



Office of the Chief Clerk

CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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November 21, 2020

His Excellency David W. Panuelo
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Panuelo:

I transmit herewith a certified copy of Congressional Resolution No. 21-228, which was adopted by the Twenty-First Congress of the Federated States of Micronesia, Ninth Special Session, 2020.

Sincerely,

Liwiana Ramon Ioanis
Chief Clerk
Congress of the
Federated States of Micronesia

Enclosures



TWENTY-FIRST CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
NINTH SPECIAL SESSION
NOVEMBER 16 - 25, 2020

A RESOLUTION

TO FURTHER AMEND THE PRESIDENT'S PUBLIC HEALTH EMERGENCY
DECLARATION DATED JANUARY 31, 2020, AS AMENDED ON FEBRUARY 7, 2020,
AND FURTHER AMENDED ON MARCH 11, 2020, APRIL 17, 2020, MAY 30, 2020,
JULY 10, 2020, AND AUGUST 20, 2020.

INTRODUCED BY SENATOR: FERNY S. PERMAN

DATE: NOVEMBER 25, 2020

ADOPTED: NOVEMBER 25, 2020

A handwritten signature in black ink, consisting of a stylized 'L' followed by a series of loops and a long horizontal stroke.

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress

TWENTY-FIRST CONGRESS OF THE FEDERATED STATES OF MICRONESIA

NINTH SPECIAL SESSION, 2020

CONGRESSIONAL RESOLUTION NO. 21-228

A RESOLUTION

To further amend the President's Public Health Emergency Declaration dated January 31, 2020, as amended on February 7, 2020, and further amended on March 11, 2020, April 17, 2020, May 30, 2020, July 10, 2020, and August 20, 2020.

1 WHEREAS, on January, 31, 2020, the President issued a Public
2 Health Emergency Declaration; and

3 WHEREAS in accordance to Article X, Section 9 (c) of the FSM
4 Constitution, Congress has the sole authority to revoke, amend or
5 extend the Public Health Emergency Declaration; and

6 WHEREAS, Congress is currently convened for its Sixth Special
7 Session and therefore has the powers under the Constitution to
8 revoke, amend or extend the Declaration; and

9 WHEREAS, Congress has reviewed the Declaration, the
10 amendments, the clarifications and the decrees issued by the
11 President and has reviewed updated information on the COVID-19
12 becoming a pandemic soon after the adoption of the March 11, 2020,
13 amendment to the January 31, 2020, declaration, the facts
14 attending to the declaration, amendments, clarifications and
15 decrees, and has had several public hearings and has met and
16 conferred with the President and has considered the President's
17 requests for Congressional action; now, therefore,

18 BE IT RESOLVED by the Twenty-First Congress of the Federated
19 States of Micronesia, Ninth Special Session, 2020, that:

(1) Pursuant to Article X, Section 9 (c) of the FSM Constitution, Congress has the exclusive authority to revoke, amend or extend the Emergency Declaration. The President may not revoke, amend or extend the Emergency Declaration. However, should there be a confirmed case of COVID-19 within the FSM, the President is authorized to amend the Declaration to respond to this situation only.

(2) Pursuant to Article X, Section 9 (a) of the FSM Constitution, the President may issue appropriate decrees related to the Emergency Declaration, other than to revoke, amend or extend the Emergency Declaration. Unless and until this Emergency Declaration is revoked by Congress, or it expires of it's own term, the President may not issue an additional or new Emergency Declaration to address the ongoing COVID-19 Pandemic. The purported declaration issued on March 14, 2020 by the President is null and void and all purported amendments, decrees and clarifications made pursuant to the purported declaration are also null and void. Most of the contents of the purported March 14, 2020 declaration and subsequent decrees thereof are

incorporated herein for clarity and comity purposes. The contents thereof which are not inconsistent or contradictory to the January 31, 2020 declaration as amended and as further amended hereinby Congress are hereby deemed ratified as to their effectiveness and implementation, relating back to their date of issuance or implementation.

(3) The President is urged to coordinate and consult with the state governors and their task forces, with a view towards setting a national standard of social distancing measures, and the National Task Force shall support the states mandated implementation of the guidelines. The social distancing standards and measures shall be widely publicized throughout the nation.

(4) The Public Health Emergency Declaration in the FSM dated January 31, 2020, is hereby further amended to read:

WHEREAS, the World Health Organization (WHO) has declared on January 30, 2020 (January 31st 2020 Pohnpei time) that the new Coronavirus (COVID-19) is a Public Health Emergency of International Concern (PHEIC); and

WHEREAS, the WHO has declared on March 11, 2020, (March 12, 2020 Pohnpei time) that COVID-19 isa pandemic and this occurred

1 after Congress adopted its March 11, 2020 amendment to the January
2 31, 2020 declaration; and

3 WHEREAS, the COVID-19 Pandemic exposes the FSM to an
4 undeniable vulnerability from the imminent and likely entry of the
5 virus to the islands unless the FSM National Government and the
6 State Governments resolves to implement effective and uniform
7 counter measures to combat the spread of this rare and deadly
8 virus across all of our states; and

9 WHEREAS, the National Government must mitigate the risk
10 factors associated with the undesirable spread of COVID-19
11 anywhere in the FSM, and for this purpose, the FSM must fast-track
12 nationwide, unified capacity building efforts - which remain in
13 progress, intensify the surveillance and monitoring of
14 international airports and seaports in the country, and maintain
15 quarantine and travel restrictions, together and as a whole,
16 comprising the national efforts of combatting the spread of COVID-
17 19 as other countries around the world are doing; and

18 WHEREAS, the number of countries with confirmed and suspected
19 cases of COVID-19 keeps increasing and the number of deaths due to
20 COVID-19 have intensified with no signs of receding in the near
21 future; and

22 WHEREAS, the citizens and residents of the FSM remain
23 extremely vulnerable to this outbreak, taking into consideration
24 the fact that airline travel routes connecting into the FSM
25 already have confirmed cases of COVID-19 in Hawaii and Guam and

1 COVID-19 may very likely cause massive and widespread illnesses
2 and public health disasters that are beyond the ability and
3 present resources of the FSM National and State Governments to
4 contain; and

5 WHEREAS, given the unrelenting global spread of COVID-19, and
6 the reality that is already a pandemic, it becomes a matter of
7 legal duty and obligation of the National Government of the FSM,
8 its leadership and all officials of this Nation, to take all the
9 emergency precautions, measures and interventions as a matter of
10 acute emergency and necessity, in order to protect and save lives
11 of our citizens, especially the most vulnerable members of our
12 population, the elderly, the sick and the children;

13 NOW THEREFORE, I, David W. Panuelo, President of the
14 Federated States of Micronesia, pursuant to the authority vested
15 upon me under Article X, Section 9 of the FSM Constitution, do
16 hereby place the entire territory of the Federated States of
17 Micronesia under a state of emergency to address the effects of
18 COVID-19 and order as follows:

19 (1) Immediately, all ports of entry of the FSM shall
20 be strengthened and are immediately placed under
21 strict monitoring and surveillance to ensure that
22 the potential carriers of COVID-19 do not enter
23 into the FSM. All travellers must be screened
24 thoroughly for any signs or symptoms of COVID-19,
25 such as feeling tired, difficulty breathing,

1 hightemperature (fever) and coughing and/or sore
2 throat.

3 (2) All National border and security personnel
4 (Customs, Immigration and Quarantine) are under a
5 duty to intensify monitoring of the borders of
6 this Nation and work very closely with the
7 National and State Task Forces to implement a
8 unified response.

9 (3) Given the severity of the situation, as a matter
10 of national security of this Nation and in the
11 interest of maintaining good health and safety of
12 our people, immediately upon its issuance, this
13 Decree shall be disseminated to the public as
14 widely as possible throughout the Nation, by
15 radio, print media and by digital media. The FSM
16 Emergency Task Force shall monitor the
17 implementation, enforcement and full compliance
18 of this emergency declaration and provide timely
19 reports to the President.

20 (4) Nationwide, unified travel bans must be enforced
21 according to the terms of this declaration.
22 Persons travelling from any infected country,
23 state or territory, are prohibited from entering
24 into the FSM for as long as the COVID-19 Pandemic
25 persists. Rare exceptions may be granted on a

1 case-by-case basis, for certified health experts,
2 technicians and workers assigned to assist the
3 FSM with respect to COVID-19, returning medical
4 referral patients, including if applicable, the
5 remains of a deceased and the medical and/or
6 family attendants and immediate family members
7 and FSM governmental officials whose duties are
8 critical, vital and indispensable to the
9 functioning of any branch of any FSM state or the
10 FSM national government, premised upon prior
11 favorable advice, assessment and recommendation
12 by the FSM Emergency Task Force, in consultation
13 with the state task forces, and subject to all
14 screening, detection, quarantine and isolation
15 procedures and protocols of the State of
16 destination.

17 (5) Other citizens, nationals and residents of the
18 FSM are strongly advised against travel to any
19 country, state or territory with confirmed cases
20 of COVID-19, with the understanding that they may
21 be prohibited from re-entry or may be subject to
22 quarantine procedures upon return to the FSM.

23 (6) Travel by air or sea between and within the FSM
24 states is permitted for: essential personnel as
25 determined by the state for whom the personnel is

1 needed; people who are returning to their state
2 of residence, employment, or location of their
3 educational institution; or for a family
4 emergency, as long as there are no confirmed
5 cases of COVID-19 within any of the FSM states.
6 Only air and sea travel that originates within
7 the FSM states, by domestic air or sea carriers,
8 is permitted, and any travel that originates
9 outside of the FSM is not permitted, except as
10 provided in this Declaration. Flights
11 originating in Guam or Hawaii or any other
12 affected area are not permitted and ships
13 originating from any affected area are not
14 permitted. All passengers will be screened at the
15 airport or seaport prior to check in or boarding
16 and are subject to health screening procedures
17 in the FSM state of destination. Any passenger
18 exhibiting symptoms of COVID-19 will not be
19 permitted to board the plane or ship. Any
20 passenger that develops symptoms during transit
21 will be permitted to enter at their final
22 destination, but will be subject to
23 quarantine/isolation requirements.

- 24 (7) Because of the lack of available quarantine and
25 isolation facilities within the FSM, no

1 passengers shall be permitted to disembark into
2 the FSM from any air or sea vessel that
3 originates outside the FSM, subject to the
4 exceptions in Section 4, for FSM citizens
5 international travel and Section (9) for
6 commercial sea vessels.

7 i. However, the National Task Force shall work
8 in consultation with each of the states for the
9 purpose of establishing and further developing
10 their quarantine and isolation facilities
11 standards and capabilities. When the facilities
12 within any of the states are developed to
13 acceptable standards, the states will work with
14 the National Task Force to develop a plan for
15 repatriation of FSM citizens, FSM students and
16 the return of FSM residents. The repatriation of
17 FSM citizens shall be prioritized and only after
18 our citizens have been repatriated, further plans
19 may be implemented to allow for non-citizens to
20 enter the FSM. However, after all FSM citizens
21 who are on medical referral or are receiving
22 medical treatment outside the FSM, and their
23 medical attendants have been repatriated, an
24 exception may be made to allow for the entry of
25 the ambassadors of foreign embassies and the

heads of missions of non-government organizations with diplomatic status, on a case by case basis, upon consultation and approval of the National Task Force and State Task Force. Any diplomat seeking entry into the FSM shall under go all quarantine requirements, including the mandatory 14-day hotel pre-quarantine and including 2 negative COVID-19 tests prior to being able to depart for the FSM. There shall be no modifications or exceptions to these requirements. The National Task Force shall work with international air carriers to notify them of the procedures that will be followed including scheduling of arrivals, pre-screening, screening upon arrival and quarantine and isolation requirements.

ii. The authority to regulate foreign and interstate commerce is expressly granted to Congress in the Constitution, FSM Const. art. IX, § 2(g). FSM Const. art. XIII§ 3. requires the national and state governments to uphold the provisions of the Constitution and to advance the principles of unity upon which the Constitution is founded. These travel restrictions may not be amended by the states; they may only be amended

by Congressional Resolution if Congress is in session, or by written communication signed by the majority of the Committee of Health and Social Affairs if Congress is not in session.

(8) Commercial sea vessels (defined as: fishing vessels, cargo vessels and oil tankers) traveling to the FSM for the purpose of trade and commerce, are subject to the following:

a. Commercial sea vessels are required to abide at all times with the precautionary measures and protocols set by the FSM National Government in coordination with the National and State task forces.

(9) Fishing vessels, other than the domestic fleet, are subject to the following:

a. All transshipment activities are to be carried out in designated transshipment areas to be identified by the National Oceanic Resource Management Authority (NORMA). A designated transshipment area will be in port areas or in territorial waters beyond the three nautical miles zone from baselines. NORMA shall issue appropriate guidelines regulating the transshipment.

b. Carrier vessels supporting transshipment

1 activities of the domestic fleets are
2 permitted to enter the anchorage area for
3 transshipping purposes only, subject to state
4 health screening procedures.

5 c. Longline (LL) fishing vessels are allowed to
6 come to port for transshipment purposes,
7 subject to the additional measures
8 established by NORMA for the avoidance of
9 COVID-19, and observing the following
10 guidelines:

11 i. Fresh LL fishing vessels are allowed to
12 transship at port; PROVIDED, THAT, there
13 shall be no contact at anytime prior to
14 the transshipment.

15 ii. Frozen LL fishing vessels are allowed to
16 transship at port; PROVIDED, THAT, the
17 fishing vessels observe the 14-day
18 quarantine at sea, and no crewmembers are
19 allowed to disembark at port. The 14-day
20 quarantine is counted from the date of
21 last contact.

22 iii. For the purpose of Section (b) hereof,
23 and any part of this decree where its
24 application is deemed relevant, "contact"
25 refers to human interaction of less than

1 four (4) feet between a crewmember of one
2 fishing vessel and another crewmember of
3 another fishing vessel, or any other
4 human to human contact external to
5 fishing vessel operations.

6 iv. Bartering, trading and local sale of fish
7 are prohibited. No person is allowed to
8 approach, in the transshipment and
9 Anchorage area, any fishing vessel, or
10 have any contact therewith, at any time
11 during the effective period of this
12 declaration.

13 d. Domestic fishing vessels are allowed to call
14 port in the FSM States for repair,
15 maintenance and provisioning purposes at the
16 Anchorage area, and shall remain in the
17 Anchorage area during repairs, maintenance
18 and provisioning. For the purposes of this
19 section, domestic fishing vessels are fishing
20 vessels that are flagged in the FSM or have a
21 base of operation anywhere in the FSM States.
22 On a case by case basis, NORMA may, in
23 consultation with the states, grant approval
24 for required repairs and maintenance to be
25 completed at the dock for any repairs or

1 maintenance that cannot be carried out at the
2 anchorage area, subject to no human-to-human
3 contact during said repairs. A written plan
4 outlining the safety procedures that will be
5 followed must be submitted to NORMA for
6 approval at least 72 hours prior to the
7 requested repairs.

8 e. With respect to transshipment at sea,
9 Immigration and Customs clearance procedures
10 shall be conducted electronically with the
11 intention of avoiding or minimizing contact.
12 For the duration of the emergency procedure
13 concerning transshipment at sea, quarantine
14 procedures are suspended until further notice.

15 f. Transshipment at sea shall be monitored
16 thoroughly by the relevant national department
17 or agency, in particular, the Department of
18 Justice (DOJ) and NORMA, to ensure compliance
19 with this directive. NORMA and DOJ, on behalf
20 of the National Emergency Task Force, shall
21 coordinate with the State authorities to
22 ensure that the transshipment activities are
23 not unduly delayed or interfered with by any
24 State-mandated procedures.

25 g. It is part of these requirements that 72 hours

1 prior to transshipment, notice shall be
2 provided in advance to NORMA and DOJ using
3 applicable forms of reporting. Included in
4 the notice are the body temperatures of all
5 crewmembers of the fishing vessels intending
6 to transship, taken at 24-hour intervals prior
7 to transshipment. (at 72 hours, at 48 hours
8 and at 24 hours). Information on body
9 temperatures may be shared with the State
10 authorities for health assessment and
11 coordination purposes.

12 h. These restrictions are a temporary emergency
13 measure, which shall remain in effect until
14 further notice. Any violation of these
15 restrictions shall be subject to penalty set
16 by law pursuant to 11 F.S.M.C. §803. The
17 Secretary of Justice is ordered to take all
18 measures available within the law to ensure
19 enforcement of these restrictions.

20 (10) A task force is hereby established to coordinate
21 all activities that need to be undertaken and
22 measures that must be formulated and uniformly
23 implemented in connection with the COVID-
24 19Pandemic. The Department of Health and Social
25 Affairs is designated as the lead department and

1 chair of the Task Force, which will be
2 responsible for setting up plans to provide any
3 necessary measures that will ensure that the
4 movement of people and international travellers
5 do not cause the introduction of COVID-19
6 anywhere in the FSM. The members of the Task
7 Force are the following:

8 a. Department of Environment, Climate Change
9 and Emergency Management (DECCEM);

10 b. Department of Foreign Affairs;

11 c. Department of Finance and Administration;

12 d. Department of Transportation,
13 Communications and Infrastructure (TC&I);

14 e. Department of Justice;

15 f. Department of Resources and Development
16 (R&D);

17 g. Department of Education;

18 h. FSM Division of Immigration;

19 i. Representatives of the Private Sector;

20 j. Representatives of State Governments as
21 recommended by the State Governors;

22 k. Development Partners;

23 l. Representatives of Faith Groups; and

24 m. Representatives of Traditional Leaders.

25 (11) The Task Force shall convene immediately upon

issuance of this order and provide the President with timely reports and updates.

(12) Up to the sum of \$700,000, received as balance and available under the Disaster Relief Fund (DRF) accounts set up under Title 55 of the Code of the Federated States of Micronesia (Annotated), from prior declarations of emergencies, is hereby decreed for this Public Health Emergency Declaration. This fund shall be used in any manner necessary to deal with the public health emergency, including the mitigation of costs for people affected by the travel ban instituted by the emergency declaration. The Emergency Task Force shall develop suitable criteria for the mitigation of costs for President's approval.

(13) Other funds received from foreign donors, including the United States, that are specifically related to the FSM national response to the COVID-19 Pandemic may be used for nationwide capacity building, intensifying the surveillance and monitoring of international airports and seaports in the FSM, expanding and maintaining quarantine and travel restrictions, and other national efforts to combat the spread

1 of COVID-19.

2 (14) Expenditures of the decreed funds are subject to
 3 full accounting. Within 20 days after the end of
 4 the emergency, the Chair of the Task Force, with
 5 the assistance of the Secretary of Finance and
 6 Administration and staff, shall provide the
 7 President with a full report on the expenditure
 8 of funds, and shall submit the report to Congress
 9 no later than 30 days after the emergency is
 10 over.

11 (15) The Department of Finance shall identify sources
 12 of replenishment for the decreed funds and
 13 recommend to the President, as soon as practical,
 14 additional supplemental budget request to
 15 Congress.

16 (16) During the emergency, a civil right may be
 17 impaired only to the extent actually required for
 18 the preservation of peace, health or safety. The
 19 normal requirement of competitive bidding is
 20 waived for any procurement made in connection
 21 with this declaration of emergency.

22 (17) Unless sooner revoked by Congress, this Emergency
 23 Declaration is in effect until January 31, 2021.

24 (18) All previous amendments and clarifications to the
 25 Public Health Emergency Declaration are hereby

1 revoked.

2 BE IT FURTHER RESOLVED, that the President shall disseminate
3 widely the Public Health Declaration of Emergency as amended by
4 Congress, and any subsequent decrees and clarifications made by
5 the President pursuant to this Resolution; and

6 BE IT FURTHER RESOLVED, that certified copies of this
7 resolution be transmitted to the President of the Federated States
8 of Micronesia, the Chief Justice of the FSM Supreme Court, the
9 Governors of Chuuk, Kosrae, Pohnpei and Yap States, the presiding
10 officers of the four state legislatures, and the heads of the
11 airports and seaports in Chuuk, Kosrae Pohnpei and Yap.

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15 ADOPTED: November 25, 2020

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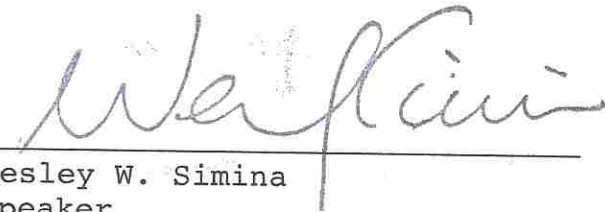
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ATTEST:


Wesley W. Simina
Speaker
FSM Congress

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Liwiana Ramon Ioanis
Chief Clerk
FSM Congress