



Federated States of Micronesia

Department of Health Services

P.O. Box PS 70

Palikir, Pohnpei FM 96941

Tel: (691) 320-2643/2619/2872

Fax: (691) 320-5263

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M E M O R A N D U M

TO: Attorney General, FSM

FROM: Secretary

SUBJECT: National Food Safety Act
Regulations No.1 for Food Inspectors and
Food Analysts

Attached is a signed copy of these regulations. All the necessary steps to promulgate these regulations has now been undertaken. Please sign to complete the process.

Thank you.


Eliuel K. Pretrick, M.O., M.P.H.

FEDERATED STATES OF MICRONESIA
DEPARTMENT OF HEALTH SERVICES REGULATIONS
FOR
NATIONAL FOOD INSPECTORS AND FOOD ANALYSTS
DHS REGULATIONS NO. 1 - 1993

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FOOD INSPECTORS AND FOOD ANALYSTS

PART 1 GENERAL PROVISIONS.

1.1 Authority. These regulations have been promulgated and issued by the Secretary of the Department of Health Services pursuant to the authority granted to the Secretary in Section 25 of the National Food Safety Act, P.L. No. 7-116.

1.2 Purpose. The purpose of these regulations is to establish minimum standards for the qualifications, training and certification of Food Inspectors and Food Analysts, and to establish procedures to be followed by them in administering and enforcing the National Food Safety Act with due regard for the safety of the public.

1.3 Definitions. The following definitions shall apply to this chapter:

a. "Certified Food Inspectors" means those individuals appointed by the Secretary of Health Services to be National Government Food Inspectors who have been trained and qualified to administer and enforce the provisions of the National Food Safety Act and who have met all of the requirements for certification by the Department of Health Services.

b. "Food Analysts" means those individuals appointed by the Secretary of Health Services to be National Government Food Analysts who have been trained and qualified to perform laboratory and field tests upon food and other articles to determine whether or not they are in compliance with the National Food Safety Act and these regulations.

c. "Food Inspector Certification Program" means the program developed and administered by the Department of Health Services to train and certify Food Inspectors pursuant to these regulations.

d. "National Government Food Inspectors and Food Analysts Manual of Procedures" means the compilation of educational materials and policies and procedures adopted by the Department of Health Services for training of Food Inspectors and Food Analysts in the procedures to be followed by Food Inspectors and Food Analysts in administering and enforcing the National Food Safety Act.

PART 2. DEPARTMENT OF HEALTH SERVICES POWERS AND DUTIES.

The Department of Health Services shall have the following powers and duties.

2.1 Promulgation, Adoption and Enforcement of Regulations, Policies and Procedures. The Department of Health Services is authorized to promulgate, adopt and enforce regulations, policies and procedures as necessary to ensure the proper training of Food Inspectors and Food Analysts.

2.2 Standards of Conduct and Ethics. The Department of Health Services is authorized to establish standards of conduct and ethics for persons certified as Food Inspectors and Food Analysts.

2.3 Compliance with Law and Regulations. The Department of Health Services is authorized to ensure strict compliance with and enforcement of the National Food Safety Act and these regulations.

PART 3. EMPLOYMENT AND APPOINTMENT OF FOOD INSPECTORS AND FOOD ANALYSTS.

3.1 Employment by National Government. Food Inspectors and Food Analysts (and trainees for these positions) shall be employees of the National Government for purposes of Title 6, Section 702 of the Code of the Federated States of Micronesia.

3.2 Appointment by Secretary. The Secretary of Health Services may appoint qualified persons who have undergone training and certification as required by these regulations to be Food Inspectors and Food Analysts.

3.3 Minimum Qualifications. To be eligible for employment, applicants for the position of Food Inspector or Food Analyst must:

- (a) be at least 18 years of age;
- (b) have a degree or a diploma from an accredited college or university, or a high school diploma and a minimum of three year's work experience;
- (c) have two letters of reference from persons familiar with the applicant;
- (d) be determined by the Department of Health Services to be worthy of the public trust and confidence;
- (e) sign a written agreement to abide by the National Food Safety Act, these regulations, and the ethical standards relating to Food Inspectors and Food Analysts.

3.4 Requests for Additional Information. The applicant may be required to provide additional information about the applicant's qualifications, including, without limitation, the quality, scope,

and nature of experience and level of competence of the applicant.

PART 4. FOOD INSPECTORS AND FOOD ANALYSTS POWERS AND DUTIES.

The powers and duties of Food Inspectors are derived from the National Food Safety Act, and shall be carried out in accordance with the Act and the procedures set forth in the "National Government Food Inspectors and Food Analysts Manual of Procedures."

4.1 Food Inspectors: Powers. In accordance with the stated purpose and intent of the National Food Safety Act to protect the public from consuming imported food that is unsafe, adulterated or mislabeled, and to ensure that the food exported out of the Federated States of Micronesia and food entering the stream of interstate commerce is safe and of the highest quality, Food Inspectors shall have the following powers:

For food and food articles intended for export or interstate commerce Food Inspectors shall be authorized to perform their duties of inspection wherever such food or food articles are located, [REDACTED], the sites or premises where the food or food articles are processed, manufactured, packaged, labeled, stored, sold and/or transported.

For food and food articles imported into the FSM, Food Inspectors shall be authorized to perform their duties of inspection at the port of entry, provided however, should food or food articles enter the stream of interstate commerce, the powers of Food Inspectors over interstate commerce food or food articles shall apply.

To ensure the safety of the public Food Inspectors shall be authorized to:

(a) Enter any manufacturing plant, processing plant or other premises of the FSM where food or food articles are being processed, manufactured, received, shipped or prepared for export or interstate commerce in the FSM, and examine and take samples of such food or food articles and any other items used or capable of being used in their preparation, packaging, storing, sale or conveyance;

(b) Open and inspect any package which contains any food or food article;

(c) Destroy or dispose of any food or food article which is decayed, putrefied or otherwise a danger to the public health, or otherwise not in compliance with the National Food Safety Act or these regulations;

(d) Enter any port of entry of the FSM where food and food articles are being received, shipped or prepared for export, and examine and take samples of such food or food articles and any other items used or capable of being used in their preparation, packaging, storing, sale or conveyance;

(e) Detain and search any vehicle of the FSM conveying food and food articles and examine and take samples of such food or food items;

(f) Examine and copy any books, accounts, documents or other records which could contain any relevant information about food or food articles.

(g) Perform investigations and question any person to determine whether or not there has been compliance with the National Food Safety Act and these regulations.

(h) Request assistance from the state police, or the national police who shall be required to provide assistance to the Food Inspector as needed;

(i) Require the assistance of all owners, occupiers, persons in charge, their employees, or agents found on premises or in vehicles containing food or food articles subject to the National Food Safety Act and these regulations, in the performance of the Food Inspector's duties as set forth in the Act and these regulations.

4.2 Food Inspectors: Duties. Food Inspectors shall have the following duties and responsibilities:

(a) Food Inspectors shall protect the public from consuming imported food that is unsafe, adulterated or mislabeled, and shall ensure that the food exported out of the Federated States of Micronesia and food entering the stream of interstate commerce is safe and of the highest quality

(b) Food Inspectors shall be duly qualified and trained to administer and enforce the provisions of the National Food Safety Act and these regulations and shall administer and strictly and impartially enforce the Act and these regulations;

(c) While on duty, Food Inspectors shall wear a badge or other visible emblem identifying them as National Government Food Inspectors;

(d) Food Inspectors shall investigate complaints of possible violations of the National Food Safety Act, and complaints of consumers about the safety or unwholesomeness of food subject to the Act or these regulations;

(e) Food Inspectors shall train persons affected by the requirements of the National Food Safety Act and these regulations, and shall provide information to consumers about methods of detection of unfit or unsafe food or food articles, and about methods of inspection of food establishments for compliance with the sanitary requirements and hygienic practices required by the Act and the regulations;

(f) Food Inspectors shall cooperate with other food officials at the National, State and local levels of government;

4.3 Food Analysts: Powers. For food and food articles subject to the National Food Safety Act and these regulations, Food analysts shall be authorized to:

(a) Enter any port of entry of the FSM where food and food articles are being received, shipped or prepared for export, and examine and take samples of such food or food articles and any other items used or capable of being used in their preparation, packaging, storing, sale or conveyance;

(b) Detain and search any vehicle at any port of entry of the FSM conveying food and food articles and examine and take samples of such food or food items;

(c) Open and inspect any package which contains any food or food article;

(d) Assist Food Inspectors in the identification of food or food articles which may be decayed, putrefied, dangerous to the public health, or otherwise not in compliance with the National Food Safety Act or these regulations.

4.4 Food Analysts: Duties. For food and food articles subject to the National Food Safety Act and these regulations, Food Analysts shall have the following duties and responsibilities:

(a) Food Analysts shall be duly qualified and trained to administer and enforce the provisions of the National Food Safety Act and these regulations;

(b) While on duty, Food Analysts shall wear a badge or other visible emblem identifying them as National Government Food Analysts;

(c) Food Analysts shall carry out their duties and responsibilities in a manner which is respectful of the food industry and the public, and in such a way as to avoid unnecessary disruption of business operations;

(d) Food Analysts shall assist Food Inspectors in the investigation of complaints of possible violations of the National Food Safety Act, and complaints of consumers about the safety or unwholesomeness of food subject to the Act or these regulations;

(e) Food Analysts shall perform laboratory analysis and field tests of food and food articles to determine compliance with the National Food Safety Act and these regulations.

(f) Food Analysts shall cooperate with other food officials at the National, State and local levels of government;

PART 5. FOOD INSPECTOR TRAINING AND CERTIFICATION PROGRAM.

The Department of Health Services shall be responsible for the training and certification of Food Inspectors as follows:

5.1 Training of Food Inspectors. Upon meeting the minimum qualifications for employment, and hiring by the National Government, Food Inspectors shall undergo training in food safety and food protection as set forth in the National Food Safety Act, these regulations, and the "National Government Food Inspectors and Food Analysts Manual of Procedures." During the training period, such individuals shall be employees of the National Government, and shall be designated as trainees. Training shall include at least:

(a) 50 hours of classroom instruction;

(b) 100 hours of field experience under the supervision of a certified Food Inspector.

5.2 Certification. Upon completion of training, and prior to the assumption of any unsupervised work as a Food Inspector, all individuals must be certified by the Department of Health Services as meeting the requirements for qualification to perform the duties and assume the responsibilities of Food Inspectors as set forth in the National Food Safety Act, these regulations and the "National Government Food Inspectors and Food Analysts Manual of Procedures."

State Food Inspectors may be certified to carry out the duties of and assume the powers of National Food Inspectors provided however: State Food Inspectors must meet the minimum qualifications listed under Part 3.3 of these regulations; and State Food Inspectors shall be required to undergo the training and

certification program set forth in Part 5 of these regulations.

(a) Certification Required. A person may not act as a Food Inspector until and unless that person is certified by the Department of Health Services under Part 5 of these regulations. A person may not use any name, title, or designation indicating that the person is a certified Food Inspector unless that person holds a current, valid certification obtained from the Department of Health Services.

(b) Examination. In order to be certified as a Food Inspector, after completion of training as set forth in Section 5.1 an applicant for certification must take and pass an examination administered by the Department of Health Services. The examination shall be based upon the requirements of the National Food Safety Act, these regulations, and the principles and procedures contained in the "National Government Food Inspectors and Food Analysts Manual of Procedures."

(c) Examination procedure. As necessary the Department of Health Services shall prepare and administer, or contract with an organization approved by the Department of Health Services for the preparation and administration of an examination to determine the qualifications of an applicant for certification as a Food Inspector.

(i) The examination shall be conducted as determined by the Department of Health Services and in a manner that is fair and impartial.

(ii) The scope and content of the examination shall be sufficient to ensure professional competence and a full understanding of the requirements of the National Food Safety Act, these regulations, and the principles and procedures contained in the "National Government Food Inspectors and Food Analysts Manual of Procedures."

(iii) An applicant who fails the examination may be re-examined, provided such re-examination is completed within three months from the date of the first examination. However, an applicant who fails an examination may not be re-examined on more than one occasion without undergoing retraining. The decision whether or not to allow an applicant to undergo retraining shall be made by The Department of Health Services at its discretion, based upon the applicable facts and circumstances.

(iv) If requested by a person who fails the examination, the Department of Health Services shall furnish an analysis and evaluation of the person's performance on the examination.

(v) The Department of Health Services shall notify each examinee of the results of the examination not later than the 30th day after the date on which the examination is administered.

(d) Certification Expiration; Renewal. Certification as a Food Inspector shall be valid for two years from the date of issuance. The expiration date shall be set forth on the Certification certificate.

(i) Requirements for renewal of certification. In order to renew a Certification issued by the Department of Health Services, before expiration of the current Certification, a person must:

a. make application to the Department for renewal of Certification;

b. complete at least 300 hours of continuing education or inservice training approved by the Department of Health Services including at least 40 hours in each of the following areas: food science and technology, sanitary engineering, veterinary medical science, public health, and water quality control;

c. demonstrate to the Department of Health Services that the applicant continues to meet the requirements set forth in Part 3.1 relating to Minimum Qualification for Employment.

(ii) Certification renewal after expiration. If an individual fails to renew Certification prior to the date of expiration that person shall be required to comply with all of the requirements and procedures for obtaining certification under these regulations.

(e) Waiver of Training and Examination. The Secretary of the Department of Health Services may waive the training and examination requirements set forth above for Food Inspectors for any person who has received equivalent or higher formal education or training in food safety and food protection, and who is fully qualified to perform the duties and responsibilities of Food

Inspectors. Such individuals shall be required to be familiar with the policies and procedures contained in the "National Government Food Inspectors and Food Analysts Manual of Procedures," and well as the provisions of the National Food Safety Act and these regulations.

PART 6. FOOD ANALYSTS TRAINING AND QUALIFICATIONS.

Food Analysts shall be suitably qualified by formal education, technical or vocational training, and/or experience as laboratory technicians to perform the duties and responsibilities of their job as set forth in the National Food Safety Act and these regulations.

PART 7. ETHICAL STANDARDS.

Food Inspectors and Food Analysts shall be required to abide by the following ethical standards.

7.1 Discrimination not allowed. Certified Food Inspectors and Food Inspectors shall not discriminate against any person on the basis of sex, race, language or religion.

7.2 Conflict of interest. No Food Inspector or Food Analyst may be assigned to or perform duties involving any business or matter in which the Food Inspector or Food Analyst or his/her parents, children or siblings has any pecuniary interest whatsoever.

7.3 Responsibility. The Certified Food Inspector and Food Analyst shall maintain objectivity, integrity, and the highest standards in performance of the duties and responsibilities of the job.

7.4 Duty to Report Violations. The Certified Food Inspector and Food Analyst shall report all violations of the National Food Safety Act, and these regulations to the Department of Health Services;

7.5 Legal standards and professional conduct. Certified Food Inspectors and Food Analysts shall uphold the law and refrain from unprofessional conduct, and shall:

(a) not make any claims, directly, or by implication that he/she possesses any professional qualifications or affiliations that he/she does not have;

(b) not mislead or deceive the public, or any person in any way;

(c) not promote, develop, market, profit from, or associate himself or herself with any commercial food or food product or related articles subject to the National Food Safety Act or these regulations;

(d) not commit any crime or perform any act which might discredit the National, State or local governments, or the Food;

(e) Food Inspectors shall carry out their duties and responsibilities in a manner which is respectful of the food industry and the public, and in such a way as to avoid unnecessary disruption of business operations.

7.6 Public statements. Certified Food Inspectors and Food Analysts shall:

(a) report information fairly and accurately to the National, State and local governments, members of the food

industry, the public, consumers, and others, and shall not make inappropriate, unprofessional, or inaccurate representations;

(a) acknowledge the work of others, and document materials and techniques used in the performance of his/her duties.

7.7 Public welfare. Certified Food Inspectors and Food Analysts shall respect the dignity of the individuals he or she comes into contact with, and shall not engage in any action injurious to the public welfare, and shall:

(a) maintain professional responsibility at all times;

(b) not engage in any activity which could be considered a professional conflict of interest, and shall immediately remove himself or herself from any such conflict should one arise.

7.8 Confidentiality. Certified Food Inspectors and Food Analysts shall protect the confidentiality of trade secrets, and other confidential information, and shall not divulge any confidential information except as necessary to the Department of Health Services in the performance of his or her duties.

FEDERATED STATES OF MICRONESIA
DEPARTMENT OF HEALTH SERVICES REGULATIONS
FOR
NATIONAL FOOD INSPECTORS AND FOOD ANALYSTS
DHS REGULATIONS NO. 1 - 1993

Pursuant to the authority vested in me by Section 25 of the National Food Safety Act, P.L. 7-116, and having complied with the applicable provisions of Title 17 of the Code of the Federated States of Micronesia, these National Food Safety Act Regulations for Food Inspectors and Food Analysts are hereby adopted.

Date: May 20, 1994

Eliuel Pretrick, M.D.
Dr. Eliuel Pretrick, Secretary
Department of Health Services

The provisions of these National Food Safety Act Regulations for Food Inspectors and Food Analysts have been reviewed by the Office of the Attorney General, and have been found to be in proper legal form.

Date: May 23, 1994

Quilla Wober
Attorney General

Effective Date: The effective date of these regulations is

May 23, 1994.