

PERMANENT REGULATION IMPLEMENTING PUBLIC LAW NO. 22-134

HEALTHY BORDER PROTECTION ACT

This Regulation is issued by the Department of Justice to implement the Healthy Border Protection Act pursuant to Public Law No. 22-134. It is promulgated according to the Administrative Procedures Act (APA) and was posted for 30 days in public places for the purpose of soliciting public comment as required by the APA.

Extra copies of the proposed regulation can be obtained from the Department of Justice (DOJ) at the following address:

FSM Department of Justice
Palikir, Pohnpei
Federated States of Micronesia

This Regulation shall take effect on August 1, 2022. This Regulation shall be deposited with the FSM Office of Registrar of Corporation as repository of national regulations.

Approved:

Date:

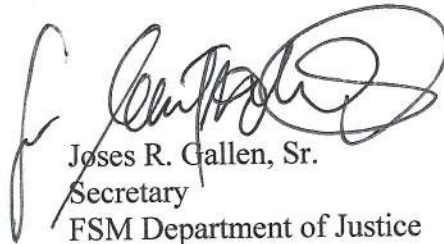
July 30th, 2022



H.E. David W. Panuelo
President
Federated States of Micronesia

Date:

30 July 2022

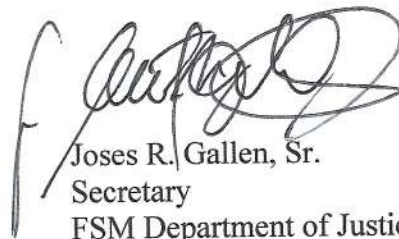


Joses R. Gallen, Sr.
Secretary
FSM Department of Justice

Approved as to legal sufficiency:

Date:

30 July 2022



Joses R. Gallen, Sr.
Secretary
FSM Department of Justice

I. Authority.

- (a) Section 305 of Title 50 of the FSM Code (Annotated) as amended by Public Law No. 22-134 empowers the Secretary of Justice, or his designee, to enforce all COVID-19 vaccination and booster requirements, established through regulation by the Secretary of Health pursuant to his authority under Title 41 of the Code of the FSM, at all ports of entry, including but not limited to:
- (1) Type of COVID-19 vaccine and booster shots acceptable for entry into the FSM; and
 - (2) Waiting period requirements after receiving the COVID-19 novel coronavirus (SARS-CoV-2) vaccine and booster shots to be considered fully vaccinated prior to entry.
- (b) The law further mandates that the Secretary of Justice shall only permit the entry of persons into the country who are fully vaccinated against COVID-19 in accordance with section 305 and section 307, unless the person is exempt under section 306 of chapter 3 of title 41 of the FSM Code.
- (c) Section 306 of Title 50 of the FSM Code (Annotated) as amended by Public Law No. 22-134 requires the Secretary of Justice to enforce all exemptions to the COVID-19 Vaccination and Booster Requirements, established through regulation by the Secretary of Health based on sound medical practice.
- (d) Section 308 of Title 50 of the FSM Code (Annotated) as amended by Public Law No. 22-134 empowers the Secretary of Justice to promulgate and publish such rules and regulations as necessary to enforce the COVID-19 vaccine mandate at all ports of entry into the FSM in accordance with Chapter 1 of Title 17 of the Code of the FSM.



- (e) Section 311 of Title 50 of the FSM Code (Annotated) as amended by Public Law No. 22-134 requires that the Secretary of Health and Secretary of Justice shall promulgate regulations to implement this Act within 30 calendar days of this Act becoming law.

II. Reasons for the regulation.

- (a) The reasons for the proposed regulation are the following:

- (1) The protection of public health throughout the nation from the adverse effects of the COVID-19;
- (2) To provide orderly, uniform, unified and rational regulation governing the management, protection and monitoring of all ports of entry of the Federated States of Micronesia; and
- (3) To provide implementing regulation for the FSM Healthy Border Protection Act according to sound medical practice.

III. International Travel

- (a) International travel is permitted with certain conditions or restrictions as stated in this regulation. It is the intention of this regulation to ensure that international travel is carried out in a safe and reliable manner taking into consideration risks associated with the possible introduction of COVID-19 cases into FSM. The risk alone of bringing COVID-19 cases into FSM is not by itself a basis for closing the border, but rather certain restrictions of movements mandated in this regulation shall be implemented to manage and minimize the risk.
- (b) For the purpose of this regulation, international travel includes travel by aircraft, whether scheduled or chartered flights, travel by sea vessels including cruise ships, container ships, and yachts, and international movement of fishermen onboard



fishing vessels.

- (c) Travelers on international flights or voyages are to wear facemasks according to the Regulations of the Department of Health. Travelers must be fully vaccinated and must present proof of negative COVID-19 test prior to boarding.

IV. Interstate Travel

- (a) Interstate travel is regulated under national jurisdiction. It is an essential component of freedom of movement, travel and to migrate within the Federated States of Micronesia under section 13 of article 4 of the FSM Constitution. Interstate travel also comes under interstate commerce within FSM, which is under national regulation.
- (b) There shall be no restriction on interstate travel unless such restriction is permitted by national law or this regulation.

V. Documentations required of International Travel

- (a) In addition to travel documentation required by immigration regulation, COVID-19 Health Declaration prescribed by the Secretary of Health & Social Affairs is required of every person entering FSM.
- (b) The Health Declaration shall contain the following information:
 - (1) COVID-19 exposure or contact with persons with COVID-19. In case of contact or exposure, date of contact and identities of those in contact with declarant;
 - (2) COVID-19 contraction or infection;
 - (3) COVID-19 medical treatment and hospitalization received;
 - (4) COVID-19 related quarantine; and
 - (5) COVID-19 testing results.



VI. Vaccination

- (a) All travelers into FSM from a foreign jurisdiction must have COVID-19 full vaccination and shall submit to the airline upon check-in proof of vaccination. Full vaccination must be in accordance with regulations and standards established by the Secretary of Health & Social Affairs.
- (b) A person with disability or medical condition that is such that a COVID-19 vaccine will endanger his or her life or health. A claim of exemption must be supported by a certified medical statement in writing from a licensed physician. Contact details of the physician giving the statement, including details of medical license, must be made available for verification purposes. The Secretary of Health & Social Affairs may require further information or documentation in connection with a claim of exemption.

VII. COVID-19 testing

- (a) All persons entering the FSM must present to the airline upon check-in proof of negative COVID-19 test result in accordance with the guidelines established by the Secretary of Health & Social Affairs.
- (b) Upon arrival in FSM, a person shall restrict his movement for 5 days, meaning stay at home if possible. If a person experiences any symptoms of COVID-19 (e.g., coughing, fever, loss of sense of taste), then he must proceed to the nearest Test and Treat Center where he will be tested for COVID-19. If he is found positive with mild symptoms, then he will be given an antiviral drug and go home for home quarantine.

VIII. Quarantine

- (a) A quarantine facility is a temporary quarantine holding area for the purpose of



administering further COVID-19 test upon arrival in the port of entry.

(b) The rules of quarantine established by the Secretary of Health & Social Affairs by regulation shall govern.

(c) No further or contradicting quarantine requirements will apply.

IX. Violation of Regulation

(a) Any violation of this regulation is subject to administrative penalty of not more than \$5,000. The Secretary shall enforce the penalty.

(b) The use of fraudulent COVID-19 vaccination and/or booster documentation in order to gain entry into the FSM is subject to fine to \$5,000. The imposition of fine under this section is without prejudice to any criminal prosecution against a person perpetrating the fraud.

(c) It is a rebuttable presumption that a person using a false vaccination and/or booster documentation or a vaccination and/or booster documentation with false information therein has the intent to use it in order to gain entry into FSM.

(d) Whenever the vaccination and/or booster documentation pertains to a minor, the penalty imposed under this regulation shall be upon the parent or guardian or person accompanying the minor during travel. In the absence of a parent, guardian or accompanying adult, the penalty shall be imposed upon the person signing or presenting the health declaration on behalf of the minor.

(e) Any person challenging the imposition of administrative penalty may file a written request within five (5) days from the date of the penalty requesting the Secretary for a hearing. The request must be accompanied by supporting documents, if any. The conduct of hearing shall be governed by section 109 of title 17 of the FSM Code.



- (f) The decision of the Secretary of Justice shall constitute a final judgment that is appealable to the FSM Supreme Court under section 901 of title 17 of the FSM Code.

X. Monitoring & Reporting

- (a) The Secretary shall monitor the implementation of this regulation.
- (b) In monitoring the implementation of this regulation, the Secretary shall consider the following criteria:
- (1) **Rationale** for implementation is based upon sound medical practice;
 - (2) **Feasibility** of implementation in the proposed manner, time and place;
 - (3) **Limited health risk to all persons** at the port of entry including agency employees, persons working at the port, and travelers;
 - (4) **Administrative cost** for implementation and impact on agency budget;
 - (5) **Guidelines to aid** in effective implementation; and
 - (6) **current capacity** to implement. The Secretary shall identify funding needed to implement this regulation, and may request supplemental funding from the FSM Congress if needed.
- (c) Within 90 business days of implementation of any regulation or agency action under this regulation, the Secretary shall provide a written report to the President regarding the implementation of this regulation. Copies of the report shall be provided to the Committee on Health and Social Affairs, and Committee on Judiciary and Governmental Operations in Congress of the Congress.
- (d) The Secretary may propose any amendment or changes to this regulation or to the Act, if necessary.

XI. Definitions. Except where otherwise expressly stated or required by the context of a

provision of this Regulation or by law, the following terms shall have their corresponding meanings:

- (1) "Act" means the Healthy Border Protection Act enacted by the 22nd FSM Congress through Public Law No. 22-134.
- (2) "Congress" means the Congress of the Federated States of Micronesia.
- (3) "COVID-19" means the novel coronavirus that appeared in 2019 and which has been the subject of emergency declaration issued by the President of the Federated States of Micronesia, which declaration was repeatedly extended and modified by the FSM Congress.
- (4) "COVID-19 test" refers to any of the acceptable COVID-19 test prior to entry into the FSM.
- (5) "COVID-19 vaccine" means any of the COVID-19 vaccines accepted in FSM under this regulation, including boosters.
- (6) "President" means the President of the Federated States of Micronesia.
- (7) "Secretary" means the Secretary of the FSM Department of Justice.
- (8) "Vaccine" or "vaccination" refers to the vaccine for the COVID-19 authorized or permitted or authorized by the Secretary of Health and Social Affairs.

A handwritten signature in black ink, consisting of a large, stylized capital 'P' followed by a capital 'B' and a trailing flourish.