.2 Dependents. Any person who is the dependant of a non citizen applying for or holding an entry permit may be issued a dependent entry permit. The entry permit is valid for the length of time as the entry permit of the non-citizen principal.

6.3 Dependants of US citizens. Any person who is a dependent of a US citizen and who is not a U.S. citizen may apply for an entry permit. The entry permit is valid for one year from the date of issuance.

PART 7. OTHER PERMITS

7.1 Researcher Permit. This permit shall be issued for research in fields of endeavor that are in the best interest of and for the well-being of the citizens of the FSM. An application for a researcher's permit shall include information as to the type, location and duration of the research, the staff involved, the equipment used and the living arrangements of the applicant. The application shall be reviewed by the Historic Preservation Officer in addition to review by the Division. The permit may be issued with restrictions on the research activities in order to preserve the best interests of the and the well-being of citizens of the FSM. The duration of the permit shall be for a period of time reasonable for completion of the research but not longer than one year.

7.2 Missionary Permit. A missionary permit shall be issued to a non-citizen who provides documentary proof that he or she is a duly ordained, licensed or certified minister, clergyman or missionary of a bona fide religion. Permits issued under this section are valid for one year.

7.3 Student Permit. This permit shall be issued to a person enrolled as a fulltime student in a school or educational program in the FSM, upon a showing of such enrollment. The permit shall be issued for the duration of the enrollment and may be renewed upon a showing of continued enrollment in the school or educational program.

7.4 Foreign Official Permit. This permit shall be issued to any official of a foreign government and employees or contractual personnel of a foreign government or regional or international organization who is entering the FSM for the purpose of engaging in activities in their official capacity, and is not excluded from this requirement under other law. It shall be issued for the duration of the activities up to a maximum of one year.

PART 8. US CITIZENS

8.1 Entry Permits Not Required. A U.S. citizen entering the FSM to visit or remain shall not be required to obtain any entry permit, but shall complete a Form 5004 upon arrival.

8.2 Rights Upon Entry. U.S. citizens entering the FSM shall have the right to reside, work and do business in the FSM without complying with any additional immigration-related documents or compliance with additional immigration-related procedures. U.S. citizens shall not be required to register their presence in the FSM.

PART 9. VESSELS AND AIRCRAFT

9.1 Permits required.

a. Any vessel or aircraft entering the FSM is required to have an entry permit. Upon entry, vessels shall immediately present their entry permit or make application for an entry permit.

b. The passengers on any vessel or aircraft, and the crew of non-commercial vessels or aircraft, are subject to the provisions of in these regulations.

c. Crew members of commercial vessels may be issued shore passes for the duration the vessel is in port, or in order to embark or disembark a commercial vessel. Crew members must identify themselves as crew members, provide the identification information of the vessel and the itinerary of the vessel into and out of the FSM. Crew members must provide a passport but do not complete a Form 5004. The captain of the

vessel will keep the shore passes and the passports of the crew for the duration the vessel is in port unless the crew member is disembarking in the FSM.

9.2 Inspection. The Division shall inspect the vessel or aircraft for stowaways. The Division shall work with other FSM authorities to ensure the vessel or it's crew or passengers are not in violation of any FSM laws and may deny entry into the FSM on the basis of violation of any FSM laws.

9.3 Issuance of permit. Upon application for an entry permit and completion of the necessary inspection, the Division shall issue an entry permit to a vessel. The permit shall be issued for a length of time equal to the shortest length of time for which a permit has been issued to any person arriving on a non-commercial vessel or private aircraft, for the duration of the entry assurance provided by the Micronesian Shipping Commission for a commercial vessel, and pursuant to agreement for a commercial aircraft. The permit for non-commercial vessels shall include notice that the permit is valid for travel within the FSM but travel to outer islands may be restricted by State governments.

9.4 Full crew must depart. No vessel or aircraft shall be allowed to leave the FSM without all of the passengers and crew that arrived with the vessel or aircraft unless it is proven to the satisfaction of the Division that any absent persons have left the FSM by other means or have otherwise made adequate arrangements to leave the FSM.

9.5 Non-Commercial vessels entering in distress.

a. Vessels entering the FSM in distress shall so declare on their application for an entry permit, explaining the nature of the distress and how the distress will be remedied. Vessels entering in distress may be allowed a 30 day Non Commercial vessel entry permit provided that they meet all applicable health or quarantine requirements. The permit may be extended for an additional 60 days if the distress has not been remedied after the initial 30 days.

b. When the entry permits expire for passengers and crew who arrived on the distressed vessel, they must leave the FSM regardless of the continued presence or permit status of the vessel. At such time, the vessel may remain in the FSM for an additional 90 days if the owner or the operator can show that a custodian of the vessel has been appointed. The custodian must be a person who can legally remain in the FSM during the 90 days. The custodian shall be responsible for maintenance, security, and seaworthiness of the vessel, and for assuring that it does not become a hazard to navigation. If no custodian is provided, and the passengers and crew that arrived on the distressed vessel must leave the FSM, the vessel shall be forfeit to the FSM.

c. At the end of the additional 90 days the vessel shall leave the FSM or be forfeit to the FSM, provided that the Chief may extend the permit of the vessel for 30 day periods for reasons of distress or weather.

9.6 Other vessels or aircraft in distress. The Division may waive or change these requirements for vessels or aircraft in the case of an emergency to the extent necessary to accommodate humanitarian needs.

PART 10. FEES

10.1 Change in Status. A fee of \$1000 shall be paid before a a non-citizen with an entry permit is issued a different type of entry permit.

10.2 Entry Permit Fees. The following fees shall be paid for entry permit applications and renewals at the time the application for the entry permit is made. Five dollars (\$5) of every fee shall be nonrefundable; the balance of the fee shall be refunded if the permit is denied.

Type of Permit	Fee
Visitor – Short Term 90 days or less	No fee
Visitor Permit – Long Term	\$ 25
Government worker	\$ 5
Nongovernment worker	\$ 50
Foreign investor	\$ 100
EWA Permit	\$ 100
Salesperson	\$ 100
Spouse or dependent	\$ 10
Missionary	\$ 10
Researcher	\$ 25
Student	\$ 5

PART 11. CITATIONS

11.1 Types of Citations. The Chief may issue a citation and collect a fee for violations of the Act and these Regulations, pursuant to the following schedule.

<u>Violation</u>	<u>Penalty</u>
Engaging in activities not authorized by entry permit	\$ 1000
Overstay of entry permit prior to renewal (per day overstayed)	\$ 100
Illegal entry or attempt to enter	\$ 1000
Stowaway (fine imposed on carrier)	\$ 1000
Carrier presentation of non-citizen without proper documentation (fine imposed on carrier)	\$ 500

11.2 Issuance. Upon a determination by the Chief of a violation subject to citation, the Chief shall issue a citation. The citation shall include the name of the non citizen, a citation number, the date the citation is issued, the nature of the illegal activities, the violation, the penalty, and a statement of the duty to pay and the right to appeal. The citation shall be hand delivered to the subject of the citation. A copy shall be transmitted to the Secretary.

11.3 Appeal. A citation may be appealed pursuant to Part 14. Such appeal must be filed with the Chief within 15 days of receipt of the citation. If no appeal is filed within that period, the citation is deemed to be final. Upon filing of an appeal, the penalty will not become final until the resolution of the appeal.

11.4 Payment. Citations must be paid within 15 days of becoming final to any Division office with a signed copy of the citation.

11.5 Enforcement. If any citation remains unpaid thirty (30) days after becoming final, the Chief shall refer the violation to the Secretary for further action. The Secretary may bring court action pursuant to Title 50, §114.

11.6 Deposit Of Proceeds. Payment of citations shall be deposited into the General Fund of the FSM.

11.7 Liability. The issuance and satisfaction of a citation shall not relieve the violator of liability for other violations arising out of the same acts, violations arising out of other acts, or loss or damage caused by the violation for which the citation is issued.

11.8 Other Penalties Remain Valid. The establishment of citations does not create any obligation on the part of the Chief or the Secretary to issue a citation instead of pursuing other legal remedies or to issue a citation prior to pursuing other legal remedies.

PART 12. APPEAL

12.1 Right to Appeal. Any person aggrieved by a decision of the Division of Immigration and Labor in the application and implementation of the immigration laws and regulations shall be entitled to a hearing.

12.2 Filing of Notice of Appeal. The petitioner shall file a notice of appeal with the local immigration office. Such notice shall specify the parties involved, the decision appealed, the claims alleged, and all facts known to the petitioner at the time of appealing.

12.3 Local Hearing. The local immigration office shall set a hearing within 10 days of receiving the notice of appeal, unless the petitioner requests a later date. The hearing will be conducted according to the procedure set forth in Title 17 FSM §109. The hearing officer shall provide a written decision of the hearing within 5 days of the hearing. If the petitioner is not satisfied with the decision of the local immigration office, the petitioner may request a committee hearing from the Division of Immigration and Labor, Palikir, within 15 days of receiving the decision of the local hearing.

12.4 Committee Hearing. A hearing will be set within 15 days of receipt of the request for hearing, unless the petitioner requests that a later date. A hearing of such an appeal shall be by a committee composed of the Chief, (or in case of conflict his designee), the Secretary or designee, and a representative from the Department of Foreign Affairs. The hearing will be conducted according to the procedure set forth in Title 17 FSM §109. The committee shall provide a written decision of the hearing within 15 days of the hearing

12.5 Judicial Review. If the petitioner is not satisfied with the decision of the appeal committee, the petitioner may seek judicial review of the decision pursuant to 17 FSMC §111. The decision of the committee shall constitute final agency action for the purposes of 17 FSMC §111.