

EMERGENCY REGULATION AND PROPOSED PERMANENT REGULATION

**AMENDING THE PUBLIC SERVICE SYSTEM REGULATION BY SETTING OUT THE APPLICABLE
GUIDELINES ON HAZARDOUS PAY FUNDING**

**APPROPRIATED IN SECTION 9(12)(H) OF PUBLIC LAW NO. 21-42, AS AMENDED BY PUBLIC
LAWS NOS. 21-55, 21-77, 21-116, AND 21-147**

This Regulation serves as guidelines on the provision of hazardous pay in the budget act.

Extra copies of the proposed regulation can be obtained from the Office of the President. Any person interested in commenting may do so by written submission to:

Office of the President
Palikir, Pohnpei
Federated States of Micronesia

This Emergency Regulation shall take effect immediately upon signature by the President as an emergency regulation, and shall be replaced by a Permanent Regulation on the fortieth day from the date of the posting of the proposed permanent regulation. Persons affected should assume that the proposed Permanent Regulation became effective on that date unless they learn otherwise. The actual date of effectiveness will be noted on the certified copy of the Permanent Regulation to be filed pursuant to 17 F.S.M.C. §103(1).

Approved:

Date: 8/10/20



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

Approved as to legal sufficiency:

Date: 8/07/20



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

REGULATION AMENDING THE PUBLIC SERVICE SYSTEM REGULATION SETTING OUT THE APPLICABLE GUIDELINES ON HAZARDOUS PAY

PER APPROPRIATION IN SECTION 9(12)(H) OF PUBLIC LAW NO. 21-42, AS AMENDED BY PUBLIC LAWS NOS. 21-55, 21-77, 21-116, AND 21-147

I. Authority

(a) The Constitution of the Federated States of Micronesia provides that the executive power of the national government is vested in the President. Section 1 Article X, FSM Constitution. Section 2(a) thereof expressly delegates to the President of the Federated States of Micronesia the power “to faithfully execute and implement the provisions of the Constitution and all national laws.”

(b) Annual budgets including the Public Law No. 21-42, as amended, form part of the national laws that are entrusted to the President to implement.

(c) In accordance with the Title 17 of the FSM Code, the President is issuing this regulation that serves as guideline for the implementation of the hazardous pay appropriated in the annual budget.

II. Policy considerations. (a) In granting hazardous pay to eligible personnel, this Regulation considers fairness and equity given the amount of funds appropriated for this purpose as general guide noting that the main motivation behind this pay is the ongoing COVID-19 pandemic that plagues nations around the world, especially FSM citizens serving in the FSM Missions abroad, including local personnel entitled to this pay.

(b) This regulation applies specifically to the COVID-19 hazard pay funded by congressional appropriation.

III. Amendment. The Public Service System Regulation is amended by inserting Subpart

8.8A to read as follows:

“Subpart 8.8A. Hazard pay on COVID-19

A. 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) “Employee” means an employee of the National Government of the Federated States of Micronesia regardless of the employment status—whether permanent, full-time, part-time, temporary, short-term, or contractual employment. Typically, an employee is a person who is required to observe certain guidelines and procedures in performing the job, such as, for example, a specific work schedule or manner of performing his or her job.

A. With respect to a FSM diplomatic mission abroad, the term “employee” includes a government official appointed by the President of the Federated States of Micronesia subject to the advice and consent of the FSM Congress. For example: ambassador or permanent representative, deputy chief of mission or deputy permanent representative, and consul general.

B. For the purpose of this hazardous pay, the term employee includes any FSM citizen under contract arrangement assigned or attached to any FSM diplomatic mission abroad.

(2) “Hazardous work” means occupation or work assignment that involves unusual and extreme hazards to health and safety. It includes work performed in a country, state or territory that has a confirmed case of the

COVID-19.

- (3) “Health care worker” means medical doctor, physician, surgeon, anesthesiologist, medical specialist, pharmacist, nurse, medical technician, health care staff and employee providing medical, nursing and support services in the area relating to medical health. The term also includes non-medical professional staff providing essential support services to medical doctors and nurses.
- (4) “Other employees” means employees of the National Government of the Federated States of Micronesia regardless of the employment status—whether permanent, full-time, part-time, temporary, short-term, or contractual employment—who are at work during the COVID-19 pandemic including in particular the front liners, namely: border control officials and employees, Immigration, National Police (Protective and Investigative), Maritime Surveillance, Customs, and Quarantine Officers.
- (5) “President” means the President of the Federated States of Micronesia.

B. Eligibility. The following employees are considered to have hazardous work and are eligible to hazardous pay:

- (1) Health care worker and foreign service personnel, including officials and contractors referred to in paragraphs (A) and (B), respectively, in (A)(1) of this Subpart 8.8A.
- (2) Other employees as may be set out in subsequent regulation.

C. Compensation rates and calculation of hazardous pay.

- (1) Those eligible to hazardous pay under this regulation are entitled to 25% of their base pay in addition to the relevant base pay. Where an

employment arrangement does not expressly refer to a base salary, then the mathematical equivalent to the bi-weekly pay of an employee shall be considered as the base pay for the purpose of calculating the hazardous pay.

- (2) Foreign service personnel of the FSM diplomatic missions situated in a country, state or territory that has a confirmed case of the COVID-19 are entitled to the hazardous pay for actual work (not working from home) starting in March 2020 that such country, state or territory had a confirmed case of the COVID-19.
- (3) Hazardous pay for in-country health care worker shall be governed by subsequent guidelines.
- (4) A person accorded with hazardous pay shall not receive additional pay for night work differential.

D. Documentation and monitoring. Application for payment of hazardous pay shall be supported by appropriate time sheets, or equivalent, duly reviewed by the head of Mission, Consulate or division chief, and approved by the relevant heads of departments and offices. It is the duty of the respective department heads to ensure compliance with this Regulation. The Office of Personnel shall review and monitor payment of hazardous pay.”