

# **Plant and Animal Quarantine Regulations**

## **PART I - PRELIMINARY**

### **1. Short Title**

These regulations may be cited as the Plant and Animal Quarantine Regulations.

### **2. Authority**

In pursuance of the powers conferred by section 402 of Title 22 of the Code of the Federated States of Micronesia (Supp. 1987) and Public Law 10-55, the Secretary of the Department of Economic Affairs makes the following regulations and repeals all previously issued Plant and Animal Quarantines and Regulations.

### **3. Effective Date**

These Plant and Animal Quarantine Regulations shall take effect no sooner than ten days after compliance with section 102(1) of Title 17 of the Code of the Federated States of Micronesia, and shall be effective upon certification of adoption of the Department of Economic Affairs, following approval by the Secretary, the President of the Federated States of Micronesia and the Department of Justice.

### **4. Purpose**

The purpose of the Plant and Animal Quarantine Regulations is to protect the agricultural activities and general well-being of the people of the Federated States of Micronesia.

These regulations are promulgated as a method of preventing the introduction and further spread of injurious insects, pests, and diseases into and within the Federated States of Micronesia, to provide procedures and conditions to ensure the safe movement of plants and animals and plant and animal products into, out of, and within the Federated States of Micronesia; and to fulfil international obligations to prevent the movement of pests in international trade and traffic.

### **5. Definitions**

Unless the context otherwise requires, the following definitions shall apply in the interpretation and enforcement of the provisions of these regulations:

"Administrator" means the Agricultural Program Manager within the Department of Economic Affairs, or other person within the Department of Economic Affairs duly authorized by the Secretary to fulfill the specific responsibilities of the Administrator under these regulations.

"Agent" includes any person performing functions on behalf of or instead of an owner or importer in relation to an import, or an exporter in relation to the export, of a live plant, plant material, live animal, animal product or goods which are subject of these Regulations.

"Agricultural Quarantine Facility" means an approved government facility, equipped and specifically designed and set aside for holding or for growing imported plants or plant materials or for holding imported animals.

"AI Centre" means a facility for the production of semen approved by the veterinary administration of the exporting country and used exclusively for donor animals and conforming with internationally accepted standards.

"Animal" means any living stage of the animal kingdom except human beings; and, in the case of any mammal, bird, insect, fish, crustacean or reptile, includes the egg, larva, semen or the carcass thereof.

"Animal Pest" means any organism that is capable or potentially capable of causing disease in animals and includes any living stage of insect, helminth or other invertebrate animal, bacteria, fungi, virus or similar organism and noxious weeds.

"Animal Product" means any part of an animal (including the flesh, wool, hair, skin, hide, bones, horns, hooves, feathers and other parts of the carcass), and any product that is wholly, or partly derived from an animal or any part of an animal, being part of any animal or a product that has not been treated or sterilized to the stage where it is rendered free from any disease and from carrying any disease.

"Approved Place for the Performance of Quarantine" means a place other than an agricultural quarantine facility which has been approved by the Administrator for the quarantine of plants, animals or goods.

"Approved treatment" means any treatment approved by the Administrator.

"As Prescribed" means any procedure or treatment specified by the Administrator of Agriculture or incorporated in a manual or official treatment schedule promulgated in accordance with the Administrative Procedure Act, Title 17, Section 101, of the FSM Code.

"Authorized Official" means the Administrator, the State Chiefs of Agriculture, and Directors, Agricultural Inspectors, or any other person designated by the Secretary of the Department of Economic Affairs.

"Chief of Agriculture" means the person responsible for agriculture within each of the different States of the FSM.

"Contaminate" means infestation or infection by plant or animal pests or having in association with it animals, animal products, unauthorized plant material or soil adhering to or in company with the goods.

"Contraband Goods" means any goods imported into or transported within the FSM by any person in contravention of these regulations.

"Conveyance" means any carrier such as a vessel, aircraft, lighter, barge, truck, van, vehicle, and transport or shipping container.

"Cutting up establishment" means a slaughterhouse, export cutting plant, export cold store, butchery, cannery, or poultry plant where meat is cut into smaller cuts than half carcasses, cut into three wholesale cuts, prepared for retail sale, or totally deboned.

"Culture" means any plant or animal tissue, or any planting material or parts thereof on nutrient media.

"Declaration" refers to a written or oral statement certifying the presence, absence, nature, quantity or condition of any plants, plant material, animals and animal products or other prohibited or restricted goods under these regulations which accompany a person on his or her arrival from overseas or that arrive as that person's cargo.

"Disease" in relation to animals means any disease, parasite or pest declared by the Secretary of Economic Affairs by proclamation to be a disease affecting animals. For the purposes of these regulations, goods of animal origin shall be deemed to be diseased if they are in a deteriorated or abnormal condition, whether or not that condition is dependent on the presence of, or is due to the operation, development, growth or effect of, a disease.

"Disease" in relation to plants means any disease, pest or plant declared by the Secretary of Economic Affairs by proclamation to be a disease or pest affecting plants, or a noxious plant. For the purposes of these regulations, goods of plant origin shall be deemed to be diseased if they are in a deteriorated or abnormal condition, whether or not that condition is dependent on the presence of, or is due to the operation, development, growth or effect of, a disease.

"Dunnage" means any timber used in the stowage of goods in conveyances such as vessels or cargo containers.

"Examination" means physical inspection and shall include the inspection of any document, the taking of any sample, the conduct of any test or other procedure used to determine the conformity or lack of conformity with the conditions under which an importation of plants, plant materials, animals or animal material or other regulated goods has been approved.

"Export" means to take a thing or cause it to be sent out of the country or to another island within the FSM by any means of conveyance.

"Export Inspection" means the inspection or examination of agricultural produce and animals, conveyances or goods, for the purpose of ensuring that they comply with the sanitary and/or phytosanitary quarantine requirements of the country of destination.

"Fish" means any aquatic animal, whether piscine or not, and includes any mollusc, crustacean, coral, sponge, holothurian (beclie-de-mer), and reptile and their young and eggs.

"Free zone" means a clearly defined territory within a country in which no case of a specified disease has been reported during a defined period for such disease, and within which and at the borders of which official veterinary control is effectively applied for animals and animal products, and their transportation.

"Fruit and Vegetables" means the edible portion of any plant, whether attached to the plant or not, and includes any peel, skin, shell or seed, whether edible or not, including vegetables, in the raw or unprocessed state.

"FSM" means the Federated States of Micronesia.

"Garbage" means mixed refuse waste material derived in whole or in part from plants, fruits, vegetables, meats or other plant or animal material, or other refuse of any character whatsoever that has been associated with any fruits, vegetables, meats or other plant or animal material and includes vessel or aircraft galley scraps.

"Goods" means any movable property and includes plants and plant material, animals and animal products.

"Handicrafts" shall include native artifacts, decorative goods or adornments made from or containing plant material, animal material or sea shells, including, but not limited to, seeds, vines, leaves, wood,

grass, gum, dried flowers, untreated feathers, skin, hair, fur, wool, dried flesh, teeth, bones, the external shells of animals, coral and like materials.

"Import" means to bring a thing or cause it to be brought into the FSM from any place outside of the FSM, or to move a thing or cause it to be moved within the FSM by any conveyance.

"Infected" means a condition caused by a plant or animal disease pathogen.

"Infested" means the presence of plant or animal pests other than a plant or animal disease pathogen.

"Inspection" means the examination of plants or plant material, animals or animal products, goods or other regulated material for the purpose of determining conformity with FSM entry requirements. Inspection shall include the examination of any conveyance, container or packaging of any kind on which or in which such goods have been carried or stored, or on or in which such goods are intended to be carried or stored, and any place where such goods, conveyance or packaging have been or are being held prior to clearance by an Inspector.

"Inspector" means any person, including an Agricultural Quarantine Inspector, appointed by the Governor of either Yap, Chuuk, Pohnpei or Kosrae approved by the Secretary of the Department of Economic Affairs, FSM, to enforce the provisions of the Plant and Animal Quarantine Regulations, quarantines and controls. "Inspector" also includes temporary inspectors appointed under Title 22, Agriculture and Livestock, FSM Code, section 407, (supp. 1987).

"Intermediate Quarantine" in the case of plants, means the growing of plants intended for consignment to the FSM in a place approved by the Secretary where the plants are screened for plant pests, including disease, to enable certification by an approved overseas authority that the plants have been grown in an approved place and as far as can be determined are free of plant pests. "Intermediate Quarantine" in the case of animals means the satisfaction of prescribed quarantine conditions by animals or animal products intended for import into the FSM in a place approved for the purpose by the Secretary.

"International Animal Health Certificate" means a certificate issued by an official veterinarian of the exporting country, certifying the state of good health of the animal, and giving particulars, where applicable, of any tests to which the animal has been subjected, any vaccinations carried out on the animal, and any measures taken to prevent the spread of disease.

"International Health Certificate" means a certificate issued by an official veterinarian of the exporting country, certifying the wholesomeness of animal products, and giving particulars, where applicable, of the measures taken to prevent the spread of disease.

"In Transit" means the temporary storage, transfer or movement into or within the FSM of plants, plant material, animals or animal products, goods or regulated articles which are not intended for importation into FSM but which arrive in the FSM from another place for forwarding to a destination outside of the FSM, irrespective of the duration of their temporary stay in the FSM.

"Land" includes any surface area, building, wharf or port facility.

"Noxious weed" means any plant declared by the Secretary to be a noxious weed.

"O.I.E. means the Office International des Epizooties.

"Official veterinarian" means a civil service veterinarian or a veterinarian appointed or authorized by the veterinary administration of the exporting country.

"Owner" means the person responsible for plants, plant material, animals, animal products, or any other goods or regulated material and may include the owner, the owner's agent, the importer, the person to whom the goods or regulated materials are consigned or, in the case of exports, the person by whom they are being exported or the person in charge of any conveyance in which plants, plant material, animals, animal products, or any other goods or regulated material are being carried or have been carried.

"Person" means both singular and plural and shall include individuals, corporations, companies, governments, associations, societies, partnerships and natural persons.

"Part of the territory of a country" means a geographical or administrative entity possessing an authorised administrative veterinary organisation capable of taking and controlling the appropriate measures.

"Phytosanitary Certificate" means an official certificate issued by a plant protection authority, substantially in the format of the current Model Certificate of the International Plant Protection Convention.

"Plant" includes any part of a plant, whether living or dead.

"Plant and Animal Quarantine Permit" means a written authorization issued by the Administrator of Agriculture, FSM, or his delegate or, in all other cases, the State Chief of Agriculture, for the purpose of facilitating the movement of any plants, plant materials, animals, animal products or other goods or regulated materials which require a permit for such movement under these regulations, where such plants, plant materials, animals, animal products or other regulated goods or materials are intended for importation from overseas.

"Plant Material" means all goods of plant origin and shall include but not be limited to, timber, wooden articles, and other items manufactured or not, wholly or in part from material of plant origin.

"Plant Pest" means an organism of animal or plant origin that can directly or indirectly cause injury or damage to plants and includes any living stage of insect, mite, nematode, snail, slug or other invertebrate animal, bacteria, fungi, virus or similar organism, and noxious weeds known, or suspected to be harmful to plants.

"Point Of Entry" means the designated official seaport, airport or post office in the FSM through which any conveyance or goods must first enter the FSM.

"Quarantine" means a restriction or other control method imposed upon the production, movement or existence of plants, plant material, animals, animal products or any other goods; or measures which are put in place to prevent, or limit the introduction or spread of quarantine pests.

"Quarantine Area" means any land which has been declared by the Secretary to be a quarantine area on account of the presence or suspected presence of a quarantine pest or in or on which measures are to be taken to prevent the entry to, exit from or spread of a quarantine pest.

"Quarantine Pest" means a pest of potential national economic importance to the endangered country that is either not yet present there, or which is present but not widely distributed and is being actively controlled.

"Quarantine Station" includes a temporary quarantine station, a quarantine check point, a pre-entry or post-entry quarantine station, a place approved by the Secretary for intermediate quarantine and all facilities and services related to a quarantine station or check point.

"Regulated Material" means garbage, soil, pest and other materials, substances or goods, including but not specific to, plant or plant material, animals or animal products, the importation or movement of which is controlled under these regulations.

"Re-ship or Re-export" in relation to any imported plant, plant material, animal or animal product, or regulated material, means to remove or to take a thing or cause it to be sent out of the FSM by any conveyance.

"Secretary" means the Secretary, Department of Economic Affairs, FSM.

"Soil" means the loose surface material of the earth in which plants grow and which may serve to harbor plant pests, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts including, among other things, gravel, rock aggregate, compost, clay, sand or silt.

"Timber" includes logs, poles, dunnage, branchwood, firewood and all wood, which has been split, hewn, sawn or dressed or otherwise manufactured and includes furniture partly or wholly manufactured with timber, pre-fabricated building units, shakes, shingles, wooden cases or boxes and the like.

"Tissue Culture" means plants in a clear aseptic medium in a sealed, transparent container.

"Transport Within The FSM" means the interstate movement of goods from one island or atoll in one State of the FSM to another island or atoll in another State of the FSM or, as applied by certain quarantines, the inter-island or intra-island movement of goods from one place to another place within the same State of the FSM.

"Treatment" means the use of remedial measures to ensure the removal of injurious or objectionable materials or the elimination, sterilization or destruction of any plant or animal pest or contamination, including, among other measures, the fumigation, cleaning, incineration, disinfection, disinfestation of plants, plant material or other goods or regulated materials, and, in the case of animals, the use of remedial measures to ensure the removal of injurious animal pest contamination, any immunization, medication, vaccination, insecticidal dipping or spraying or any other practice carried out for the removal of such pest or contamination including the destruction and disposal of the affected animals or animal products.

"Vegetables and Fruit" means the edible portion of any plant, whether attached to the plant or not, and includes any peel, skin, shell or seed, whether edible or not, including vegetables, in the raw or unprocessed state.

"Veterinarian" means a qualified veterinarian approved by the Secretary for the purposes of these regulations.

## 6. Codes of practice to be recognised

Except in so far as the same are contrary to the provisions of these Regulations, the following shall be adopted as codes of practice and their provisions shall generally be applied in the FSM:

- (a) The International Animal Health Code of the Office International des Epizooties;

- (b) The Manual of the International Embryo Transfer Society;
- (c) The International Air Transport Association Live Animal Regulations.

## **Plant and Animal Quarantine Regulations**

### **PART II - General Requirements (Plant And Animal)**

#### **7. Points of entry**

No plant, plant material, animal, animal product or other regulated material may be imported into the FSM except through a designated official point of entry. The following are designated official points of entry:

##### **Airports:**

Kosrae	Kosrae Airstrip
Pohnpei	Pohnpei International Airport
Chuuk	Chuuk International Airport
Yap	Yap International Airport and Ulithi Airstrip

##### **Seaports:**

Kosrae	Okat Harbor, and Lelu Harbor
Pohnpei	Kolonia Harbor
Chuuk	Weno (Moen) Anchorage, and Satawan Anchorage
Yap	Tomil Harbor, and Ulithi Anchorage

##### **Post Offices:**

Kosrae	Tofol
Pohnpei	Kolonia and Palikir
Chuuk	Weno
Yap	Colonia

#### **8. Requirements of all persons entering the FSM**

(a) Every person on entering the FSM or moving from State to State within the FSM shall be required to make a written or oral declaration with respect to plants, plant materials, animals, animal products, soil, cultures or any other thing that is the subject of these Regulations.

(b) No person may introduce into the FSM or move within the FSM any plant, plant material, animal, animal product, or any other thing that is the subject of these Regulations unless the provisions of these Regulations have been duly complied with in respect to such plants, plant material, animals, animal product, or other regulated material.

(c) Every person who makes any false declaration, gives a false certification or interferes with or refuses to submit to an inspection an Inspector deems necessary shall be guilty of a misdemeanor.

#### **9. Notification of the arrival of regulated materials into the FSM**

It is the duty of the importer, agent, Customs Officials, Harbor Master, Postmaster and/or Airport Manager to notify the Administrator or his delegate of the intended arrival of regulated material under these Regulations and provide such information as the Administrator may require.

#### **10. Availability of documents, manifests and conveyance movement information**



The master or agent of any conveyance entering or moving within the FSM shall on the request of an Inspector provide cargo manifests, ship's logs, crew lists and such other documents as are considered necessary by the Inspector to determine the quarantine status of such conveyance.

#### 11. Powers of the Administrator of Agriculture

In addition to any powers granted under these Regulations:

(a) the Administrator of Agriculture may in writing delegate specific powers designated in these Regulations to authorized officials and these delegations will remain effective until revoked in writing;

(b) the Administrator of Agriculture cannot delegate his power of delegation;

(c) the Administrator of Agriculture shall determine appropriate conditions for the entry of plant, plant products, animals, animal products and goods so as to prevent the introduction of plant and animal diseases and quarantine pests into the FSM as far as is reasonably practicable and desirable for the benefit of public, plant and animal health, and livestock production generally and to preserve the flora and fauna.

#### 12. Language of documents and labelling of goods

(a) All documents and certificates accompanying imports made under these regulations shall be presented in the English language;

(b) No goods may be imported into the FSM under these regulations unless evidence of origin and contents is presented in the English language.

(c) No person shall import or offer for entry any plant, plant material, animal product or other regulated material unless the case, box, package, crate, container is plainly and correctly marked to indicate the country of origin, name and address of shipper and name and address of consignee.

#### 13. Inspection, examination and treatment of any conveyance arriving from overseas

(a) Immediately on the arrival of any conveyance from any overseas country or State of the FSM, the conveyance, together with its cargo, baggage, garbage and provisions, may be inspected, examined and ordered for treatment by an Inspector for the purpose of enforcing these Regulations and no person shall enter the conveyance or remove any baggage or cargo from the conveyance without the authority of the Inspector until such inspection, examination or treatment is completed.

(b) Inspection, examination and treatment of a conveyance may include:

(i) inspection of the conveyance, its cargo and stores as well as treatment if necessary at the expense of the owner or agent of the conveyance;

(ii) spraying or fumigation of every compartment of the conveyance;

(iii) inspection of any documentation certifying that treatment for the control of pests has been carried out or is purported to have been carried out in relation to the conveyance; and

(iv) any other inspection or examination deemed by an Inspector to be necessary to prevent the introduction or spread of pests into or within the FSM.

(c) In the case of a conveyance entering an unofficial port of entry, all costs associated with the quarantine inspection are to be met by the owner or agent of the conveyance.

#### 14. Disposal of Garbage

(a) It is prohibited to land any garbage in the FSM from any conveyance without the express authorization of an Inspector.

(b) All garbage arriving on board conveyances, including vessels and aircraft must be retained on the conveyance in leakproof, covered containers and in the case of sea vessels, kept inside the vessel's railing.

(c) Garbage must not be dumped at sea within the area which extends from the outer reef of any island or atoll within the FSM and a distance of twelve (12) miles beyond such outer reef or atoll of any island within the FSM.

(d) All costs associated with the supervision, treatment or destruction of garbage shall be at the expense of the importer.

#### 15. Placement into Quarantine

Where an Inspector is not satisfied that the imported plants, plant material, animals, animal products and/or goods are free of disease or quarantine pests, which in his opinion constitute a risk to FSM, he shall advise, where appropriate, the importer or his agent, the Controller of Customs, the Harbor Master and/or the Postmaster that the plants, plant material, animals, animal products and/or regulated goods are to be held under quarantine and not released to the importer or his agent until such time as an Inspector or authorized officer is satisfied that the disease or quarantine pest has been eliminated.

#### 16. Security of quarantine area

(a) No person shall enter a quarantine area or quarantine station without the permission of the Inspector in charge.

(b) Any person damaging, interfering with or in any way reducing the effectiveness of any measures taken to secure a quarantine area or quarantine station, or of any plants, plant material, animals, animal products and related articles therein, shall be guilty of a misdemeanor under these regulations.

(c) An Inspector may lock, seal or otherwise prevent the entry to and exit from any quarantine area or quarantine station, regardless of the ownership of such quarantine area or quarantine station.

#### 17. Removal from quarantine

(a) No plants, plant material, animals or animal products or other regulated goods may be removed from any quarantine area, quarantine station or other place where quarantine detention or treatment is or has been performed without written permission from an Inspector.

(b) Any person who removes any plant, plant material, animal, animal products or other regulated material in contravention of these Regulations or who takes from the control of an Inspector any plant, plant material, animal, animal products or other regulated material under these regulations shall be guilty of a misdemeanor.

18. Samples, testing.

An Inspector or authorized official may take any sample, make any test, fumigate, disinfect, or in any way treat any plants, animals, or goods subject to quarantine and any conveyances carrying the same at any time that such plants, animals or goods are subject to quarantine control or may order that such action is taken, and shall give written notification of such action to the owner or agent.

19. Release of plants, plant material, animals, animal products or goods

Provided all requirements of these regulations for the import and clearance of plants, plant materials, animals, animal products or goods have been met and subsequent to satisfactory inspection or satisfactory conclusion of a treatment, an Inspector shall advise the importer or his agent, the Controller of Customs, the Harbor Master and/or Postmaster, as the case may be, that such imported plants, plant materials, animals, animal products or goods may be released to the importer or the owner.

20. Plant and Animal Quarantine Entry Permits

(a) It shall be unlawful to import into the FSM, or to move within the FSM, any plants, plant material, animals, animal products or other material subject to these regulations except in conformity with the conditions of a permit issued for such movement.

(b) Applications for Plant and Animal Quarantine Entry Permits shall provide specific information including:

(i) Full name, residential and postal address of the importer;

(ii) Name and address of the exporter of the goods;

(iii) The origin of the goods;

(iv) The quantity, the common and scientific name (where applicable) of the goods proposed to be imported;

(v) The mode of transport, point of entry, and the approximate date of arrival; and

(vi) Such additional information as the Administrator may from time to time specify.

(c) Applications for Plant and Animal Quarantine Entry Permits shall be made prior to importation, and

(i) in the case of importations into the FSM from a place outside of the FSM, shall be forwarded to the Administrator of Agriculture; and

(ii) in the case of importations into a State of the FSM from another State of the FSM, shall be forwarded to the Chief of Agriculture of the importing State.

(d) In the granting of any Plant and Animal Quarantine Entry Permit the Administrator of Agriculture, in the case of overseas imports, or the Chief of Agriculture in the case of interstate imports, may specify such conditions as he considers necessary to take into account the risks of importing plant disease, animal disease and quarantine pests.

(e) Plant and Animal Quarantine Entry Permits may be issued for single or multiple importations and the alternative shall be indicated on the permit.

(f) The Administrator may grant or authorise the granting of general import permits valid for unlimited importations of a specified commodity by unspecified importers where it is in his opinion expedient so to do providing at all times that such permits do not result in an increased quarantine risk.

(g) The following items may be imported without a permit:

(i) fully manufactured foods, hermetically sealed and not requiring refrigeration for permanent storage, but excluding foods derived from animals and preserved only by drying;

(ii) fully manufactured personal clothing and footwear;

(iii) fully tanned or processed leather, feather, fleece and hair goods except used saddlery, harnesses and other equipment used with animals;

(iv) all fish and fish products with the exception of live fish;

(v) other items not prohibited from importation without a permit under Parts IV and V of these regulations.

(h) Where the animal or plant disease or pest status of the exporting country has changed or has been reported to have changed since the issue of a Plant and Animal Quarantine Entry Permit or if any other condition prevails whereby the entry of the plants, plant material, animals, animal products or other regulated goods would constitute a quarantine risk, such permits may be cancelled at any time without notice, whether or not the importer has a pre-existing contractual obligation to import.

## 21. Any plants, plant material, animals, animal products, goods or regulated material may be ordered back into quarantine

(a) An Inspector may examine any imported plant, plant material, animal, animal products, goods or regulated material that has been released from quarantine.

(b) If, after examination of any imported plant, plant material, animals, animal products, goods or regulated material that has been released from quarantine the Inspector is of the opinion that there is a danger of spreading pests and/or diseases, the Inspector may order such plant, plant material, animal, animal product, goods or regulated material back into quarantine for tests or treatment as prescribed and the owner shall be responsible for all costs.

## 22. Seizure and destruction

(a) Any plants, plant material, animals, animal products, or other regulated material introduced or attempted to be introduced into the FSM without a permit may be seized by an Inspector and destroyed by order of the Inspector provided the declared value of such goods does not exceed two hundred dollars. Where the value of such goods exceeds two hundred dollars the goods may be destroyed by order of the Administrator and such destruction shall be at the owner's expense.

(b) Any plants, plant material, animals, animal products or other regulated material introduced or attempted to be introduced into a State of the FSM from another State of the FSM without a permit may

be seized by an Inspector and destroyed by order of the Inspector provided the declared value of such goods does not exceed two hundred dollars. Where the value of such goods exceeds two hundred dollars the goods may be destroyed by order of the State Chief of Agriculture and such destruction shall be at the owner's expense.

(c) Any person who imports plants, plant material, animals, animal products or other regulated material in contravention of these Regulations shall be guilty of a misdemeanor.

#### 23. Disposal of regulated material carrying or suspected to be carrying a pest

(a) Any plant, plant material, animal, animal product or goods imported in accordance with these regulations which on examination or re-examination by an Inspector is shown to be or is suspected to be carrying a pest which in his opinion cannot be effectively treated shall:

(i) in the case of an animal infected or believed to be infected with an OIE List A disease or other disease not present at that time in FSM be ordered by an Inspector to be destroyed immediately; and

(ii) in all other cases the importer or owner shall be ordered by an Inspector to re-export or destroy the plants, plant material, animal, animal product or other regulated goods within a specified period and in default of such order, such plants, plant material, animal, animal product or other regulated goods shall be destroyed at the importer or owner's expense.

(b) Where the importer or owner of goods which have been ordered for destruction in accordance with clause (a) fails to take action to destroy the goods within the prescribed time, an Inspector may arrange for such goods to be destroyed and to recover the costs of such destruction through action in a court of competent jurisdiction as a debt due to the State. The importer or owner of goods which have been ordered for destruction in accordance with clause (a) shall have no legal proceeding of any nature in respect of such destruction.

#### 24. Quarantine forms and documents

(a) The Administrator of Agriculture may introduce forms at any time to facilitate the safe import into the FSM and export from the FSM of plants, plant material, animals, animal products and goods.

(b) The Secretary may impose fees for the issuance of any forms.

#### 25. Official importations by Government

(a) Official importations of plants, plant material, animals, animal products, or goods by the Government of the FSM for scientific purposes, biological control and other experimental purposes are exempt from the prohibitions and restrictions hereafter in these regulations. Such importations shall be made subject to the conditions set out in a permit issued by the Administrator of Agriculture.

(b) Official importations of organisms of plant or animal origin, including any living stage of insect, mite, nematode, snail, slug, or other invertebrate animal, bacteria, fungi, virus or other organism or plant or animal may be imported under permit issued by the Administrator of Agriculture.

#### 26. Approved places for quarantine to be performed

(a) The Administrator of Agriculture may, in writing, approve a place other than a quarantine station as a place where the quarantine of any plant, plant material, animal, animal product or other

regulated material may take place and any quarantine action as an Inspector may direct may be undertaken at such approved place.

(b) Applications for registration of a place as an approved place for the performance of quarantine shall be made in writing on the approved form and submitted to the Administrator.

(c) The Administrator may apply such conditions or require such facilities as he deems necessary for the proper performance of quarantine related activities and when satisfied that such conditions have been met or are being met and that such required facilities are available he shall approve such place as a place for the performance of quarantine subject to such conditions or restrictions as he deems necessary.

(d) On payment of the prescribed fee the owner or operator of a place which has been approved for the performance of quarantine shall be issued with a certificate of registration.

(e) A certificate of registration of an approved place for the performance of quarantine shall remain current for a period of one year from the date of registration unless previously cancelled by the Administrator or there is a change in the ownership of such approved place or such approved place ceases to operate.

#### 27. Quarantine seal

(a) At any time after the arrival of a conveyance or goods in the FSM an Inspector may place a quarantine seal on any container or package of imported goods or on any cabin or locker in any conveyance from outside of the FSM, either for subsequent quarantine inspection, or for the holding of goods under quarantine while the conveyance remains in the territorial waters of the FSM.

(b) An Inspector may place a quarantine seal or lock on any container or package of imported goods which has been discharged from any conveyance arriving from outside of the FSM, either for subsequent quarantine inspection, treatment or detention prior to release or re-export of goods as the case may be.

(c) Any person who interferes with or removes a quarantine seal or lock without the permission of an Inspector shall be guilty of a misdemeanor.

#### 28. Official stamps

(a) The official quarantine stamps shall be used in conjunction with the signature of an authorized officer to authenticate documents issued under these Regulations.

(b) Any person other than an authorized official who uses an official quarantine stamp for any purpose shall be guilty of a misdemeanor.

#### 29. Quarantine screening of live plants and live animals

(a) The Administrator of Agriculture may prescribe as a condition of importation into the FSM a period of quarantine at an approved quarantine station or quarantine area where live plants or live animals are to be detained and undergo any inspection or examination or treatment as prescribed. Animals or plants detained in such quarantine shall be released when an Inspector is satisfied that the plant or animal is free from pest and disease.

(b) The Administrator of Agriculture may prescribe as a condition of entry into the FSM a period of quarantine at an approved quarantine facility located outside of the FSM where plants or animals are screened for prescribed pests and diseases prior to entry into the FSM.

### 30. Treatment

Where imported plants, plant material, animals, animal products, regulated material or goods have been detained in quarantine on the evidence of infection, infestation of a pest, or suspected infection or infestation of a pest, an Inspector may order a treatment as prescribed to be carried out at the importer's expense.

### 31. Transport, storage, unpacking, treatment, growth in quarantine - Importer's expense

(a) Prior to the release from quarantine detention of any imported plants, plant material, animal, animal product and/or goods, the importer or owner shall pay the prescribed fees including the cost of transport, examination, unpacking, security, storage, treatment, cleaning, sorting, and in the case of live plants, growth and care in post-entry quarantine, and in the case of live animals in post-entry quarantine, care and feeding of such animals.

(b) Upon notification by an Inspector of the release from quarantine detention of imported plants, plant material, animals, animal product and/or goods such imported plants, plant material, animals, animal product and/or goods must be removed from the place of detention within five working days. The owner or importer shall be subject to the payment of prescribed fees for each additional day or part thereof during which the imported plants, plant material, animals, animal product and/or goods remain at the place of quarantine.

(c) Notwithstanding the provisions of clause (b) the owner of importer of any live animal which has been released from post-entry quarantine but which has not been removed immediately following release shall be responsible for meeting the cost of all food provided to such animal/s until they are removed from quarantine.

### 32. In-transit movement of regulated material and goods

Any plants, plant material, animals, animal products, or goods in transit through the FSM to another country may be subject to quarantine safeguard measures and permission to transit shall be required.

### 33. Pre-departure inspections of conveyances and cargo

(a) For the purpose of preventing the introduction and/or further spread of *Achatina fidica* (Giant African Snail) into or within the FSM, it is prohibited for any vessel or aircraft to depart from any island or atoll within the FSM where this pest is present enroute to any other island or atoll within the FSM unless a Predeparture Quarantine Inspection Certificate has been issued

(b) Predeparture Quarantine Inspection Certificates may only be issued by an Inspector or Authorized Officer following an inspection of the conveyance and its cargo, baggage and stores. Predeparture inspections shall be made prior to and/or during the loading of the conveyance at the discretion of the Inspector.

(c) A cargo manifest shall be presented to an Inspector by the agent or owner at least twenty four (24) hours prior to the loading of cargo and any such cargo shall be made available for inspection prior to being loaded onto the conveyance.

(d) Any cargo, baggage, stores, goods or conveyance found to be infested with living stages of the Giant African Snail shall be treated to the satisfaction of the Inspector.

(e) An Inspector shall not permit the loading on a conveyance of any goods found to be infested with Giant African Snail unless such goods have been effectively treated to remove the risk of transferring living Giant African Snails onto or into such conveyance.

(f) When an Inspector is satisfied that goods loaded onto or into a vessel from a port in FSM where Giant African Snail is known to occur have been adequately inspected or treated in such manner as to removed the risk of transferring live snails to the conveyance, the Inspector shall complete and issue a Pre-Departure Inspection Certificate to the master or agent for such conveyance.

#### 34. Emergency measures for the eradication/control of a quarantine pest

During a declared state of national emergency the Secretary may take such actions as are deemed necessary to control or eradicate a pest or disease affecting plants, animals or goods and such measures may include but not be limited to:

(a) Declaring specific pests, including noxious weeds, to be a quarantine pest;

(b) Defining a geographic area within the FSM as a quarantine area;

(c) Controlling the movement of persons, plants, animals, conveyances or goods into or out of a quarantine area;

(d) Notifying the owner or occupier of the land, in writing, of the measures to be taken to eradicate or control any quarantine;

(e) Undertaking or arranging to undertake measures to eradicate or control any quarantine pest if the owner or occupier of land on which the quarantine pest occurs, or is believed to occur, cannot be contacted; and

(f) Where it is deemed necessary for an Inspector to carry out control measures or destruction or to arrange to carry out control measures or destruction of plants, plant material, animals or animal material in the absence of the owner, the cost of such control measures or destruction may be recovered through action in a court of competent jurisdiction as a debt due to the State.

#### 35. Expenses, fees and charges for importers and exporters

(a) All costs and expenses of, and attendant upon, any importation or exportation including any documentation, tests, inspections, treatments, detention in quarantine, destructions or re-export, or of any other procedure or action taken or brought about under the provisions of these Regulations shall be borne by the importer or exporter as the case may be and no compensation shall be payable by the State for any loss or reduction in value caused by such action.

(b) If any plants, plant materials, animal, animal products or goods are required by these Regulations to be inspected, examined, treated, destroyed or held in quarantine, the importer or consignee in the case of imports and, in the case of Part VIII of these Regulations the exporter, shall pay the appropriate fee as determined by the Secretary.

#### 36. Exclusion of liability



Neither the Department of Economic Affairs nor the Administrator of Agriculture, Authorized Officers or Inspectors shall be liable for any loss or damage resulting from the exercise of their authority under these Regulations unless the loss or damage was caused other than in the reasonable exercise of their authority.

## **Plant and Animal Quarantine Regulations**

### **PART III - POWERS OF INSPECTORS**

#### **37. Authority to search and examine**

(a) An Inspector may enter any conveyance, land or building other than a dwelling house to search for and examine plants, plant materials, animals, animal products or any other goods subject to these regulations that he reasonably believes may be infested with a quarantine pest or disease or may have come into contact with a quarantine pest or disease.

(b) An Inspector may only enter a dwelling house for the purpose of conducting an inspection if he has obtained the express permission of the owner or if he is authorized to do so by a search warrant issued for such inspection by a Magistrate or Judge.

(c) When requested to do so, an Inspector shall present written evidence of his appointment as an Inspector.

#### **38. Access to documents**

An Inspector may examine any log, manifest, cargo stowage plan, passenger list, crew list or other document necessary to carry out his functions under these regulations.

#### **39. Power to open shipment**

An Inspector may require any importer or agent to open any mail, box, case, receptacle, space, or container and, if the importer or agent fails to do so upon request, may arrange for the opening of such mail, box, case, receptacle, space, or container at the importer's expense.

#### **40. Employment of Assistants**

An Inspector may, whenever necessary for the purposes of these Regulations, and as may be approved by the Secretary, employ any person or persons to assist him temporarily. Such person shall have the authority of an Inspector until the cessation of such temporary appointment.

# Plant and Animal Quarantine Regulations

## 41. Plant Quarantines - General

### **QP 1** Entry of fresh fruit and vegetables

(a) The entry of fresh fruit and vegetables into the FSM is prohibited except under permit issued by the Administrator prior to the importation.

(b) All importations of fresh fruits and vegetables from a place outside the FSM shall be accompanied by a phytosanitary certificate issued by the exporting country.

(c) All importations of fresh fruits and vegetables into a State of the FSM from another State of the FSM shall be accompanied by a written statement verifying the origin of the fruits and vegetables and issued under the authority of the Chief of Agriculture of the exporting State.

(d) All fresh fruits and vegetables must be imported in new, clean packages which must state the country of origin and provide a description of the produce contained therein.

(e) The entry of species of fruits and vegetables susceptible to fruit flies is prohibited from all countries where fruit flies exotic to the FSM are known to occur, unless such fruits or vegetables have been subjected to approved quarantine treatment and/or conditions.

(f) It is prohibited to import into the FSM any fruits or vegetables after they have transitted through areas known to be infested with any fruit fly species other than *Bactrocera frauenfeldi* (Caroline or mango fly), *Oryctes rhinoceros* (rhinoceros beetle), or other quarantine pests not established within the FSM, unless such fruits and vegetables are maintained in the original package and such packages have not been exposed to any quarantine pests between the point of origin and the entry point into the FSM.

(g) All imported fresh fruits and vegetables shall be examined by an Inspector on arrival. If a pest is detected, a prescribed treatment shall be applied before the consignment is released to the importer. In the absence of a suitable treatment, the fruits and/or vegetables shall be directed to be destroyed or re-exported at the importer's expense.

(h) Fruits and vegetables which have been cooked, hermetically canned, frozen, dried or candied, preserved or otherwise processed in such a manner as to preclude a pest risk and to render the product non-viable may be exempt from the provisions of this Regulation.

### **QP 2** Entry of live plants or parts thereof (other than seeds or tissue cultures) for propagation

(a) All importations of live plants and planting material from a place outside the FSM shall be accompanied by a phytosanitary certificate issued by the exporting country which shall state details of any treatment given to the plants or planting material in the place of origin and include any other endorsements required as a condition of the importation.

(b) All importations of live plants and planting material into a State of the FSM from another State of the FSM shall be accompanied by a written statement verifying the origin of the live plants and planting material, issued under the authority of the Chief of Agriculture of the exporting State.

(c) The importation of plants or planting material which can be propagated, other than seeds, may be limited to the smallest quantity of propagating material consistent with standard horticultural practices to enable the satisfactory establishment and reproduction of the introduced cultivar.

(d) All imported plants shall be free from soil.

(e) An approved packing material may be used around the roots of imported plants. Approved packing material may consist of sterile peat moss, sphagnum moss, perlite, vermiculite, sawdust, shredded paper or other inert materials.

(f) Plant tissue cultures may be imported in aseptic, sealed flasks in a sterile medium such as agar. Plant tissue cultures shall be subject to inspection on arrival and any contaminated flasks and their contents shall be destroyed.

### **QP 3 Importation of seed**

(a) Small commercial packets of flowers and vegetable seeds may be imported without a permit at the discretion of the Administrator. However, small commercial packets of beans, cabbage, cauliflower and other crucifers, maize and tomato seeds may be imported only under a permit.

(b) With the exception of seeds imported without a permit under QP 3 (a), all seeds shall be accompanied by a phytosanitary certificate. The Administrator may also require an official seed analysis report.

(c) Seed transferred from State to State within the FSM shall be accompanied by a written statement verifying the origin of the seed, issued under the authority of the Chief of Agriculture of the exporting State.

(d) Upon arrival, samples of seed may be drawn for examination and if necessary, in the opinion of the Inspector, treatment shall be applied.

(e) All seeds shall be pure and free from injurious extraneous matter, including soil, noxious weed seeds, insects and diseases and shall be subject to such conditions as are determined by the Administrator.

#### **QP 4** Cut flowers and foliage

(a) Subject to other relevant provisions of these regulations any cut flower, excluding members of the family Helicomaceae (which are prohibited), including foliage may be imported, if on inspection at the point of entry the cut flowers are free from pests and contain no material capable of propagation.

(b) Any cut flower that can be propagated shall be treated as prescribed to prevent propagation.

(c) Subject to relevant provisions of these Regulations, any imported dried flower and/or foliage shall be subject to inspection at the point of entry and, if found to contain pests or viable seeds, shall be subject to treatment as prescribed to remove any quarantine pest or viable seeds before release.

#### **QP 5** Timber

(a) Notwithstanding the provisions of QP 5 (d), all consignments of timber imported from overseas shall be subject to inspection on arrival and treatment as prescribed if necessary. If such prescribed treatment is not available, the consignment may be ordered to be re-shipped or destroyed. If treatment or re-shipment is not performed within 30 days of the order, the consignment shall be destroyed.

(b) The importation of bark and timber with bark attached is prohibited.

(c) The importation of previously used timber shall be subject to mandatory treatment for pests before release.

(d) Imported timber that has been subjected to an approved treatment for the prevention of insect attack prior to entry to the FSM may be imported subject to the provision of an official certificate of treatment and inspection of the timber on arrival to verify the efficacy of the treatment.

#### **QP 6** Grass, bamboo, cane, palm fronds and goods manufactured from such materials

(a) Grass, bamboo, cane and palm fronds, including wall and roof thatching materials, are prohibited entry into the FSM.

(b) All importations of grass, bamboo, cane and palm fronds and building materials manufactured from such materials into a State of the FSM from another State

of the FSM shall be accompanied by a written statement verifying the origin of such materials, issued under the authority of the Chief of Agriculture of the exporting State.

(c) Manufactured bamboo and cane furniture may be imported subject to inspection on arrival and treatment if necessary.

**QP 7** Soil, sand and gravel.

(a) The importation of soil, sand or gravel into the FSM or the movement of sand, soil or gravel between States of the FSM is prohibited except by permit issued prior to such importation by the Administrator.

(b) Soil used as ballast in any conveyance shall not be discharged within the FSM or within the territorial waters of the FSM.

**QP 8** Stored dried food products if on inspection stored dried food products including polished rice, spices, and other dried food products are found to be infested with pests or contaminated in any way an Inspector may order that such infested goods be treated, destroyed or re-exported on the expense of the owner or agent.

**QP 9** Packing material, dunnage and second-hand bags

(a) The importation into the FSM or transportation from one State to another within the FSM of any packing materials other than approved packing material is prohibited.

(b) Approved packing materials shall include wood shavings, sawdust, sphagnum moss, sterile peat moss, woodwool, ground cork, charcoal, shredded paper, perlite, plastics, vermiculite, non-plant and non-animal based materials and any other material approved by the Administrator as a packing material.

(c) No second-hand bags, sacks, containers, wrapping or packing materials which have been previously used for the transportation of plant or animal material, or which were manufactured to be used for that purpose, shall be used for the importation of any kind of goods.

(d) Any imported timber dunnage, including skids, pallets, racks, stickers, etc., is subject to inspection and treatment as prescribed, re-shipment or destruction at the expense of the importer or agent.

**QP 10** Handicrafts made from plant material

Handicrafts that do not contain any material prohibited or restricted under these regulations may enter subject to inspection and treatment as required.

**QP 11** Bacteria, viruses, vaccines, cultures and organisms

(a) It is prohibited to import, or to move from island to island within the FSM, any living culture or organism including parasites, arachnids, molluscs, nematodes, fungi, bacteria, virus, viroids, vaccines for animal use, mycoplasma, parasitic plant organisms, plant pests or other invertebrate animals unless a permit has been issued for such importation or movement by the Administrator prior to the importation or movement of the consignment, and unless such importation or movement occurs in compliance with the conditions imposed by such permit.

(b) The importation into the FSM or movement from island to island within the FSM of commercial yeast and yoghurt cultures shall be exempt from all provisions of QP 11 (a).

# Plant and Animal Quarantine Regulations

## PART V - SPECIFIC PLANT PROHIBITIONS

### 42. Plant Quarantines - Specific plant prohibitions

(a) Plants and plant materials listed in Schedule I to these regulations may be imported into the FSM from a place outside the FSM, subject to the specific prohibitions set forth in the third column of Schedule I.

(b) Plants and plant materials listed in Schedule II to these regulations may be transferred from one State of the FSM to another State of the FSM, subject to the specific prohibitions shown in the third column of Schedule II.

Common Name	Scientific Name	Plants or plant material Prohibited
Banana, Abaca, and Heliconia	<i>Musaceae</i> family and <i>Heliconiaceae</i> family	Plants, corms, and cut flowers except tissue cultures from buncy top disease, mosaic virus, Panama disease and bacterial disease including moko disease, black leaf streak and



		Sigatoka disease
Beans	<i>Phaseolus</i> spp.	All parts except seeds
Cacao	<i>Theobroma cacao</i> and members of the families <i>Bombaceae</i> , <i>Malvaceae</i> , <i>Tiliaceae</i> and <i>Sturculiaceae</i>	All except seeds from Asia Pacific Region
Citrus	Citrus species and the following genera: <i>Citropsis</i> , <i>Citrus</i> , <i>Eremocitrus</i> , <i>Fortunella</i> , <i>Microcitrus</i> , <i>Monanthocitrus</i> , <i>Pleurocitrus</i> and <i>Poncirus</i>	All except fruit and seeds. Fruit from areas where citrus canker ( <i>Xanthomonas campestris</i> p.v.citri (Hass) Dye) occurs. All <i>Murraya</i> spp.
Coffee	<i>Coffea</i> species	All propagating material

		except seed
Maize/Popcorn	<i>Zea Mays</i> L.	All except seed
All palms including Coconut and Betel Nut	<i>Cocos</i> species and all members of the family <i>Palmae</i>	All except nuts and pollen from areas approved by the Chief of Agriculture
Peanuts/groundnuts	<i>Arachis hypogea</i> L.	All except seed
Pepper	<i>Piper</i> species	All except seed and tissue cultures
Potato (Irish)	<i>Solanum tuberosum</i>	All except tubers, true seed and tissue cultures
Sweet Potato	<i>Ipomea batatas</i>	All except pathogen tested tissue cultures and seed
Tapioca/cassava	<i>Manihot esculenta</i>	All except stems

		and tissue cultures from pathogen tested sources
Taro and edible aroids	<i>Alocasia macrorrhiza</i> L; <i>Colocasia esculenta</i> L; <i>Crptosperma chamissonis</i> (Schott) and <i>Xanthosoma sagittifolium</i>	All except seed and tissue cultures
Tomato	<i>Lycopersicon esculentum</i> (Miller)	All except fruit and seed
Yams	<i>Dioscorea</i> spp.	All except seed and tissue cultures

## SCHEDULE II

Common Name	Scientific Name	Plants or plant ma
Banana, Abaca, and Heliconia	<i>Musaceae</i> family and <i>Heliconiaceae</i> family	Plants, corms and tissue cultures cert bunchy top disease Panama disease a including moko diso streak and Sigatoka
Coconuts/Betel Nut	<i>Cocos</i> species and other members of the family <i>Palmae</i>	Coconuts, except t perianths (caps) ha and/or coconuts ha and which have no from areas where f <i>Bactrocera frauenc</i> (mango fly) occur.

Citrus	<i>Citrus species</i>	Fruit from areas where than <i>Bactrocera</i> fr or mango fly) occur
Sweet Potato	<i>Ipomea batatas</i>	All planting materia cultures are prohib
Tapioca/ cassava	<i>Manihot esculenta</i>	All planting materia cultures are prohib

## **Plant and Animal Quarantine Regulations**

### **ART IX - Export Requirements**

#### **47. Examination of exports - Plants and plant material**

(a) An Inspector may issue phytosanitary certificates based on the results of inspections of plants and plant material performed at the request of exporters to assist them in meeting the quarantine entry requirements of the importing country.

(b) Such phytosanitary certificates may be issued only for plants or plant material produced in the Federated States of Micronesia.

(c) Issuance of a phytosanitary certificate by an Inspector shall not release the importer or exporter from compliance with any quarantine import regulations of the country to which the plants or plant material are consigned.

(d) Phytosanitary certificates issued by Inspectors shall be substantially based on the Model adopted by the International Plant Protection Convention of 1951, as amended from time to time.

(e) An Inspector may withhold or detain any plants or plant material being exported until such time as he is satisfied that they meet with any and all terms and conditions of the importing country and are of sufficient quality and wholesomeness.

#### **48. Examination of exports - Animals and animal products**

(a) The Secretary may require that any animals, animal products and related goods being exported be inspected by an Inspector or veterinarian prior to export.

(b) An Inspector or veterinarian may withhold or detain any animals or animal products being exported until such time as he is satisfied that they meet with any and all terms and conditions of the importing country and are of sufficient quality and wholesomeness.

#### **49. Re-export of plants and plant materials, animals and animal products**

All plants and plant materials, animals and animal products intended for re-export from the FSM must clearly be identified as such and provide the country of origin on the accompanying certification.

(a) An Inspector may issue a Re-export Phytosanitary Certificate for plants and plant products which have arrived in the FSM but which are not intended for importation into the FSM.

(b) An Inspector shall only issue a Re-export Phytosanitary Certificate where he is satisfied that such plants, plant products or other regulated materials are accompanied by a Phytosanitary Certificate issued by the plant health authority of the country of origin and that such goods comply generally with the goods described on such certificate.

(c) An Inspector or veterinarian may issue a Re-export International Animal Health Certificate in the case of alive animal or a re-export International Health Certificate in the case of an animal product where such animal or animal product, as the case may be, has arrived in the FSM but is not intended for importation into the FSM.

(d) An Inspector or veterinarian may issue a Re-export International Animal Health Certificate in the case of alive animal or a Re-export International Health Certificate in the case of an animal product where he is satisfied that such animal or animal product, as the case may be, is accompanied by an International Animal Health Certificate in the case of an animal or an International Health Certificate in the case of an animal product issued by the animal health authority of the country of origin and that such animal or animal product conforms generally with the description printed on such certificate.

## **PART X - PENALTIES**

### **50. Penalties**

(a) Pursuant to Title 22 of the FSM Code Chapter 4, any person who violates any provision of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties provided by law.