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American Association of Motor Vehicle Administrators

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DHS Issues Final Rule on REAL ID and Citizens of the Freely Associated States

The Department of Homeland Security (DHS) has [issued](#) a final rule that implements the REAL ID Act Modification for Freely Associated States Act by amending the regulatory definition of “temporary lawful status.” With this change, citizens of the Freely Associated States residing in the United States are eligible for full-term REAL ID licenses and identification cards, provided they satisfy the other requirements of the REAL ID Act and regulations. In the final rule, DHS addresses how certain applicants who satisfy REAL ID eligibility requirements may be eligible for a full-term REAL ID credential with a validity period longer than their authorized period of stay in the United States, or, if there is no definite end to the period of authorized stay, a period of one year.

Under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (collectively referred to as the Freely Associated States, or FAS), citizens of the Freely Associated States are eligible to be admitted to the United States as nonimmigrants without a visa, and live and work in the United States indefinitely. The REAL ID Act Modification for Freely Associated States Act ([P.L. 115-323](#)) authorizes states to issue full-term REAL ID driver licenses or identification cards to FAS citizens residing indefinitely in the United States. To implement these changes, DHS has amended the regulatory definition of “temporary lawful status” (at [6 CFR 37.3](#)) to specifically exclude individuals admitted as nonimmigrants under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. As a result, these individuals are no longer subject to [6 CFR 37.21](#) which prescribes requirements for temporary or limited-term licenses and identification cards for those with temporary lawful status. DHS cites that these applicants must satisfy the other REAL ID requirements, including requirements to present documentation establishing identity, date of birth, social security number, address of principal residence, and lawful status. In describing the lawful status requirements, DHS notes via footnote that a FAS passport with Form I-94, but no visa, is not acceptable evidence of identity under the REAL ID regulations. According to DHS, the immigration document available to FAS nonimmigrants admitted under the Compacts of Free Association that is acceptable evidence of identity for purposes of the REAL ID Act is the unexpired employment authorization document.

The final rule is effective **September 4, 2019**. Members with questions are encouraged to contact the United States Department of Homeland Security’s Director of Identity and Credentialing/REAL ID Program, Steve Yonkers at (202) 447-3274.

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