

**EMERGENCY REGULATION GOVERNING THE
PROHIBITION ON THE IMPORTATION OF ONE-TIME-USE DISPOSABLE STYROFOAM AND
PLASTIC FOOD SERVICE ITEMS AND**

PLASTIC SHOPPING BAGS

This Emergency Regulation is proposed and to be posted according to Section 209 of Title 25 of the Code of the Federated States of Micronesia (Annotated), which gives power to adopt regulations to implement the provisions of Title 25 of the FSM Code.

This Emergency Regulation takes effect immediately upon signature by the President.

A permanent regulation may be proposed of the same or similar text as herein. Extra copies hereof can be obtained from the Secretary of Department of Environment, Climate Change and Emergency Management (DECEM) with address below. Any person interested in commenting may do so by written submission to:

Secretary Andrew Yatilman
Department of DECEM
Palikir, Pohnpei FSM

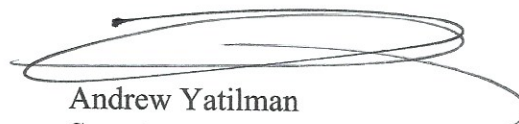
Approved:

Date: 6/30/20



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

Date: 6/30/20



Andrew Yatilman
Secretary
FSM DECEM

Approved as to legal sufficiency:

Date: 6/30/20



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

**EMERGENCY REGULATION ON THE
PROHIBITION ON THE IMPORTATION OF ONE-TIME-USE DISPOSABLE STYROFOAM AND
PLASTIC FOOD SERVICE ITEMS AND
PLASTIC SHOPPING BAGS**

I. Authority

- (a) With the approval by the President of the Federated States of Micronesia, the Secretary of the Department of Environment, Climate Change and Emergency Management is issuing this Regulation in accordance with Section 209 of Title 25 of the FSM Code (Annotated).
- (b) Once promulgated according to Administrative Procedures Act under Title 17 of the FSM Code (Annotated), this Regulation shall have the force and effect of law.

II. Policy considerations. In banning the importation of plastics, this Regulation considers the following general principles and approaches:

- (a) It is duty of the National Government to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water for the benefit of the present and future generations of Micronesians.
- (b) The necessities of economic development shall be balanced with the imperatives of social development and environmental protection. As stewards of the environment, the National Government takes the lead in crafting a nationwide effort towards responsible and sustainable practices of protecting the environment.

III. 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:

- (a) "Customs Officers" means a person:
 - (1) employed by the FSM Department of Finance and Administration;
 - (2) authorized in writing by the Secretary of Finance and Administration to perform all of the functions of a Customs officer; or

- (3) deputized in accordance with the provisions of section 268 of title 54 of the FSM Code.
- (b) “Immigration Officers” means the Chief of the Division of Immigration and Passport Services of the FSM Department of Justice, and his assistants and agents.
- (c) “Import” means to bring into the Federated States of Micronesia goods merchandise, or commodity from a foreign country for commercial or personal use, sale, processing, or re-export.
- (d) “Importer” means any person by or for whom any goods are imported. The term importer includes the consignee and any other person who is beneficially interested in the goods.
- (e) “Person” means any individual, company, corporation, partnership, unincorporated association, or other business entity.
- (f) “Plastic” means synthetic polymers, thermoplastic in particular, used in variety of applications such as packaging, labeling, stationery, textiles, plastics, and in reusable containers. For the purpose of this Regulation, plastics are those used as eating utensils and plastic shopping bags.
- (g) “Plastic cup” means a cup made out of plastic that is commonly used as a container to hold water and warm or cold beverages.



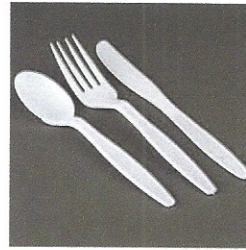
[plastic cups]

- (1) Reusable cups are not prohibited.



[reusable cups]

- (h) “Plastic food service items” refers to eating utensils, including spoons, forks, knives, plates and straws made of plastic. They are prohibited.



- (1) Plastic food service items that are reusable, for example serving spoons, reusable cups and reusable plates, are not prohibited. Examples:



[reusable service items]

- (i) “Plastic shopping bag” means carrier bags, or plastic grocery bags are a type of plastic bag used as shopping bags and made from various kinds of plastic. A wholesale or retail establishment usually provides it to a customer at a point of sale incidental to the purchase of goods. For the purpose of this Regulation, “plastic bags” are plastic bags that are 35 microns or thinner.



[plastic shopping bags]

- (j) “Secretary” means the Secretary of the Department of Environment, Climate Change and Emergency Management.
- (k) “Styrofoam” is a type of polystyrene foam or a plastic that is lightweight yet durable. It is used as food container or as disposable food packing, food take-outs, coffee cups and related purposes.



[Styrofoam]

IV. Importation Ban

- (a) Importation of the following is prohibited:
 - (1) one-time-use disposable Styrofoam;
 - (2) plastic disposable straw;
 - (3) plastic food service items, including plastic cups that are not reusable; and
 - (4) plastic shopping bags.
- (b) Goods that are prohibited from importation under section IV(a) shall be subject to seizure by the Customs Officers.

V. Recycled and reusable plastic shopping bags

- (a) Recycled plastic shopping bags are plastic bags that are recycled by going through the process of recovering scrap or waste plastic and reprocessing the materials into useful products. A recycled plastic bag is not prohibited, for as long as it meets the required thickness, which is not thinner than 35 microns.
- (b) Reusable plastic shopping bags are not prohibited and shall not be seized. For

the purpose of this Regulation, reusable plastic shopping bags are those that are not thinner than 35 microns.

- (c) The importer has the burden of proving that the plastic shopping bags being imported are recycled or reusable.

VI. Exempted products or plastic. Notwithstanding other provisions of this Regulation, the following products are not prohibited:

- (a) *Produce bags*: These bags are dispensed from a roll and made available when shopping to keep meat, fish, fruit and vegetables separate from other grocery items.



[produce bag]

- (b) *Reusable bags*: Woven cotton or sturdy bags such as 'green bags' designed for multiple use.



[reusable bag]

- (c) *Biodegradable bags*: They are not plastic bags; they are compostable or biodegradable bags made of plant starch.



[biodegradable bag]

- (d) *Paper bags*: They are not made of plastics as they biodegrade quickly.



[paper bag]

- (e) The importer has the burden of proving that products being imported are exempted products under this section.

VII. Seizure and Destruction

- (a) Goods seized under Part IV of this Regulation shall be confiscated and seized upon entry or attempted entry into FSM by the Immigration Officers and Customs Officers.
- (b) The Secretary or his agent, or the Immigration Officer or Customs Officer, may inquire from or require the importer further information or clarification with respect to any goods being imported.
- (c) The Secretary may enter into appropriate agreements with relevant departments and agencies of the National Government or State Government (including State Environmental Protection Agencies) with respect to the enforcement of this Regulation or seizure of goods.
- (d) Items seized shall be stored in secure locations or facilities designated by the Secretary of Finance and Administration.
- (e) The seized goods shall be stored for period of 30 days. Should an importer file

an appeal, this period could be extended up to one year at the discretion of the Secretary.

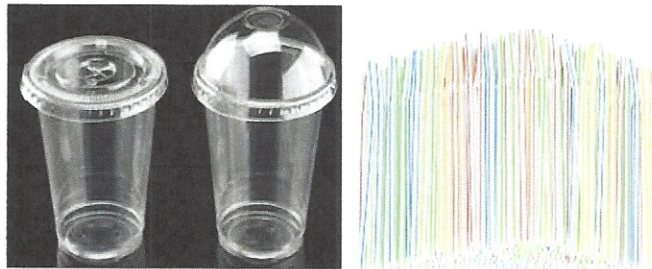
- (f) The Secretary of the DECEM and Secretary of Finance and Administration shall make plans for the eventual destruction of the confiscated goods in an environmentally safe manner.

VIII. Appeal

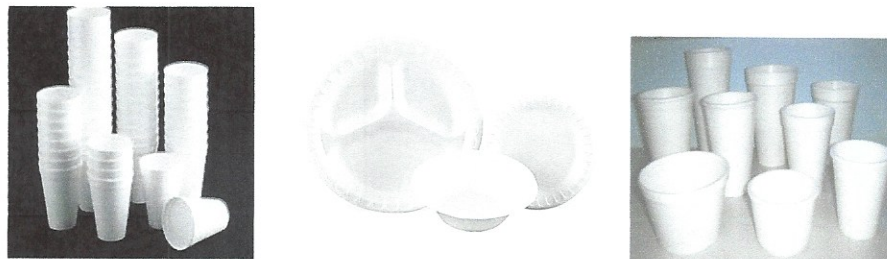
- (a) Any person aggrieved by the seizure of goods may petition the Secretary for the release of the goods within a period of 30 days following the confiscation. Documentary and other relevant evidence shall support the petition. It is the burden of the appellant to prove that the goods confiscated were exempted from the prohibition, or recycled, or reusable.
- (b) Petition shall be resolved within 30 days in accordance with section 109 of title 17 of the FSM Code. Any decision is considered final and binding upon the parties.

Appendix I – Prohibited Products

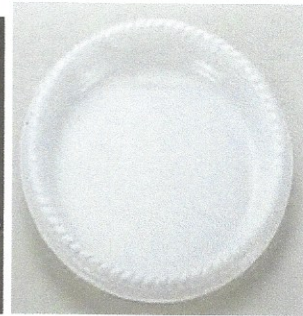
Plastic cups and
plastic straw



Foam cups and
plates



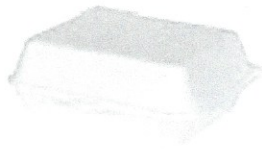
Plastic food
service items



Plastic shopping
bags



Styrofoam



See thru pack

