

FOOD ('AVA) REGULATIONS 2018

SAMOA

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PURSUANT to section 46 of the Food Act 2015 (“the Act”), I, TUIMALEALIIFANO VAALETOA SUALAUVI II Head of State, acting on the advice of Cabinet, MAKE these Regulations—

DATED this^{6th}..... day of.....^{JUNE}.....2018.


.....
(Tuimalealiifano Vaaletoa Sualauvi II)
HEAD OF STATE

REGULATIONS

PART 1 PRELIMINARY

1. **Citation and commencement** – (1) These Regulations may be cited as the Food (’Ava) Regulations 2018.

(2) These Regulations commence after 12 months from the date they are signed.

2. **Interpretation** – In these Regulations, unless the context otherwise requires:

“ava” means:

- (a) the plant species *Piper methysticum* Frost consisting of known noble ’ava varieties ; and
- (b) the traditional and ceremonial food beverage ’ava extract by mixing water and the plant’s organs such as roots, peeled rhizome or stump or peeled stems;

“ava extract” and “ava products” means the product of ’ava:

- (a) made when soluble components of cleaned fresh unpeeled ’ava roots, or peeled stump or rhizome, peeled basal stems or dried raw ’ava

are extracted, using water and is filtered and concentrated.

(b) which has a light brown or yellowish colour and a high viscosity when much of the water is removed from it; or

(c) which may also be presented as a powdered type that is derived from ground dried 'ava roots, peeled stump or rhizomes, peeled basal stem”;

“ava handler” means a person who directly handles 'ava or any 'ava equipment utensils, or 'ava contact surfaces;

“ava product” offered for direct consumption means:

(a) any part of the 'ava plant that can be consumed such as root unpeeled (uso), stump or rhizome, always peeled (aano fisi), basal stem, always unpeeled (aka fisi); but

(b) does not include leaves or peelings (bark);

“dried 'ava”:

(a) means the dried root of 'ava in the form of chips when it is sun dried, hot air dried or dried using other recognised methods; and

(b) includes any peeled main stump (uso), peeled basal stem (aano fisi), unpeeled lateral roots (aka fisi) that is sliced or powdered;

“HACCP” means Hazard Analysis and Critical Control Point as defined in the Codex Alimentarius;

“noble 'ava variety” means any 'ava variety that has certain chemical composition adequate for daily human consumption and drinking and that have a history of safe traditional use in Samoa, including the following variety, 'ava le'a, 'ava la'au, 'ava loa, 'ava mumu or 'ava talo;

“manufacturer” means a processor, supplier, distributor, retailer or importer who directly supplies 'ava or 'ava product for consumption;

“primary production” starts from planting stage, growth until harvesting;

“soluble component” means the roots or the stems of the 'ava;

“supply chain” includes:

(a) primary producers;

(b) handlers engaged in cutting, sorting, washing, drying;

(c) processors or those involved in storing;

- (d) suppliers;
- (e) distributors;
- (f) retailers;
- (g) exporters; and
- (h) importers.

3. Objective – The objective of these Regulations is to protect consumers and facilitate trade by ensuring product safety and quality standards of 'ava and 'ava products for human consumption.

4. Application – These Regulations apply:

- (a) to the 'ava handlers from primary production, cutting, sorting, drying, storing, transporting, packaging, distributing, and supplying of 'ava intended for human consumption; and
- (b) to 'ava and 'ava products; and
- (c) to 'ava and 'ava product when indicated as being intended for further processing; and
- (d) in addition to any requirements under—
 - (i) the Act or any of its regulations on food safety and standards;
 - (ii) the Agreement on the Application of Sanitary and Phytosanitary Measures; and
 - (iii) the Agreement on Technical Barriers to Trade.

PART 2

'AVA HANDLERS AND GENERAL HYGIENE

5. Functions and duties of 'ava handlers – (1) Any 'ava handler who is involved in the 'ava production supply chain must meet the requirements in subregulation (2) to ensure food safety is achieved along the primary production, supply chain and the consumption chain.

(2) An 'ava handler is responsible for:

- (a) effective communication to ensure an efficient chain of control is maintained from planting 'ava to production of 'ava products ensuring hygiene practices are applied at each stage of the chain and that appropriate and timely action is taken to resolve any food safety problem that may arise;
- (b) applying good hygienic, agricultural and manufacturing practices consistent with the

Act, and adapt their operations as appropriate and practicable to meet any specifications for specific hygiene controls to be applied and or any standards to be achieved;

- (c) communicating any recommendations for safe handling and storage of 'ava and 'ava products during distribution, transportation, and subsequent use by businesses and consumers;
- (d) keeping records on the following matters to enhance the ability to verify the effectiveness of the control systems in the HACCP-
 - (i) prevention and control of diseases with an impact on public health;
 - (ii) use of agricultural and pest control chemicals;
 - (iii) use of any pesticides;
 - (iv) traceability or product tracing and result;
 - (v) for providing consumers with information on handling, storing, and use, where practical; and
- (e) is expected to comply with hygiene requirements under the Act.

6. Reduction of hazards – Any 'ava handler must:

- (a) take all reasonable measures to reduce the likelihood of hazards occurring to 'ava during planting, growing and harvesting; and
- (b) ensure that sources of potentially harmful substances are minimised and are not present at an unacceptable level in 'ava or 'ava products.

7. Quality requirements – Any 'ava products must have normal flavour, kavalactone and flavokavin pattern unique to noble kava including the following;

- (a) Colour: 'ava products have a characteristic light brown or grey colour;
- (b) Aroma: 'ava products have the aroma characteristics of the product, (the aroma will be free of extraneous aromas indicating contamination with other plant material, solvents or other volatile matter);
- (c) Filth: using standard methods heavy filth will not exceed 0.63% of dry weight basis. Heavy

filth exceeding 0.63% but less than 0.7% will be considered to be second grade. Heavy filth exceeding 0.7% will be rewashed and redried;

- (d) Moisture: the moisture content will not exceed 12.5% when dried to constant weight at 105°C. Moisture content exceeding 12.5% but less than 12.9% will be considered second grade 'ava. 'Ava samples with moisture content in excess of 12.9% will be redried;
- (e) Powdered type: the residual humidity to be no more than 10%;
- (f) Heavy metals: the following limits apply: Cadmium 1 parts per million (ppm), lead 5 ppm, mercury 0.1 ppm;
- (g) Ash: the ash content will not exceed 6% when organic matter is removed at 440°C. Samples exceeding 6% but less than 6.5% will be considered second grade 'ava. Samples with an ash content in excess of 6.5% will be washed and re-dried and will be considered second grade 'ava;
- (h) Aflatoxins: the following limits apply: 2 ppm each for Aflatoxins B1, B2, G1 and G2; no more than 4 ppm total;
- (i) 'Ava lactones: standards under the Annexure A of the Codex 295R-2009 (Codex) (Noble varieties are those where the ratio of *kavain*: *methysticin* reaches a minimum of 250%).

8. Defects – (1) The following defects must be applied to the dried 'ava;

- (a) insect-damaged 'ava: 'ava that is visibly damaged by insects or contains dead insects; and
- (b) moldy 'ava: 'ava that is visibly affected by mold.

(2) A container of 'ava or 'ava product that fails to meet one or more of the applicable quality requirements under these Regulations is to be considered defective.

9. Collection, handling, storage and transportation of 'ava – A 'ava handler must ensure that:

- (a) 'ava or 'ava product are collected, handled, stored or transported in a manner that minimises contamination or damage to the 'ava or 'ava products, with appropriate attention to temperature fluctuations and defects; and
- (b) appropriate measures are implemented during disposal of unsafe and unsuitable 'ava or 'ava products to protect other 'ava from contamination.

10. Equipment – A 'ava handler must ensure that:

- (a) 'ava collection equipment must be made of materials that are non-toxic and be designed, constructed, installed, maintained and used in a manner to facilitate good hygiene practices;
- (b) 'ava drying kiln and sun dried and packaging equipment must be designed, constructed, maintained and used in a manner that will minimise contaminants to 'ava and 'ava products;
- (c) delivery procedures and equipment are handled and carried out in a manner that minimise and avoid 'ava and 'ava product contamination.

11. Personal cleanliness – A 'ava handler must ensure good health and personal cleanliness by:

- (a) following hygiene and health requirements under the Act; and
- (b) maintaining proper sanitary facilities to prevent defects to 'ava during processing period.

12. Contaminants – (1) 'Ava or 'ava product must comply with the maximum levels of the Codex General Standard for Contaminants and Toxins in Foods (CODEX/STAN 193-1995) and with any amendments to it.

(2) 'Ava or 'ava product must comply with the maximum residue limits for pesticides established by the Codex Alimentarius Commission.

13. Hygiene – (1) The following International Codes of Practice are recommended:

- (a) General Principles of Food Hygiene (CAC/RCP 1-1969);
- (b) Good Manufacturing Practices; and
- (c) Good Agricultural Practices.

(2) The 'ava and 'ava products must comply with any microbiological criteria established under the Principles for the Establishment and Application of Microbiological Criteria for Foods (CAC/GL 21-1997) including any amendment to these Principles.

14. Packaging – 'Ava or 'ava products should be packaged in a manner as to safeguard the hygienic, nutritional, technological and organoleptic quality of the 'ava products.

PART 3 CONTROL MEASURES AND PROCESSING

15. Control measures – A 'ava handler must maintain caution to prevent, eliminate or reduce hazards when producing, sorting, storing, transporting, packaging, distributing, selling and supplying 'ava or 'ava product for consumption.

16. Control of hazards – A 'ava handler must apply hazards based control measures in relation to 'ava process and 'ava or 'ava product specifications, to ensure that 'ava or 'ava product is safe and suitable for human consumption.

17. Processing of 'ava – (1) A 'ava handler must maintain and handle the processing of 'ava or 'ava product at all stages of cleaning, sorting, storing and distribution, in a manner that avoids, minimises or prevents defects.

(2) 'Ava or 'ava product unfit for human consumption must be separated and destroyed.

18. Storage – A 'ava handler must ensure that 'ava or 'ava product is stored at a suitable temperature to avoid moisture.

19. Shelf life for 'ava – 'Ava or 'ava product shelf life is to be determined by the manufacturer.

20. Traceability – (1) Traceability of the 'ava and 'ava products shall be established at all stages of the production, processing and distribution of 'ava and 'ava products.

(2) 'Ava business operators shall have in place systems and procedures which allow for information related to sub

regulation (1) to be made available to the competent authorities on demand.

PART 4 LABELLING AND SAMPLING

21. Lot identification – A lot can be considered as meeting the applicable requirements referred to in Parts 2, 3 and 4 of these Regulations.

22. Labelling – (1) Appropriate labelling of 'ava and 'ava products must be established at all stages of the production, processing and distribution of 'ava and 'ava products.

(2) 'Ava and 'ava products labelling must comply with the following:

- (a) the village or place of cultivation, the island of origin the product type: (peeled basal stems (aka fisi), peeled stumps (aano fisi), or peeled roots (uso) must be appear on the labels and the bags;
- (b) the date the 'ava is processed and packaged must be stated and clearly identified on the labels and bags containing 'ava and 'ava products;
- (c) labelling must not mislead consumers and must be pursuant to the Act or regulations on labelling.
- (d) name of the 'ava species (scientific or common name of the 'ava that is used as raw material) must appear on the label of all 'ava or 'ava products.
- (e) the common names of the 'ava must appear on the label under the law and custom of the country where the product is consumed, and in a manner not misleading to the country.

23. Labelling of non-retail containers – (1) Information about non-retail containers must be provided on the container or in accompanying documents, and the name of the product, lot identification and the name and address of the manufacturer, packer or distributor, as well as storage instructions, must also appear on the container.

(2) Despite subregulation (1), the lot identification, name and address of the manufacturer, packer or distributor

may be replaced by an identification mark, if the mark is clearly shown in the accompanying documents.

24. Other labelling requirements – Except otherwise specified under any enactment, the 'ava or 'ava product must have a clear mark to indicate that it is not intended for medicinal purposes including other labelling required by the country where 'ava or 'ava products are distributed.

25. Analysis and sampling – (1) The determination of moisture must be in accordance with the Association of Official Analytical Chemists ("AOAC").

(2) The determination of solid must be in accordance with the AOAC and calculated by subtracting the content of water from 100%.

(3) The determination of ash must comply with the AOAC 923.03.

(4) The determination of 'ava lactones must comply with the method described in Annex A of the Codex.

PART 5 MISCELLANEOUS

26. Training – (1) A 'ava handler must be trained, and instructed in hygiene to a level appropriate to the operations they perform by any of the following:

- (a) Ministry responsible for Health;
- (b) Ministry responsible for Agriculture; or
- (c) Ministry responsible for Commerce.

(2) The relevant Ministry under sub regulation (1) may issue standards on production, use and handling of 'Ava that may be applied as an additional guide to complying with these Regulations and the Food Act 2015.

27. Inspections - Subject to section 24 of the Act, food safety inspectors may conduct inspections on producers, handlers, processors and exporters of 'ava to ensure compliance with the Act and these Regulations.

28. Offence – A person who contravenes any of the provisions of these Regulations commits an offence and is liable upon conviction to a fine not exceeding 500 penalty units.
