A RESOLUTION


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

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

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

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

BE IT RESOLVED by the Twenty-Second Congress of the Federated States of Micronesia, Third Regular Session, 2022,
that:

1. (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. (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 its 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 herein by 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 is a pandemic and this occurred after Congress adopted its March 11, 2020 amendment to the January 31, 2020 declaration; and

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

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

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

WHEREAS, the citizens and residents of the FSM remain extremely vulnerable to this outbreak, taking into consideration the fact that airline travel routes connecting into the FSM
already have confirmed cases of COVID-19 in Hawaii and Guam and
COVID-19 may very likely cause massive and widespread illnesses
and public health disasters that are beyond the ability and
present resources of the FSM National and State Governments to
contain; and

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

WHEREAS, as of July 25, 2021, 49.6% of the eligible adult
population (18 years and up) have been fully vaccinated. FSM’s
COVID-19 Vaccination goal is to transition from COVID-19 Free to
COVID-19 Protected with at least 70% vaccination coverage; and

WHEREAS, as of July 19, 2021, more than 348 stranded
citizens and residents have been safely repatriated to the FSM
using its repatriation protocols; and

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

(1) Immediately, all ports of entry of the FSM shall be strengthened and are immediately placed under strict monitoring and surveillance to ensure that the potential carriers of COVID-19 do not enter into the FSM. All travelers must be screened thoroughly for any signs or symptoms of COVID-19, such as feeling tired, difficulty breathing, high temperature (fever) and coughing and/or sore throat.

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

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

(4) Nationwide, unified travel bans must be enforced according to the terms of this declaration.

(a.) Persons travelling from any infected country, state or territory, are prohibited from entering into the FSM for as long as the COVID-19 Pandemic persists. Rare exceptions may be granted on a case-by-case basis, for certified health experts, technicians and workers assigned to assist the FSM with respect to COVID-19, returning medical referral patients, including if applicable, the remains of a deceased and the medical and/or family attendants and immediate family members, government employees or workers hired to assist the National and State Government with essential services, and FSM governmental officials whose duties are critical, vital and indispensable to the functioning of any branch of any FSM state or the FSM national government, persons requiring emergency medical services, and local fishing crews of domestic fishing vessels in accordance with established
national and state protocols.

(b) Permitted travel in the exception under paragraph (4)(a) will apply to persons presently free of COVID-19 and also persons who might have been infected with COVID-19 in the past but had since fully recovered and determined to be non-infectious according to established health protocols and guideline of the National Task Force.

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

(6) Travel by air or sea between and within the FSM states is permitted, as long as there are no confirmed active cases of COVID-19 within any FSM States. Any quarantine requirement for interstate travel shall be in accordance with established protocols and guidelines of the National Task Force, upon consultation with the State Task Force, and if quarantine is ever applied, it shall be so applied without
discrimination. Interstate travel on international commercial airlines shall be permitted for personnel providing technical assistance supporting the FSM’s COVID-19 preparedness and response in accordance with the established protocols and guideline of the National Task Force.

(7) Because of the limited available quarantine and isolation facilities within the FSM, no passengers shall be permitted to disembark into the FSM from any air or sea vessel that originates outside the FSM, subject to the exceptions in Sections (4) and (6), and Section (9) for commercial sea vessels.

i. However, the National Task Force shall work in consultation with each of the states for the purpose of establishing and further developing their quarantine and isolation facilities standards and capabilities. When the facilities within any of the states are developed to acceptable standards, the states will work with the National Task Force to develop a plan for repatriation of stranded FSM citizens and FSM students and the return of stranded FSM residents. The repatriation of
FSM citizens shall be prioritized and only after our citizens have been repatriated, further plans may be implemented to allow for non-citizens to enter the FSM. However, after all FSM citizens who are on medical referral or are receiving medical treatment outside the FSM, and their medical attendants have been repatriated, an exception may be made to allow for the entry of the ambassadors key staff of foreign embassies, the heads and key staff of missions of non-government organizations with diplomatic status, and essential workers, on a case-by-case basis, upon consultation and approval of the National Task Force and State Task Force. Any travelers to the FSM shall be fully vaccinated, quarantined and tested negative for COVID-19 within 72 hours prior to entry into the FSM or have medical documentation confirming recovery of prior infection and deemed non-infectious in accordance with established protocols and guideline of the National Task Force. 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 activities of the domestic fleets are permitted to enter the anchorage area for transshipping purposes only, subject to state health screening procedures.

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

i. Fresh LL fishing vessels are allowed to
transship at port; PROVIDED, THAT,
there shall be no contact at any time
prior to the transshipment.

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

iii. For the purpose of Section (b) hereof,
and any part of this decree where its
application is deemed relevant,
“contact” refers to human interaction
of less than four (4) feet between a
crewmember of one fishing vessel and
another crewmember of another fishing
vessel, or any other human to human
contact external to fishing vessel
operations.

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

d. Domestic fishing vessels are allowed to call port in the FSM States for repair, maintenance and provisioning purposes at the Anchorage area, and shall remain in the Anchorage area during repairs, maintenance and provisioning. For the purposes of this section, domestic fishing vessels are fishing vessels that are flagged in the FSM or have a base of operation anywhere in the FSM States. On a case-by-case basis, NORMA may, in consultation with the states, grant approval for required repairs and maintenance to be completed at the dock for any repairs or maintenance that cannot be carried out at the anchorage area, subject to no human-to-human contact during said repairs. A written plan outlining the safety procedures that will be followed must be submitted to NORMA and the established Maritime working Group of the National Taxk Force for approval at least 72 hours prior to the requested repairs.

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

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

g. It is part of these requirements that 72 hours prior to transshipment, notice shall be provided in advance to NORMA and DOJ using applicable forms of reporting. Included in the notice are the body temperatures of all crewmembers of the fishing vessels intending to transship, taken at 24-hour intervals prior to transshipment. (at 72 hours, at 48 hours and at 24 hours). Information on body
temperatures may be shared with the State authorities for health assessment and coordination purposes.

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

(10) A task force is hereby established to coordinate all activities that need to be undertaken and measures that must be formulated and uniformly implemented in connection with the COVID-19 Pandemic. The Department of Health and Social Affairs is designated as the lead department and chair of the Task Force, which will be responsible for setting up plans to provide any necessary measures that will ensure that the movement of people and international travelers do not cause the introduction of COVID-19 anywhere in the FSM. The members of the Task Force are the following:
1. Department of Environment, Climate Change and Emergency Management (DECCEM);
2. Department of Foreign Affairs;
3. Department of Finance and Administration;
4. Department of Transportation, Communications and Infrastructure (TC&I);
5. Department of Justice;
6. Department of Resources and Development (R&D);
7. Department of Education;
8. FSM Division of Immigration;
9. Representatives of the Private Sector;
10. Representatives of State Governments as recommended by the State Governors;
11. Development Partners;
12. Representatives of Faith Groups; and
13. Representatives of Traditional Leaders.

(11) The Task Force shall convene immediately upon issuance of this order and provide the President with timely reports and updates.

(12) The Task Force is mandated to intensify the nationwide vaccination efforts with a view towards achieving herd immunity across the nation through a diligently coordinated nationwide public awareness and information
campaign on the merits of a timely COVID-19 vaccination. All FSM citizens residing in the FSM, are required to undergo COVID-19 vaccination subject to the protocol of the Task Force. Any employee of the National Government and its offices or agencies who fails to comply with this requirement within 30 days, absent reasonable justification, shall be placed on leave without pay.

(13) The operational details in implementing this emergency declaration are contained in the Guidelines and Protocols, and any updates thereof, as established or sanctioned by the Task Force. Said Guidelines and Protocols are duly incorporated herein by reference. The Task Force shall inform Congress of any updates to the Guidelines and Protocols in a timely manner.

(14) The Task Force shall be granted reasonable flexibility with respect to the implementing details of this emergency declaration, in recognition of the scientific expertise and capacity available to the Task Force in enforcing its Guidelines and Protocols.

(15) 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.

(16) 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 of COVID-19.

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

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

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

(20) Unless sooner revoked by Congress, this
Emergency Declaration is in effect until May 31,
2022.

(21) All previous amendments and clarifications to
the Public Health Emergency Declaration are
hereby revoked.

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

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

Date: 1/12/22

Introduced by: /s/ Wesley W. Simina

Wesley W. Simina