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 Regular 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, First Regular Session, 2021, 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 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 hereby 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

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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;

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 travellers 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.
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 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 and any person arriving in the FSM on an air or sea vessel, who is assessed by FSM medical personnel as needing urgent medical care, premised upon prior favorable advice, assessment and recommendation by the FSM Emergency Task Force, in consultation with the state task forces, and subject to all screening, detection, quarantine and isolation procedures and protocols of the State of destination.

(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 for: essential personnel as determined by the state for whom the personnel is needed; people who are returning to their state of residence, employment, or location of their educational institution; or for a family emergency. However, if there is a confirmed case of COVID-19 within any FSM state, the National Task Force, upon consultation with the State Task Forces, may temporarily suspend interstate travel. Only air and sea travel that originates within the FSM states, by domestic air or sea carriers, is permitted, and any travel that originates outside of the FSM is not permitted, except as provided in this Declaration. Flights originating in Guam or Hawaii or any other affected area are not permitted and ships originating from any affected area are not permitted. All passengers will be screened at the airport or seaport prior to check in or boarding and are subject to health screening procedures in the FSM state of destination. Any passenger exhibiting symptoms of COVID-19 will not be permitted to board the plane or ship. Any passenger that develops symptoms during transit
will be permitted to enter at their final
destination, but will subject to
quarantine/isolation requirements.

(7) Because of the lack of 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 Section 4, for FSM citizens
international travel 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 FSM citizens, FSM students and
the return of 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 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 undergo 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
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 anytime 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 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 travellers
do not cause the introduction of COVID-19
anywhere in the FSM. The members of the Task
Force are the following:

a. Department of Environment, Climate Change
   and Emergency Management (DECCEM);
b. Department of Foreign Affairs;
c. Department of Finance and Administration;
d. Department of Transportation,
   Communications and Infrastructure (TC&I);
e. Department of Justice;
f. Department of Resources and Development
   (R&D);
g. Department of Education;
h. FSM Division of Immigration;
i. Representatives of the Private Sector;
j. Representatives of State Governments as
recommended by the State Governors;
k. Development Partners;
l. Representatives of Faith Groups; and
m. 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) 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 of COVID-19.

(14) 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.

(15) 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.

(16) 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.

(17) Unless sooner revoked by Congress, this Emergency Declaration is in effect until [May 31] July 31, 2021.

(18) 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

BE IT 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: 5/24/21

Introduced by: /s/ Ferny S. Perman
Ferny S. Perman