

**OFFICE OF THE NATIONAL PUBLIC AUDITOR
FEDERATED STATES OF MICRONESIA**



**MORE COLLECTIVE EFFORTS ARE NEEDED TO ENSURE FULL
COMPLIANCE WITH THE BAN ON IMPORTS OF SINGLE USE
STYROFOAM & PLASTIC ITEMS AND REDUCE ENVIRONMENTAL
THREATS**

Report No. 2023-01





FEDERATED STATES OF MICRONESIA

Office of The National Public Auditor

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October 14, 2022

His Excellency President David W. Panuelo
Honorable Members of the 22nd Congress
Secretary, Department of Finance & Administration
Secretary, Department of Environment, Climate Change & Emergency Management (DECEM)
Federated States of Micronesia

Re: Inspection on the Implementation of PL21-76 - Ban on Imports of Single Use Styrofoam & Plastic Food Service Items and Plastic Bags

We have completed our inspection of the implementation of Public Law (PL) 21-76 on the “Prohibition on Importation of Single Use Styrofoam and Plastic Food Service Items and Plastic Bags”; a law that speaks volume of the commitment of the FSM Congress in supporting the Government’s efforts to sustain the environment.

This inspection was conducted based on our internal strategic planning process in our attempt to perform an environment related engagement. This report presents the results of our inspection, which we conducted in accordance with the *Quality Standards for Inspections and Evaluations* issued by the Council of the Inspector Generals on Integrity and Efficiency (CIGIE) of the United States of America.

We concluded the following based on the objectives of our inspection:

- No effective controls in place pertaining to the implementation of PL21-76 such as absence of penalties imposed for noncompliance with the public law and the regulations, as well as absence of standard operating procedures; and
- Non-compliance with the PL21-76 which are attributed to lack of collaboration and limited capacity within the implementing agencies.

Overall, we identified areas of improvement in strengthening the requirements of the law and relevant regulation, as well as strengthening the capacity of the implementing agencies that are currently facing challenges in fully implementing the law. Your attention to these issues is vital so that the good intentions of the public law are realized in reducing the threats that the prohibited items pose to the environment.

Sincerely,

Haser H. Hainrick

National Public Auditor

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Acronyms	Meaning
CTA	Customs and Tax Administration
DECEM	Department of Environment Climate Change and Emergency Management
DOJ	Department of Justice
DoFA	Department of Finance & Administration
FSM	Federated States of Micronesia
ONPA	Office of the National Public Auditor
PL	Public Law
QSIE	Quality Standards for Inspection and Evaluation
SDG	Strategic Development Goal
SOP	Standards Operating Procedure

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1.0 INTRODUCTION

1.1. Reason for the Inspection

The Office of the National Public Auditor (ONPA) conducted an internal risk assessment and evaluation of environmental issues/topics that exist in the FSM. Based on our risk assessment and available resources, we decided to verify the implementation of Public Law (PL) 21-76 that was enacted by the 21st FSM Congress to prohibit the importation of one-time-use disposable styrofoam and plastic food service items and plastic shopping bags. Being a new law, we anticipated that there would be challenges with implementation which we could assist with by making the relevant verification and recommendations to be considered for improvement.

1.2. Background

On February 7, 2020 His Excellency, The President of the Federated States of Micronesia (FSM) signed Public Law No. 21-76. This law amends Title 25 of the FSM Code by enacting a new Chapter 4 entitled “Prohibition on the importation of one-time-use disposable Styrofoam and plastic food service items and plastic shopping bags.”

Effective July 1, 2020, “it shall be unlawful for a person to import one-time-use disposable Styrofoam and plastic food service items, such as takeout containers, plates, cups, eating utensils, and plastic shopping bags”.

The new law explicitly states that nothing shall prevent a person from importing reusable, or recycled Styrofoam, plastic food service items, or plastic shopping bags. Biodegradable plastic bags and food service items may be imported.

“In order for the [FSM]’s Climate Change pleas to be taken seriously by the global community,” The President said, “We must demonstrate courage and conviction in our actions, and compassion and care towards our environment and our citizens. We must lead by example. This new ban on disposable plastic, which allows the importation of reusable and recycled plastic, shows that it is possible to be environmentally conscious while still retaining sensitivity to the conveniences appreciated by citizens and the business community.”

In an official statement, the President had urged all citizens of the Nation to take pride in the islands’ environment. “I encourage all citizens to be stewards of our islands. We are, each of us, guardians of our environment. It should be taught in schools, in community houses, and in homes that our actions as individuals affect our broader society, and each of us has the responsibility to keep our homes and our islands clean,” the President said.

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2.0 AUDIT MANDATE

We conducted this inspection pursuant to the authority vested in the National Public Auditor as codified under Chapter 5, Title 55 of the FSM Code which states in part the following:

“The Public Auditor shall inspect and audit transactions, accounts, books and other financial records of every branch, department, office agency, board, commission, bureau, and statutory authority of the National Government and of other public legal entities, including, but not limited to, States, subdivisions thereof, and nonprofit organizations receiving public funds from the National Government.”

3.0 OBJECTIVES, SCOPE AND METHODOLOGY

3.1 Objectives

The objectives of this inspection were to determine:

1. The effectiveness and efficiency of the internal controls pertaining to the implementation of Public Law No. 21-76; and
2. Compliance with the Public Law No. 21-76 on prohibition of importation of one-time use disposable styrofoam and plastic food service items and plastic shopping bags;

3.2 Scope

The inspection covered the implementation of the PL 21-76 and regulations on the prohibition of importation of one-time-use disposable styrofoam and plastic food service items, and plastic shopping bags that was made effective on July 1, 2020.

3.3 Methodology

This inspection was conducted in accordance with the quality standards for inspections and evaluations issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). Those standards require that we plan and perform the inspection to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our inspection objectives.

Inspection procedures were conducted at the Department of Environment Climate Change and Emergency Management (DECCEM), Division of Immigration, and Division of Customs and Tax Administration (CTA). Physical inspections were conducted at DECCEM, CTA national office, and at the CTA Pohnpei field office in Kolonia. We interviewed relevant officials of DECCEM, Division of Immigration, and the Division of CTA. We will also reviewed the criteria and other best practices pertaining to prohibition on the importation of the prohibited items.

We also visited some stores in Pohnpei state to verify the use of banned products and we also interviewed business owners to understand their efforts towards complying to the PL 21-76.

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4.0 LIMITATION

The team faced the following challenges during the inspection:

1. We could not carry out some inspection procedures at businesses due to no confirmation from business owners to inspect prohibited plastic and styrofoam items at their businesses; and
2. We could not perform a stock reconciliation due to absence of proper inventory listings at all 3 locations to enable tracking of the movement of stocks from the ports to the storage locations.

5.0 PRIOR INSPECTION/AUDIT COVERAGE

This is the first time that we have verified the implementation of PL 21-76: Prohibition on the importation of one-time-use disposable styrofoam and plastic food service items, and plastic shopping bags, since the enactment of the law in July 2020.

6.0 CONCLUSION

Based on our inspection, we concluded that there were:

- No effective controls in place pertaining to the implementation of PL21-76 such as absence of penalties imposed for noncompliance with the public law and the regulations, as well as absence of a standard operating procedure; and
- Non-compliance with the public law PL21-76 which were attributed to lack of collaboration and limited capacity within the implementing agencies.

The detailed results of this inspection relating to findings and recommendations are discussed in the following pages.

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7.0 FINDINGS AND RECOMMENDATIONS

7.1 Finding 1: Public Law and Regulations were Created Without Including Penalties for Violation and without Consultation with the Implementing Agencies

Criteria:

1st Criteria:

Pursuant to Section 403 of PL 21-76, an immigration or customs officer may at all reasonable times and based on reasonable suspicion seize and destroy any items prohibited under this chapter.

2nd Criteria:

Additionally, Section VII. Seizure and Destruction of the Permanent Regulation stated that;

- 1) *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.*
- 2) *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.*

3rd Criteria:

Pursuant to the Customs Act of 1996 as codified in the FSM Code Title 54 (Taxation and Customs), Chapter 2 (Duties and Customs), Section 234 (Customs Control of Goods), there is penalty imposed on a person convicted under this section:

(1) Goods subject to Customs control:

(a) Imported goods, from the time of their importation until applicable duties are paid and the goods are released or until their exportation to any country outside of the FSM.

(c) Goods imported or exported through the Post Office are subject to the control of the Customs in the same manner as goods otherwise imported or exported.

(6) Penalty. A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

Condition:

The following issues were noted:

- 1) There were no penalties and fines for violation and non-compliance with the requirements of the public law and the permanent regulations respectively; and
- 2) Interview of relevant officials revealed that the Division of Immigration as an implementing agency mentioned in the law and relevant permanent regulation, was not aware of the law at all. Therefore, the division has not played any role in the implementation of these mandates.

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Cause(s):

- The law was not aligned to the Customs Act which included penalties for violations such as importation of prohibited goods; and
- There was no consultation with the implementing agencies before the public law was enacted.

Effect(s):

- Without penalties, banned products will continue to be imported, thus making the law ineffective.
- Delay in implementation due to unclear roles and responsibilities. For example, there was no designated secure storage location(s) and currently no plan in place to safely destroy the prohibited items in an environmentally safe manner as required by the law.
- Without effective controls such as penalties, the confiscated prohibited items may end up circulated then ultimately polluting the environment (land and sea).

Suggestion(s):

Congress to consider:

- 1) Approving Congressional Bill 22-72 to amend PL 21-76 “to specify the penalties for violation of the prohibition on the import of plastic materials...”. This will add to the effectiveness of the law and regulations in meeting its intended purpose in ensuring a safer environment.
- 2) Consulting with implementing or relevant agencies prior to creating new legislations to ensure that their good intentions are achieved without delay.

7.2 Finding 2: Key Agencies were not Equipped with the Skills and Tools to Implement the Law

Criteria:

Pursuant to Section III Definitions, item (i) of the Permanent Regulations:

- (i) *“Plastic shopping bag” means carrier bags, or plastic grocery bags are type of plastic bag used as shopping bags and made from various kinds of plastics. 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.*

Furthermore, Section V Recycled and reusable plastic shopping bags of the Permanent Regulations:

- (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*

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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.

Condition:

- 1) The DECEM and the Division of CTA did not have the means to test the acceptable thickness of the plastic bags as required. Furthermore, both DECEM and CTA are not able to distinguish the difference between acceptable plastic bags from the prohibited plastic bags.
- 2) Additionally, DECEM and the Division of CTA were not equipped to destroy the confiscated prohibited items.
- 3) Our verification at supermarkets in Pohnpei state revealed some plastics were labeled “Biodegradable;” however, we could not verify whether it was genuinely biodegradable and whether it met the criteria.

Cause(s):

DECEM and CTA did not have:

- appropriate tools to test the plastic bags to determine the acceptable thickness as required by the Regulations; and
- proper knowledge and skills to identify and differentiate between the allowable and banned items.

Effect(s):

Without appropriate tools, skills and knowledge to validate the acceptable thickness of plastic bags, prohibited plastic bags may continue to be imported into the FSM and will continue to pollute our environment.

Recommendation(s):

DECEM, as the national agency for safeguarding the environment shall request through the FSM Congress funding for:

- 1) Measuring tools for plastic bags; and
- 2) A consultant to provide training to both DECEM and CTA officials in the area of recycled and biodegradable items.

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7.3 Finding 3: Current Locations Are Not Secure for Storing the Confiscated Items

Criteria:

Pursuant to Section VII. Seizure and Destruction of the Permanent Regulation:

(d) Items seized shall be stored in secure locations or facilities designated by the Secretary of Finance and Administration.

Condition:

Three (3) different locations were used for storing the confiscated items.

The following issues were noted:

- 1) Locations for the confiscated prohibited items were not secure and may be vulnerable to theft.
 - At Location 1, the conference room was used for storing the confiscated items. Although the entrance door to the office was secure, there was risk of staff or visitors using the conference room and accessing these confiscated items.
 - At Location 2, although the entrance door to the office was secure, the store room used for storing these prohibited items was kept open and was located next to the restroom. Any staff or visitor to this office could access these confiscated prohibited items.
 - At Location 3, the confiscated prohibited items were stored in the office's storage room which was securely locked; however, can be accessed by any staff.
- 2) Overcrowding was becoming an issue for the offices that were currently storing the confiscated items.

Cause:

The Secretary of DoFA has not designated a secure location to store all confiscated prohibited items and there has been limited collaboration between the DoFA and DECEM to find a solution to the storage issues except recently after the initiation of this ONPA inspection.

Access to the DECEM storage room was open to all staff with no record of inventory.

Effect(s):

Without a secure designated storage facility, the confiscated prohibited items were susceptible to theft and loss which will end up circulated then ultimately polluting the land and sea. Furthermore, the current locations were beginning to get full and causing inconvenience to employees due to limited office space.

From our verification, we learnt that there was a confiscated box with prohibited items that was missing from the DECEM storage room.

Recommendation(s):

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The Secretary of DoFA should promptly initiate the necessary arrangements (collaboration with DECEM, budget allocation etc.) to identify secure locations or facilities to store confiscated prohibited items to avoid theft, unauthorized release of confiscated items and overcrowding at the current locations.

7.4 Finding 4: Plans to Safely Destroy the Confiscated Items were Not Established as per Regulatory Requirements

Criteria:

Pursuant to Section VII. Seizure and Destruction of the Permanent Regulation:

(e) The seized items 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 Department of Environment, Climate Change and Emergency Management and Secretary of Department of Finance and Administration shall make plans for the eventual destruction of the confiscated goods in an environmentally safe manner.

Condition:

We noted the following from our verification:

- 1) Confiscated Styrofoam and plastic items have been stored at the three (3) locations / offices for more than 30 days to even over 1-year and have not been destroyed by DECEM and Finance as required; and
- 2) DoFA and DECEM were not clear on where, when and how to destroy the confiscated prohibited items.

Cause(s):

The Secretary of DECEM and the Secretary of DoFA have not designated a secure location or established an environmentally safe method of destroying the confiscated prohibited items.

Effect(s):

Without a plan and a secure designated location to destroy the confiscated prohibited items, again, the confiscated prohibited items were susceptible to theft and loss which will end up circulated then ultimately polluting the land and sea. Furthermore, the current locations were beginning to get full and causing inconvenience to employees due to limited office space.

Recommendation(s):

The Secretaries of both DoFA and DECEM to promptly implement the requirements of the Permanent Regulations to increase coordination and to finalize plans, policies, and step-by-step procedures for the destruction of confiscated items in an environmentally safe manner.

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7.5 Finding 5: Absence of Policies and Standard Operating Procedures for the effective Implementation of the Subject Law and Regulation

Criteria:

According to leading practice as set in the Standards for Internal Control in the Federal Government (September 2014 version):

Principle 12 (Implement Control Activities)

- 12.01 Management should implement control activities through policies.
- 12.02 Management documents in policies the internal control responsibilities of the organization.
- 12.03 Management documents in policies for each unit its responsibility for an operational process's objectives and related risks, and control activity design, implementation, and operating effectiveness.³⁶
- 12.04 Those in key roles for the unit may further define policies through day-to-day procedures, depending on the rate of change in the operating environment and complexity of the operational process. Procedures may include the timing of when a control activity occurs and any follow-up corrective actions to be performed by competent personnel if deficiencies are identified.

Each unit, with guidance from management, determines the policies necessary to operate the process based on the objectives and related risks for the operational process. Each unit also documents policies in the appropriate level of detail to allow management to effectively monitor the control activity.

Management communicates to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities.

Condition:

Based on our interview with the Department of DECEM and the Division of CTA, we found that:

- 1) DECEM had no policies and procedures in place to guide its employees in implementing the prohibition on the importation of one-time use disposable Styrofoam and plastic food service items and plastic shopping bags.
- 2) The Division of CTA had its own Standards Operation Procedures (SOP) in place; however, there were no procedures to help and guide the employees of division when performing their role in implementing the prohibition law on the importation of one-time use disposable Styrofoam and plastic food service items and plastic shopping bags.
- 3) There were no guidelines on proper inventory management (including the recording, tracking, and reporting of items) to cover the handling of items from the point it was seized (Port or Post Office), to when it is moved to CTA Kolonia field office then to other locations like DECEM or CTA national office where items were also currently being stored.

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Cause(s):

- 1) The DECEM did not develop its own policies and procedures, but instead, relied only on the provisions of the PL 21-76 and the Regulations to implement all the requirements thereto; and
- 2) The Division of CTA did not develop policies & procedures to incorporate into their existing SOP in implementing the requirements pertaining to the prohibition on the importation of Styrofoam, plastic items and plastic bags.

Effect(s):

Without existing policies and procedures at DECEM and the Division of CTA, and without penalties or fines imposed on non-compliance:

1. Below were the effects of no proper tracking and reporting procedure and forms:
 - Missing and unaccounted items at one of the locations.
 - Impossible to reconcile the records between the Kolonia field office against the records at DECEM and CTA national office.
 - Undetected theft of items.
 - Ineffective monitoring and reporting. The Secretaries of DECEM and DoFA and Assistant Secretary of CTA were not aware of the details and quantity of stocks that have been seized at a point in time and how much of these stocks were stored at the various locations in Pohnpei.
2. There was a high risk that the implementation of PL 21-76 and the Regulations may not achieve its intended purpose to reduce negative environment impact as they were not being implemented effectively by both DECEM and CTA.

Recommendation(s):

DECEM and CTA to collaborate to develop internal policies and standard operating procedures for guidance in the implementation of PL21-76 and its corresponding Permanent Regulation.

The above should include proper standard operating procedures (SOP) for inventory management to include timely recording, tracking, periodic reconciliation, and reporting of the stocks from all locations of storage to the national offices.

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8.0 APPENDIX:

Appendix A: Photos of Items Verified by the ONPA Inspection Team



Figure 1: Box containing the contents of Figures 2 & 3



Figure 2: Medium Clear Food packs



Figure 3: Hefty 15cm foam plates



Figure 4: Medium clear food packages



Figure 5: Medium clear food packages



Figure 6: Medium clear food packs



Figure 7: Styrofoam packs

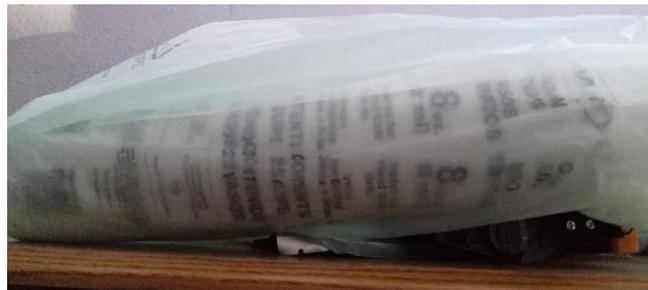


Figure 8: Styrofoam cups

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9.0 MANAGEMENT RESPONSE

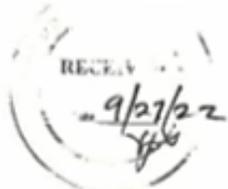
9.1 Department of Finance and Administration’s Response



Secretary of Finance
&
Administration

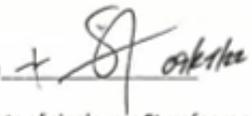
September 27, 2022

**GOVERNMENT OF THE
FEDERATED STATES OF MICRONESIA**
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MEMORANDUM

TO: Office of the National Public Auditor

FROM: Secretary, Department of Finance and Administration 

SUBJECT: Audit Report No. 20XX-XX (Inspection on ban of imports of single-use Styrofoam and plastic food service items and plastic bags)

I wish to thank you and your staff for a thorough audit. Your findings have highlighted difficulties when Congress enacts legislation without consulting the implementing agencies. The Customs and Tax Division (CTA) of the Department of Finance and Administration (DoFA) will work to improve on the compliance with this environmental protection legislation and continue to progress our collaboration with DECEM to improve our processes and procedures.

I generally agree with your recommendations, and respond to the specific comments below.

1. Finding No.1: Agree, we continue to see examples of legislation drafted at Congress that is to be implemented by DoFA on which we haven't been consulted.
2. Finding No.2: Agreed, CTA would welcome this training.
3. Finding No.3: Confiscated items should be kept at the CTA offices for 30 days before handover to DECEM. All CTA offices are secure with deadlocks with combinations only known to staff.
4. Finding No.4: CTA’s role is to hand over confiscated items after the 30-day appeal period has lapsed. We agree that DECEM will need to implement destruction procedures.
5. Finding No.5: Log sheets, seizure, and chain of custody, step by step procedures have now been implemented by CTA. The current SOP will be amended to include procedures for handling ceased styrofoam and plastic food service items.

Once again, I thank your Office for its comprehensive audit, and your staff for their professionalism.

Thank you

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9.2 Department of Environment, Climate Change and Emergency Management's Response



Department of Environment, Climate Change and Emergency Management
PO BOX PS-69

Palikir, Pohnpei 96941 Phone: (691) 320-8814/8815 Fax: (691) 320-8936

October 4, 2022



MEMORANDUM

To: Acting National Public Auditor
From: Secretary
Subject: Written Management response

This is to respond to the Public Auditor's findings regarding its on-going inspection of the implementation of the PL 21-76. At the outset, my department is appreciative of the opportunity to respond to the findings and the recommendations made by the Auditors.

Of importance to this law -PL 21-76 is the penalty clause which we are awaiting on Congress to consider passing. This is key as it will establish the course of non-compliance activities as there have been smuggling of certain single use items.

The key findings in the recent audit suggest that DECEM and CTA have to continue to work collaboratively and that is just what they are currently doing. As this is a new law, it is expected that there will be discrepancies and adjustments. In fact, the law and the regulation are incomplete as they do not include a penalty clause, and a section on collaborative efforts between the national and the state entities. For your information, each state has its own plastic shopping bag ban law, which we are attempting to link efforts.

Furthermore, consider DECEM's response to the Auditors' findings below-

- ✓ **Public Law and regulations were created without including penalties for violation and without consultation with the implementation,**

DECEM RESPONSE - Public Law 21-76 was created to encourage the public to manage single use plastics as it poses a threat to human health and the environment. Thereafter, regulations were promulgated by the President to address the recent smuggling of single use Plastic items.

- **Key Agencies were not equipped with the equipment and tools to implement the law,**

DECEM RESPONSE - At the moment, we are awaiting the availability of a micrometer which will assist in our efforts to properly measure the thickness of plastic shopping bags.

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- ✓ **Current Locations are not secured for storing and confiscated items,**

DECEM RESPONSE - We concur.

- ✓ **Plans to safely destroy the confiscated items were not established as per regulatory requirements**

DECEM RESPONSE - DECEM and CTA staff have met and discussed a plan followed by the development of a template. The plan is yet to be finalized as an MOU between the relevant state counterparts and DECEM and CTA needs to be in place as it will guide the efforts to safely destroy the confiscated items.

- ✓ **Absence of Policies and Standard Operating Procedures for the effective implementation of the Subject Law and regulations**

DECEM RESPONSE - DECEM and CTA staff have met and discussed about procedures clarifying what happens before, during, and after confiscation. A template has been developed by CTA. DECEM only logs any activity related to the law.

If you should need further clarifications, please do not hesitate to let me know. Once again, thank you for the opportunity. Also included with this response is an outcome report prepared by my office which spells out the way forward.

Sincerely,



Andrew R . Yatilman

attachments

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Attachment to DECEM's Management Response:



**REPORT ON INFORMAL VIRTUAL MEETING ON PL: 21-76
JULY 5, 2022
2:00 P.M. TO 3:30 P.M**

INTRODUCTION:

In response to the recent implementation of Public Law 21-76 prohibiting the importation of one time use disposable Styrofoam and plastic food service items and plastic shopping bags, DECEM in collaboration with CTA decided to convene an informal virtual meeting with FSM DOJ, EPAs/KIRMA, and Chamber of Commerce to discuss possible collaboration efforts among themselves regarding the fate of the confiscated plastic and Styrofoam food service items and plastic shopping bags.

Prior to the implementation of Public Law 21-76, businesses in the FSM were informed through public announcement about the prohibition to be in effect. Once it came into effect, some businesses prohibited the use of plastic shopping bags and some of the plastic and Styrofoam food service items. Customs by mandate confiscated imported items that were specifically outlined in the Public Law. Confiscated items are stored for 30 days and subjected for proper disposal thereafter.

INFORMAL VIRTUAL SESSION ON PL 21-76

Specifically, in response to the final disposal of the confiscated items and on-going smuggling of the prohibited items issues, it was decided to bring the relevant stakeholders to further discuss and strengthen collaborative efforts so compliance of the Public Law can be made possible.

The relevant stakeholders were informed by email from DECEM to consider participating in the session for the sake of enhancing awareness and collaboration. The businesses were invited through Chamber of Commerce as well. Eco Friendly Options participated to provide possible alternatives for the businesses to consider. The session was proposed for June 29, 2022 but due to limited participants, it was moved to **July 5, 2022 in virtual mode from 2:00 p.m. to 3:30 p.m.** The outline is as follows:

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**DRAFT PROGRAM OUTLINE
INFORMAL VIRTUAL SESSION
PL: 21-76
July 5, 2022
2:00 P.M.-3:30 P.M. -NATIONWIDE**

- I. PUBLIC LAW and REGULATION (DECEM & DOJ)*
- II. CUSTOMS MANDATES (CTA)*
- III. ECO FRIENDLY PRODUCTS (EFO)*
- IV. PLASTIC CODES (DECEM)
-7 TYPES*
- V. ISSUES AND CONCERNS (ALL)*

PARTICIPANTS:

Ms. Christina Fillmed, Director of Yap EPA
Mr. Steven Palik, Acting Director of KIRMA
Mr. Francisco Celestine, Director of Pohnpei EPA
Ms. Josephine Joseph, DOJ
Ms. Patricia Pedrus, DECEM
Mr. Randy Sue, CTA
Ms. Michelle Kamber, Eco Friendly Options
Ms. Joyce Sewell, Solid Waste Management Manager, Chuuk EPA
Ms. Cathy Mori, Chuuk State Customs and Tax
Mr. Skiller Jackson, Director, Kosrae Small Business Development Center
Mr. Jordan Mautaman, Yap EPA
Mr. Blair Charley, KIRMA
FSM Trade Unit
FSM Trade and Investment
FSM CTA-Yap State
Mr. Tony Rutmag
Britsun
SENNY
Mr. Steven Maria, YCA
JForuw

PRESENTERS:

Ms. Patricia Pedrus (Patti) ---FSM DECEM
Ms. Josephine Joseph --FSM DOJ
Mr. Randy Sue --FSM CTA
Ms. Michelle Kamber --Eco Friendly Options

KEY POINTS RAISED/ADDRESSED:

-DECEM and DOFA Secretaries must identify the sound environment practice to dispose the confiscated items after 30 days as the storage space is limited and the possibility of theft might occur;

-EPAs/KIRMA are mandated to manage their plastic ban laws but not the national ban law;

-An MOU must be in place to clarify roles for national and state EPAs/KIRMA and CTA especially on who should handle confiscated items after they have been stored for 30 days;

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-Yap CTA and EPA have been cooperative in their efforts to store confiscated items however YAP EPA has stated that the national law is not their mandate;

YAP State has in effect a Plastic Shopping Bag Law since 2016 and has been implemented successfully;

-Storage capacity and space for confiscated items is limited;

-Current Storage sites are set up for hazardous waste items and there is a concern not to mix those with the confiscated items;

-The need to determine and know what the term “**biodegradable**” means must be made; do we have instruments/equipment that can assist in the determination of a biodegradable product?;

-The need to rely on an equipment to measure thickness of the plastic shopping bag so that accuracy is made;

-Prohibited items found on the shelves must be reported and fined but whose responsibility is that?;

-A penalty to charge illegal importation of the prohibited items must be in place to assist in enforcement efforts;

-Where can illegal import activities be reported?;

-Plastic Codes relevance to the contents of the Public Law and the Regulation;

-Eco Products are available and can be sought from Ms. Kamber;

POINT OF INFORMATION: All four states have a plastic shopping bag law that has been in effect for awhile now;

RECOMMENDATIONS:

-CTA will further discuss with DOFA Secretary while DECEM will do the same;

-DECEM and DOJ will look into mechanics of MOU;

NEXT STEPS:

-DECEM and DOJ will come together to draft an MOU as recommended by State EPAs/KIRMA which will clarify the roles between them; and give effect to the enforcement of proper disposal of confiscated items and enforcement of illegal importation and continued use of prohibited items;

-DECEM and DOJ will look into other ways to enforce the law which can include taxing Plastics.

CURRENT ACTIVITIES SURROUNDING PL 21:76

-Disseminated electronic **Permanent Regulations nationwide** to businesses in Yap, Chuuk, Pohnpei, and Kosrae in 2021 and 2022;

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-Disseminated **Awareness Posters** to Congress, Supreme Court, National Government Cabinet, Embassies (China, Australia, U.S. and Japan); VITAL, SPC, MCT, Nett Municipal Government, Kolonia Town Municipal Government, Sokehs Municipal Government, Pingelap Municipal Government, CCA, SDA, OLMCHS, and PCS; Electronically to all states EPAs/KIRMA and MCD members;

-**Informal Virtual Session** among EPAs/KIRMA, DECEM, CTA, R&D, Chamber of Commerce and some businesses regarding Public Law 21-76;

-Planning stages of **Procurement of micrometers for each CTA office and DECEM**

-**Video-clip awareness** on PL: 21-76 under construction;

-**Visits** with business in the near future;

-Currently, the **penalty clause** is still pending at Congress. This is key as it will establish the progression of the regulation. [In the meantime, we have an incomplete law and an incomplete regulation.] **--off record.**

Meeting ended at 4:00 p.m.

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10.0 ONPA EVALUATION OF MANAGEMENT RESPONSE

We requested for written Management Response from the FSM Department of Finance and Administration (DoFA) and the Department of Environment, Climate Change & Emergency Management (DECCEM). Both Secretaries generally agreed with our findings and recommendations (provided in the previous [Section 9.0](#) of this report). We also acknowledge the collective efforts taken so far by the two departments to ensure the effective implementation of the PL21-76.

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11.0 NATIONAL PUBLIC AUDITOR'S COMMENTS

We would like to thank staff of the FSM Department of Environment, Climate Change & Emergency Management (DECCEM) and the Division of Customs and Tax Administration (CTA) of the Department of Finance and Administration (DoFA) for their assistance and cooperation during the Inspection. The collective efforts by both departments so far as shared in the management response were both commendable and should continue.

We have provided copies of our final report to the President and Members of the 22nd FSM Congress and those charged with governance. Furthermore, copies of the report have been made available on our official website, social media page as well as our distribution listing. The same can be obtained upon request.

If there are any questions or concerns regarding this report, please do not hesitate to contact our office. Contact information for the office can be found on the last page of this report along with the National Public Auditor and staff that conducted the inspection and prepared this report.



Haser H. Hainrick
National Public Auditor
October 14, 2022

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12.0 ONPA CONTACTS AND STAFF ACKNOWLEDGEMENT

ONPA CONTACT Haser H. Hainrick, National Public Auditor
Email: hhainrick@fsmopa.fm

ACKNOWLEDGEMENTS In addition to the contact named above, the following staff made key contributions to this report:

Miriama Naivalu, Audit Manager
Keller Phillip, Team Leader
Neong U. Yoma, Team Member
Ethel J. Alik, Team Member

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