



Assessment of Legislative Frameworks Governing **Waste Management** in the Republic of the Marshall Islands

November 2020



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About this Report

Sources of Information



Publicly available online resources about waste management laws in the participating countries (e.g. PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries)



Additional information on legislation or pipeline initiatives identified by in-country contacts



Qualitative information derived from interviews (remote and face-to-face) with in-country stakeholders



An online survey sent to in-country participants requesting information on waste laws in their countries and their implementation, administration, and enforcement

In the Republic of the Marshall Islands, interviews were conducted remotely with participants from government departments, agencies and contractors addressing issues of environmental protection, waste management, legal matters, as well as the private sector and NGOs.

Additional interviews were conducted with external consultants and SPREP staff working on specific programs relevant to the Waste Legislative Review.



Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.

For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate), as well as interviews with in-country contacts in the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, the Republic of the Marshall Islands, Samoa, the Solomon Islands, Timor-Leste, the Kingdom of Tonga, Tuvalu, and Vanuatu.

Introduction

This assessment has been prepared by the *Secretariat of the Pacific Regional Environment Programme's* (SPREP) EU-funded PacWastePlus programme (PacWaste Plus or 'Programme'), drawing upon reporting developed by the University of Melbourne (UoM) on behalf of PacWastePlus for that programme's *Waste Legislative Review* project. The UoM team reviewed legislation relevant to waste management in 14 Pacific region countries and Timor-Leste. Separate assessments are provided for each of the PacWastePlus participating countries.

This assessment was designed to achieve a number of outcomes:

- Gain a working understanding of the legislative framework governing waste management in PacWastePlus participating countries
- Determine which countries have legislation that actively manages issues caused by the generation of waste streams that are the focus of the PacWastePlus programme activities (asbestos, e-waste, healthcare waste, recyclables, organics, bulky waste, disaster waste and waste water) and plastic waste
- Understand strengths and weaknesses of the legislative frameworks to manage the waste issues and social and environmental problems caused by the generation of these wastes
- To provide some guidance on possible modifications to the legislative framework to improve waste management outcomes.

This assessment provides the broad findings of the research and investigation undertaken by the UoM team in relation to the Republic of the Marshall Islands. It provides:

- A **stocktake of the existing legislative environment for waste management** in the Republic of the Marshall Islands, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, recyclables, organics, disaster waste, bulky waste, and wastewater, as well as plastic waste, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
- A **stocktake of pipeline legislative initiatives** in the Republic of the Marshall Islands, including an assessment of their impact and approximate timeframe for development.
- An **assessment of the legislative framework** and its relevance to the PacWastePlus programme focus waste streams and plastic waste
- An **assessment of the capacity** of the Republic of the Marshall Islands' government to enact the instruments included in the legislative framework
- **Options for strengthening the legislative framework** for the Government of the Republic of the Marshall Islands to deliver its desired waste management outcomes.

SECTION 1: LEGISLATIVE STOCKTAKE



This stocktake provides a detailed view of the legislative environment governing waste management currently in operation in the Republic of the Marshall Islands

Legislative Summary

Legislation impacting waste governance

Responsibilities for waste management exist within a range of legislation and regulations, but there is no dedicated waste management legislation.

Some analysis of the main national waste situation has been undertaken as part of preparation of the *National Waste Management Strategy 2012-2016 and Action Plan*. This document can be found in Appendix B to a June 2015 PDP report for SPREP on Assessment of Status and Options for Solid Waste Management on Majuro Atoll 2015. This report describes the *National Waste Management Strategy* as in draft form and with cabinet for its approval.

The following tables provide a stocktake of the existing legislative environment for waste management and governance the Republic of the Marshall Islands. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.

- **Table 1** details the legislation impacting waste governance in the Republic of the Marshall Islands.
- **Table 2** lists the key policy instruments and reports.
- **Table 3** notes the departments with responsibilities for waste management.

Table 1: Legislation impacting waste governance in the Republic of the Marshall Islands

LEGISLATION	REGULATIONS
<p><u>NATIONAL ENVIRONMENTAL PROTECTION ACT 1984</u> [35 MIRC CH 1]</p> <p>s104 establishes the National Environmental Protection Authority (EPA).</p> <p>S121 ALLOWS THE EPA TO MAKE REGULATIONS REGARDING (C) POLLUTANTS; (D) PESTICIDES; AND (E) DISCHARGE OF HAZARDOUS WASTE. S123 REQUIRES REGULATIONS MADE UNDER S121(2)(C) TO PROVIDE A PERMIT SYSTEM FOR THE DISCHARGE OF POLLUTANTS AND ACTIVITIES RESULTING IN SUCH DISCHARGE.</p> <p>UNDER S126, FUNCTIONS AND DUTIES OF THE EPA INCLUDE (B) RECOMMENDING TO THE PRESIDENT NATIONAL ENVIRONMENTAL POLICY AND CRITERIA REGARDING DISCHARGE OF WASTES; (C) UNDERTAKING SURVEYS AND INVESTIGATIONS AS TO THE CAUSES, NATURE, EXTENT AND PREVENTION OF POLLUTION; AND (K) ESTABLISHING AND MAINTAINING LIAISON WITH INTERNATIONAL ORGANISATIONS</p> <p>S145 ALLOWS THE EPA TO TAKE ENFORCEMENT ACTION, INCLUDING CEASE AND DESIST ORDERS; IMPOSITION OF CIVIL PENALTIES; (C) INSTITUTION OF CIVIL PROCEEDINGS; AND (D) ANY OTHER ACTION AUTHORISED UNDER THE CHAPTER OR ANY OTHER LAW.</p> <p>UNDER S146, WHERE (1)(A) DISCHARGE OF WASTE IS IN VIOLATION OF LEGAL REQUIREMENTS OR (B) A WASTE FACILITY IS APPROACHING CAPACITY, THE AUTHORITY SHALL REQUIRE THE DISCHARGER TO SUBMIT FOR APPROVAL BY THE AUTHORITY. SUBSECTION (2) REQUIRES THE AUTHORITY TO ISSUE A CEASE AND DESIST ORDER WHERE DISCHARGE IS TAKING PLACE IN VIOLATION OF THE REQUIREMENTS.</p> <p>S147 REQUIRES ANY PERSON WHO DISCHARGES POLLUTANTS IN VIOLATION OF THE CHAPTER OR ANY PERMIT, REQUIREMENT, OR ORDER OF THE EPA TO CLEAN UP THE POLLUTANT AND ABATE ITS EFFECTS ON ORDER OF THE EPA.</p> <p>S151 ALLOWS ANY PERSON OR BODY TO BRING AN ACTION IN THE HIGH COURT FOR DECLARATORY OR EQUITABLE RELIEF AGAINST ANY PERSON OR BODY IN ORDER TO PROTECT THE ENVIRONMENT FROM POLLUTION.</p>	<p><u>Solid Waste Regulations 1989</u></p> <p>Purposes of the regulations under r 2 include (a) the prevention of water pollution; and (b) air and land pollution. Part II (rr 6–7) outlines requirements relating to solid waste storage. Part III (rr 8–11) relates to solid waste collection safety, equipment, frequency, and operations. Part IV (rr 12–17) outlines who is responsible for the management of various types of solid waste. Part V (rr 18–25) establishes a permit system for solid waste disposal facilities. Part VI (rr 26–32) establishes standards for solid waste disposal facilities. Part VII (rr 33–34) relates to standards for hazardous waste disposal. Part VIII (rr 35–37) relate to enforcement by the EPA</p> <p><u>Toilet Facilities and Sewage Disposal Regulations 1990</u></p> <p>These regulations outline general requirements of toilet and sewage systems.</p> <p><u>Pesticides and Organic Pollutants (POPS) Regulations 2004</u></p> <p>The purpose of these regulations under r 2 is to establish a system of control over the importation, distribution, sale, and use of pesticides and to ban or restrict the use of twelve POPS targeted by the Stockholm Convention.</p> <p><u>Environmental Impact Assessment Regulations 1994</u></p> <p>These regulations establish standard procedures for the preparation and evaluation of environmental impact assessments (EIAs).</p> <p><u>Sustainable Development Regulations 2006</u></p> <p>These regulations establish a regime for sustainable approval of developments. Regulation 12(a) requires any development activity with a ‘major’ designation to include</p>

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REGULATIONS

an Environmental Management Plan, which may be required to consider projected generation of waste.

Under r 26(d), prohibited development activities include any disposal or storage of solid or hazardous waste that is not in a permitted public waste disposal facility.

Public Water Supply Regulations 1994

The purpose of the regulations in r 2 include to ensure water supply is protected against contamination and pollution. Regulation 23 makes it the responsibility of water suppliers to ensure water quality, including to prevent contamination through wastewater backflow. Regulation 48 makes persons who contaminate public water supplies with toxic or poison materials, not removable by normal treatment methods, subject to both criminal prosecution and imposition of civil penalty.

Ozone Layer Protection Regulations 2004

Promulgated to implement RMI's commitment to implement the 1985 *Vienna Convention for the Protection of the Ozone Layer* and the 1987 *Montreal Protocol on Substances that Deplete the Ozone Layer*.

Littering Act 1982 [35 MIRC Ch 2]

s204(1) makes littering an offence liable to between \$50 and \$1,000 fine, or a maximum 6-MONTH IMPRISONMENT, OR BOTH. S205 PROVIDES FOR ENFORCEMENT POWERS.

None identified.

RECENTLY REPEALED Office of Environmental Planning and Policy Coordination (OEPPC) Act 2003

s403 establishes the OEPPC within the executive branch.

Under s404, a purpose and function of the OEPPC is to act as the focal point of contact in coordination, management and implementation of all international environmental projects and programs.

Public Health, Safety and Welfare Act 1966 [7 MIRC Ch 1] (commenced 11 May 2015)

None identified.

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Part II deals with sanitation e.g., toilets and accumulation of rubbish

Styrofoam Cups and Plates, and Plastic Products Prohibition, and Container Deposit Act 2016 [7 MIRC Ch 5]

Legislation in s503 prohibits the import, manufacture, sale or distribution of Styrofoam cups and plates, disposable plastic cups and plates, and plastic shopping bags.

Part III establishes a container deposit program.

Part IV establishes a recycling fund for implementation of the Act.

Styrofoam cups and plates, and plastic products prohibition and container deposit (Amendment) Act 2018

The Act was amended to resolve issues related to Power to Seize, forfeiture and Destruction, Exemption of certain containers, Deposit fee structure, redemption centre establishment, and controls on the recycling fund.

Ministry of Environment Act 2018 [35 MIRC Ch 6] (commenced 2 October 2019)

s605 establishes the portfolio of the Minister of Environment.

S606(2) REQUIRES THE MINISTER TO ENSURE DOMESTICATION AND IMPLEMENTATION OF ALL TREATIES, INTERNATIONAL INSTRUMENTS, AND AGREEMENTS RELEVANT TO THE ACT TO WHICH THE REPUBLIC IS A SIGNATORY OR MAY BE.

S616 ESTABLISHES THE NATIONAL COUNCIL ON THE ENVIRONMENT, A FUNCTION OF WHICH UNDER S617(4) IS TO TAKE ANY FURTHER ACTION NECESSARY TO IMPLEMENT RELEVANT TREATIES AND INSTRUMENTS TO WHICH THE REPUBLIC IS OR MAY BE A MEMBER.

Criminal Code 2011 [31 MIRC Ch 1]

Under s252.6, altering, damaging, or contaminating a water or sewer line is a petty misdemeanour, or a misdemeanour on a subsequent conviction.

Foreign Affairs Act 2007 [43 MIRC Ch 6]

Responsibilities of the Ministry of Foreign Affairs include:

- ensuring that the Nitijela enacts domestic legislation to give effect to international convention obligations.
- ensuring the enactment of domestic legislation to give effect to international convention obligations as a function of the Minister of Foreign Affairs.

Recycling Program Regulations

The purpose of this regulation is to implement the Marshall Islands Container Deposit and Recycling Program setting forth guidelines, procedures, requirements and standards for the operation of the Program and to enable fiscal control and accountability over all monies collected as Recycling Deposit Fees and all monies paid out in the course of collection of designated waste materials for recycling

None identified.

None identified.

None identified.

LEGISLATION**REGULATIONS**

PRESENTING AN ANNUAL REPORT OF THE MINISTRY TO THE PRESIDENT AND CABINET EACH YEAR, WHICH INCLUDES DETAILS OF DOMESTIC ENACTMENT OF INTERNATIONAL OBLIGATIONS.

SAFE Sunscreen Act 2019

An Act TO PROHIBIT CERTAIN UNSAFE SUNSCREEN PRODUCTS FROM ENTERING THE REPUBLIC FOR THE PURPOSE OF PROTECTING THE HEALTH OF OUR NATURAL RESOURCES, MARINE ENVIRONMENT, AND PEOPLE.

None identified.

Table 2: Policies and reports impacting waste governance in the Republic of the Marshall Islands

POLICY	DESCRIPTION
2050 Climate Strategy: Lighting the Way 2018	A key recommendation (p 8) is to reduce RMI’s growing waste problem by minimising organic material in collected waste and consider possibilities to generate energy from waste. Section 2c (p 30) discusses the greenhouse emissions of the waste sector.
Joint National Action Plan for Climate Change Adaptation & Disaster Risk Management 2014-2018	Poor waste management and sanitation identified as a key driver of RMI’s climate vulnerability. Improvement of solid waste management a hoped result of objectives 5.1, 5.2 and 5.4.
Kwajalein Atoll Solid Waste Management Plan 2019-2028 and Action Plan 2019-2023	Details current solid waste management situation and issues, strategic targets, and an action plan.
National Environment Management Strategy 2017–2022	Poor waste management and pollution control identified as a key environmental risk. A strategic focus area in Theme 6: Built Environment is to provide proper waste management services and proper management of hazardous waste.
National Implementation Plan for the Stockholm Convention on POPs 2008	Submitted in fulfilment of RMI’s obligations as a party to the Stockholm POPs Convention.
National Strategic Plan 2015–2017	Plan relating to solid and hazardous waste management in section 3D under infrastructure development. Objectives of infrastructure development sector include to reduce solid waste generation and effectively manage solid waste, and minimise impact of persistent organic pollutants, pesticides, and hazardous waste.
National Waste Management Strategy 2012-2016 and Action Plan	Outlines state of waste management and recommendations, including around education, policy, financing, infrastructure, capacity, minimisation, and hazardous and medical waste. An action plan is included at p 27.
National Water and Sanitation Policy & Action Plan 2014	Identifies issues with solid waste at p 6.

REPORTS	DESCRIPTION
Assessment of Status and Options for Solid Waste Management on Majuro Atoll 2015	Technical report including key findings and recommendations relating to Majuro Atoll’s solid waste management system.
Baseline Study for the Pacific Hazardous Waste Management Project – Healthcare Waste: RMI 2014	Report on healthcare waste management structure in RMI, identification of key issues, options analysis, and recommendations.
Ebeye Infrastructure Survey Report 2010	US Army survey of Ebeye Island infrastructure, including discussion of sewerage and wastewater, as well as waste management system (including trash collection and disposal and dumpsite operations).
Fifth National Report to UNBCD 2017	Waste management discussed on p 20. Solid and hazardous waste identified as a main threat to biodiversity on p 24. Goal D4 is to clean up the environment, focused on waste.
Review of Natural Resource and Environment Related Legislation: RMI 2018	Overview of environment-related legislation in RMI as of January 2018. Includes section on waste management and pollution.
Review of the RMI Environmental Law 2013	Legal review providing an overview of the legal aspects of environmental management issues facing RMI, steps that have been taken to tackle these issues and the gaps that remain.
RMI Profile in the Solid Waste and Recycling Sector 2018	Data on solid waste and recycling in RMI.
Second National Communication to the UNFCCC 2015	National circumstances relating to waste discussed at p 29 and water and sanitation at p 31. Waste sector emissions discussed at p 61. Mitigation relating to waste sector discussed at p 109.
Solid Waste Management in the Pacific: RMI Country Snapshot 2014	Asian Development Bank overview of solid waste management in RMI as part of wider Pacific project.
State of Environment Report 2016	Solid waste identified as major topic within built environment on p vii. Waste, including e-waste, hazardous and nuclear, wastes discussed throughout.
National Report Basel Convention 2004 (submitted in 2006)	Submitted in fulfilment of RMI’s obligations as a party to the Basel Convention.
National Report Basel Convention 2014 (submitted in 2018)	Submitted in fulfilment of RMI’s obligations as a party to the Basel Convention.

Table 3: Government departments with waste responsibilities in the Republic of the Marshall Islands

GOVERNMENT DEPARTMENTS	RESPONSIBILITIES
ENVIRONMENTAL PROTECTION AUTHORITY	Established by the <i>National Environmental Protection Act 1984</i> . Powers to make regulations regarding pollutants, pesticides, and discharge of hazardous waste. Can also take enforcement action including cease and desist orders.
MINISTRY OF ENVIRONMENT	Portfolio established by the <i>Ministry of Environment Act 2018</i> . Administers the <i>National Environmental Protection Act 1984</i> . Responsibilities for implementation of MEAs.
MINISTRY OF HEALTH SERVICES	Jointly administers the <i>National Environmental Protection Act 1984</i> with the Ministry of Environment. Also administers the <i>Public Health, Safety and Welfare Act 1966</i> .
CLIMATE CHANGE Directorate – FORMER responsibilities of THE Office of Environmental Planning and Policy Coordination (OEPPC)	Focal point of contact in coordination, management and implementation of all international environmental projects and programs.
MINISTRY OF FOREIGN AFFAIRS AND TRADE Economic Policy, Planning and Statistics Office	Administers <i>Foreign Affairs Act 2007</i> . Responsibility for <i>National Strategic Plan 2015-2017</i>

Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in the Republic of the Marshall Islands. Limited information was available on pipeline activities through the desktop review.

It appears that the *National Waste Management Strategy* for the Republic of the Marshall Islands remains in draft form and that there is currently no established inter-sectoral coordinating mechanism. The Republic of the Marshall Islands also administers waste management issues under general environmental and public health legislation and lacks specific waste management legislation. Development of the latter might assist in coordinating efforts to address solid waste management issues identified in the Republic of the Marshall Islands.

Container deposit legislation was introduced in 2016 and implementation of the container deposit scheme is an ongoing area of waste management activity in Republic of the Marshall Islands. It seems that this scheme has been successful in diverting a significant volume of this waste away from landfill.

In the same 2016 legislation, the Republic of the Marshall Islands introduced controls on various forms of plastic-containing waste including a ban on plastic bags. This flows a broader trend to introduce plastic bag bans across several Pacific countries.

Table 4: Pipeline activities for the Republic of the Marshall Islands

PIPELINE ACTIVITY	DESCRIPTION	TIMEFRAME
FINALISATION OF NATIONAL WASTE MANAGEMENT STRATEGY	Described as being in draft.	Not specified.
CONTAINER DEPOSIT SCHEME	Implementation of container deposit scheme introduced by 2016 legislation.	Ongoing.
WASTE-TO-ENERGY SUPPORTING REGULATORY FRAMEWORK	<u>Investigation of waste-to-energy project in RMI</u> but would require regulatory and monitoring support.	Not specified.

Stocktake of Relevant Multilateral Environmental Agreements

The relevant Multilateral Environmental Agreements (MEAs) for the stocktake were the:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- Minamata Convention on Mercury (Minamata Convention); and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

Table 5 provides details of the membership of the Republic of the Marshall Islands to these MEAs.

Table 5: MEAs active in the Republic of the Marshall Islands

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
BASEL CONVENTION	27 Apr 2003	Ms. Moriana Philip General Manager RMI Environmental Protection Authority P.O. Box 1322 96960 Majuro, Marshall Islands Phone: +692 625 3035 / 5203 Fax: +692 625 5202 Email : morianaphillip.rmiepa@gmail.com	No specific implementing legislation but see National Report Basel Convention 2004 (submitted in 2006) and National Report Basel Convention 2014 (submitted in 2018).
MINAMATA CONVENTION	20 Apr 2019	Not specified.	No specific implementing legislation.
ROTTERDAM CONVENTION	24 Feb 2004	Ms. Moriana Philip General Manager RMI Environmental Protection Authority P.O. Box 1322 96960 Majuro, Marshall Islands Phone: +692 625 3035 / 5203 Fax: +692 625 5202 Email: morianaphillip.rmiepa@gmail.com H.E. Mr. John M. Silk Minister for Foreign Affairs Ministry of Foreign Affairs P.O. Box 1349 96960 Majuro, Marshall Islands Phone: +692 625 3685	No specific implementing legislation.

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
STOCKHOLM CONVENTION	19 May 2004	Fax: +692 625 4979 Ms. Moriana Philip General Manager RMI Environmental Protection Authority P.O. Box 1322 96960 Majuro, Marshall Islands Phone: +692 625 3035 / 5203 Fax: +692 625 5202 Email: morianaphillip.rmiepa@gmail.com Minister in Assistance to the President Office of the President P.O. Box 2, 96960 Majuro Marshall Islands Phone: +692 625 3213 Fax: +692 625 4021	<u>Pesticides and Organic Pollutants (POPs) Regulations 2004</u> See also <u>National Implementation Plan for the Stockholm Convention on POPs 2008.</u>
WAIGANI CONVENTION	Not party.		

SECTION 2: LEGISLATIVE ASSESSMENT



This qualitative assessment of the Republic of the Marshall Islands' legislative environment has classified the Republic of the Marshall Islands' waste-related laws on a scale of low-to-high against the criteria of relevance, coherence, effectiveness, efficiency, and impact.

Legislative Framework Assessment

Methodology

Approach and Criteria

This legislative assessment was undertaken utilising a qualitative approach.

Legislation in the Republic of the Marshall Islands was evaluated against the following criteria that build on the OECD Development Assessment Committee (DAC) evaluation criteria 1990, as updated:



Relevance

defined as the extent to which legislation directly relates to, or provides coverage of, the priority waste streams of healthcare waste, asbestos, e-waste, plastic waste (including single-use plastics), recyclables, organic waste, bulky waste, disaster waste and wastewater.



Coherence

defined as the extent to which different elements of legislation and their administration fit together, or whether there are conflicts or lack of coordination between laws that undermine coherence.



Effectiveness

defined as the extent to which the legislation contains mechanisms necessary to achieve legislative objectives relating to the management of the priority waste streams.



Efficiency

defined as the extent to which the legislation makes provision for the allocation of responsibilities and resources (personnel, information, financial) to allow fulfilment of legislative requirements.



Impact

defined as the contribution the legislation makes to waste management and environmental protection from waste-related pollution.

Based on the evaluation of the Republic of the Marshall Islands' legislation against the criteria, gaps in existing legislation relating to waste were identified. These gaps provide a basis for understanding what opportunities exist for the Republic of the Marshall Islands to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

Overview of the legal system



The Republic of the Marshall Islands is an independent country in free association with the United States of America (USA). RMI is an archipelago of five low coral islands, 29 atolls and 1,151 islets. Its landmass totals 113 square kilometres. The Republic of the Marshall Islands were formerly part of the Spanish East Indies. Spain sold some of the islands to the German Empire in 1885, and they became part of German New Guinea. In 1920, the League of Nations combined the islands with other former German territories to form the South Pacific Mandate. After gaining military control of the Republic of the Marshall Islands from Japan in 1944, in 1947 the USA assumed administrative control under United Nations auspices as part of the Trust Territory of the Pacific Islands.



The Republic of the Marshall Islands is a presidential republic with the President as both Chief of State and Head of Government. The legislative branch is bicameral, comprising the Nitijela which has legislative power and the Council of Iroij, a 12-member consultative upper house of tribal leaders that reviews legislation affecting customary law or any traditional practice, and advises on customary issues. The judicial system includes both superior and subordinate courts, as well as the Traditional Rights Court that has jurisdiction regarding titles to land rights or other legal interests depending wholly or partly on customary law and traditional practices.



The Republic of the Marshall Islands signed a Compact of Free Association with the USA in 1983 and gained independence in 1986 with the Compact's entry into force. Under the Compact, the USA has responsibility for security and defence of the Republic of the Marshall Islands. In 2003 the Compact was renewed for 20 years.



The Republic of the Marshall Islands has a mixed legal system of Anglo-American common law and customary law. Sources of law are the Constitution (as the supreme law), RMI legislation, existing law existing prior to the adoption of the Constitution, common law, and customary law.



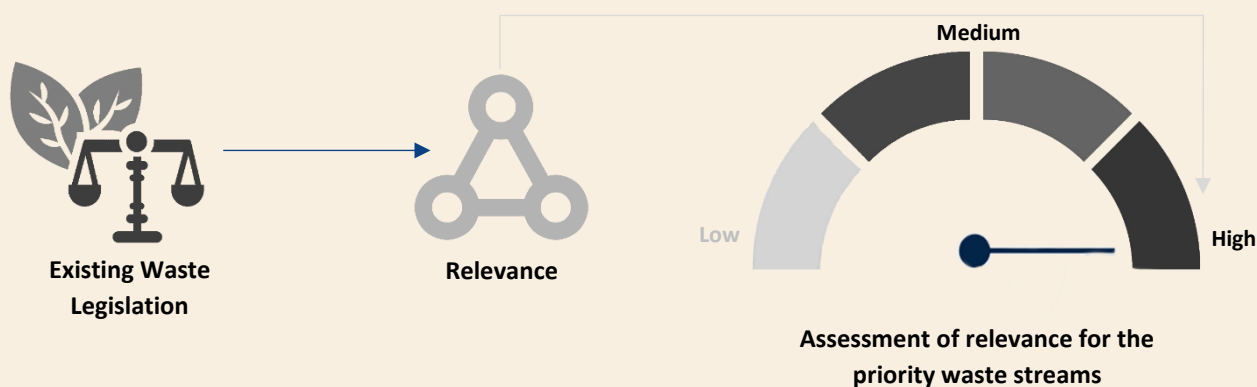
The Republic of the Marshall Islands Acts are treated in a similar way to US legislation i.e., they are passed as sessional / by year Acts, become Public Laws (PL), and are then inserted into the Code / Acts of Nitijela, where they are arranged within subjects ('Titles') and regularly consolidated to incorporate amendments. Online records are up-to-date and easily accessible. However, this is not the case for regulations under these laws for which there is only patchy and often out-of-date coverage online.

Legislative Assessment

This section contains a qualitative legislative assessment for the Republic of the Marshall Islands against the evaluation criteria: Relevance, Coherence, Effectiveness, Efficiency, Impact. While ratings against the criteria are classified on a scale of low to high, the ratings reflect an assessment of the performance of Kiribati's waste-related laws in their specific operating context.

A glossary of legal terms used in the report is provided in **Annex 1**.

Relevance



Although there is no dedicated legislation for waste management in the Republic of the Marshall Islands but the *National Environment Protection Act 1984*, which establishes the National Environmental Protection Authority (EPA), allows the Authority under section 121 to make regulations regarding: '(c) pollutants; (d) pesticides; and (e) discharge of hazardous waste'. These powers cover all the priority waste streams.

The scope of the *National Environment Protection Act* in relation to waste management is extended by a series of comprehensive regulations dealing with solid wastes (including bulky wastes), sanitation and sewerage relevant to wastewater and organics, pesticides, and persistent organic pollutants, as well as regulations covering environmental impact assessment (EIA) and sustainable development. It is a detailed framework for environmental and community protection. It operates in the context of a wide range of ancillary supporting legislation, as well as legislation establishing and defining respective institutional responsibilities that are relevant to waste management.

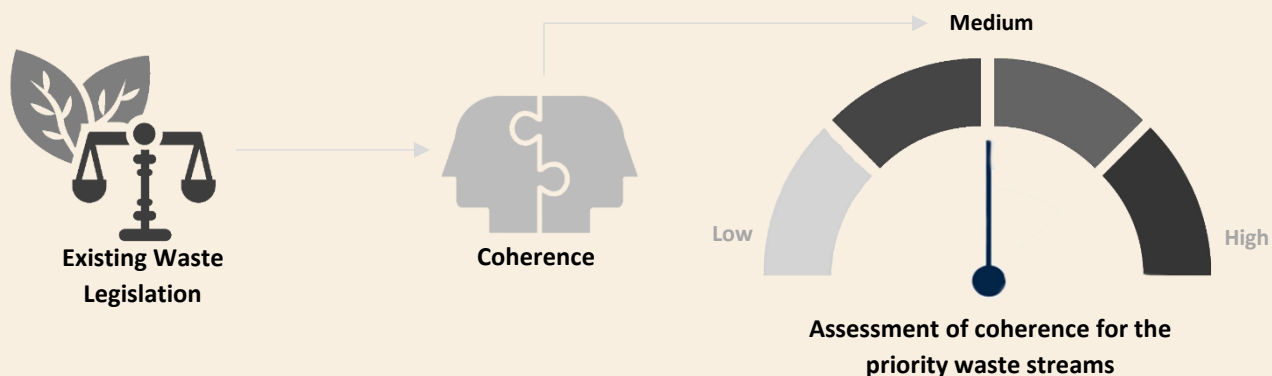
Responsibilities for waste collection, operation of landfills and recycling operations operate across several government institutions and agencies in the urban and outer islands. The Majuro Atoll Waste Company (MAWC), for example, falls under the authority of the national government, and the Majuro Atoll Local Government, is responsible for solid waste collection, landfill management, and recycling. The Ministry of Public Works is responsible for managing the MAWC contract. MAWC operations are overseen by a board of directors, drawn from members from the Ministry of Public Works, Majuro Atoll Local Government, Marshall Islands Chamber of Commerce, Marshall Islands Visitors Authority, and the Marshall Islands Conservation Society. In Kwajalein, KALGOV, KADA and the Environment Protection Authority (EPA) are involved in waste management. KALGOV is the local government entity responsible for waste collection and operation of the landfill site and operation of the Container Deposit scheme.

To determine relevance, consideration of the various legislative definitions has been assessed.

Table 6: Definitions of waste the Republic of the Marshall Islands' legislation

Legislation	Definitions
<p><u>National Environmental Protection Act 1984</u></p>	<p>'Bulky waste' means 'large items of solid waste such as household appliances, furniture, motor vehicles, trees, branches, stumps, and other oversize wastes whose large size prevents or complicates their handling by normal solid waste collection, processing, or disposal methods'</p>
	<p>'Waste' includes any matter prescribed by regulation to be waste, and any matter whether liquid, solid, gaseous, or radioactive which is discharged, emitted or deposited in the environment in such volume, component or manner as to cause an alteration of the environment.</p>
	<p>'Pollution' means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by the discharge, emission or deposit of wastes so as to affect any beneficial use adversely or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, aquatic life or to plants of every description;</p>
	<p>'Beneficial Uses' means a use of the environment that is conducive to public benefit, welfare, safety or health and which requires protection from the effects of wastes, discharges, emissions and deposits;</p>
	<p>'Littering' means the unauthorized dumping, throwing away, placing or leaving of refuse of any kind, or any object or substance which tends to pollute, mar or deface, and includes a vehicle or a part of a vehicle</p>

Coherence



The central governing framework of the *National Environment Protection Act* is comprehensive in its coverage of wastes and situates this regulation within a wider regulatory framework that prioritises environmental protection and community wellbeing. The EPA similarly offers a cohesive model of a regulatory authority drawing on the well-established and sophisticated model from the United States.

The *National Environment Protection Act* covers all the priority waste streams; some are specified but others are included by implication from general waste, discharge, and pollution definitions. This ensures a cohesive approach to waste regulation and a central responsible authority at a national level. The Act articulates the respective governing powers of the Authority, stating its powers and duties and general rules for its operation.

The EPA is clearly established as the lead agency for waste management, including healthcare wastes, but it is part of a more coordinated approach to environmental protection and climate change mitigation and adaptation as established by the *Ministry of Environment Act 2018*.

One area that may require some further coordination is the alignment of waste management with economic measures, which would require stronger involvement of agencies with a financial, business development and trade focus. This may already be contemplated by the enactment of *Ministry of Environment Act* given the Ministry's planning role. The inclusion of agencies, such as tourism, in governing boards, and campaigns on raising community awareness, together with national strategies, reinforce the importance of waste management to the Republic of the Marshall Islands, further supporting the cohesive approach.

Effectiveness



The relevant legislation of the Republic of the Marshall Islands, which is extensive in terms of both primary Acts and regulations, clearly meets many of the stated legislative objectives as they relate to the priority waste streams, with perhaps the *Public Health, Safety and Welfare Act* being less effective given its wide remit and diverse objectives and the recent formation of a unit with responsibilities in this area.

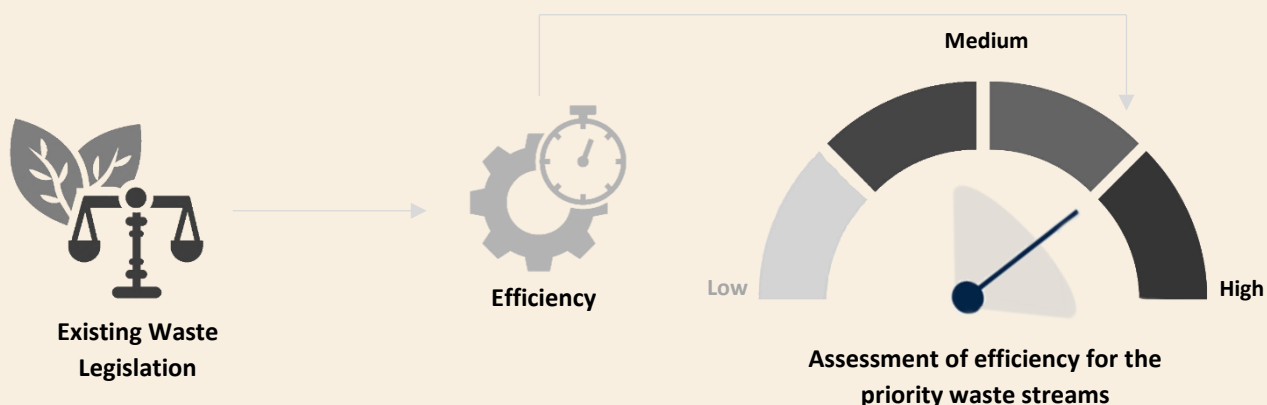
Virtually all the legislation has a tight fit between its objectives and substantive regulatory powers to govern and regulate wastes. Clearly, some of the ancillary legislation, such as the Criminal Code, Customs (Import Duties) and Foreign Affairs legislation, will have primary objectives unrelated to waste management, but the effectiveness of the overall functioning of the legal system is apparent. This achievement of legislative objectives within the framework of the various statutes is guided by a close relationship with planning, strategy, and institutional coordination.

There is a qualification, however, as to whether the legislation at an empirical level achieves its objectives: i.e. does it achieve the policy objectives to which the legislation gives expression. There are many factors that impinge on that assessment, and it needs to be acknowledged that the Republic of the Marshall Islands' legislation operates within one of the most challenging environmental, social, and economic contexts anywhere in the world.

There are a range of areas where the legislation is yet to be fully effective in achieving policy objectives. Areas of strong effectiveness include the regulation of waste discharges, the tighter regulation of healthcare wastes and programs to deal with asbestos, buyback of hazardous wastes and community awareness raising. Areas where policy objectives have not been met relate to the limited extent to which the solid waste strategy objectives have been achieved; problems with the landfill; difficulties with stockpiling of various waste groups; limited opportunities for recycling and reuse; and inadequate waste funding despite innovative legislative instruments.

The assessment of medium-to-high for this criterion relates to the effectiveness of the legislation in tackling these problems; not whether such problems of waste management are necessarily solved. There are intractable waste management issues in the Republic of the Marshall Islands, such as limited space and past decisions and practices around waste dumps, which make it difficult to resolve the waste problems. Accordingly, the situation is not simply poor implementation or lack of innovation in the excellent and comprehensive legislation and regulations.

Efficiency

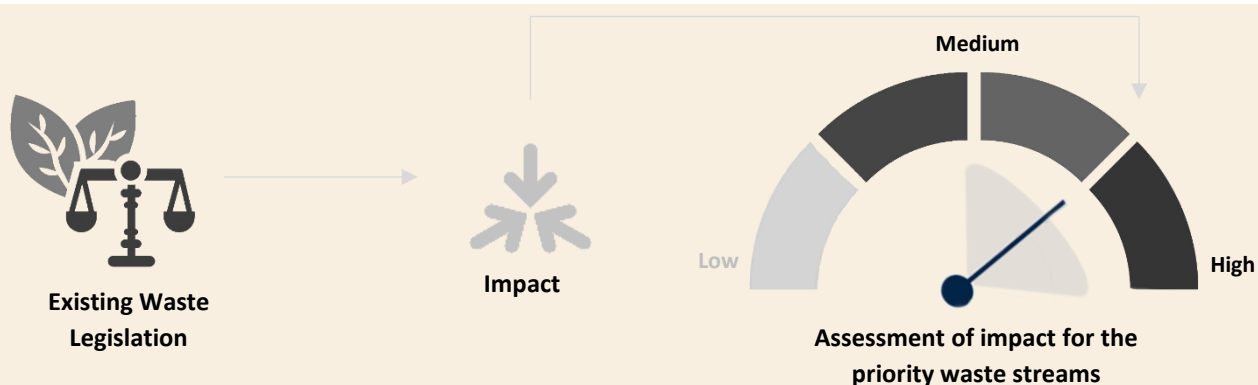


The Republic of the Marshall Islands' waste-related legislation generally is structured in effective ways that clearly define duties. Given funding constraints and capacity development issues, the legislation and supporting institutional structure efficiently allocates available resources to fulfil legislative requirements.

The spectrum of responsibilities across the various legislation and institutions dealing with waste management in the Republic of the Marshall Islands appears reasonably well organised, with clear delineation of the respective roles and functions. There is still a settling in period with the Climate Change Directorate, given the recency of its coming into effect, as well as the coordination role of the Ministry of Environment with respect to joint waste-climate change initiatives. Nonetheless, there are provisions in the applicable Act that set out the various roles and functions, and the central coordination processes.

Given the wide spread of responsibilities across the various pieces of legislation and ministries, there are likely to be some resource and personnel constraints. Funding remains at issue given the Republic of the Marshall Islands' reliance on external funding and the need to transition to more sustainable in-country funding options. The recent creation of a unit in the Ministry of Health with respect to waste may mean that resources are spread across the environment and health areas with respect to healthcare waste and environmental health. The allocation of resources also needs to consider the role played by statutory agencies such as the Majuro Atoll Waste company and local governments, which are very stretched in terms of available resources for waste management. There is also a wider role for the private sector in waste collection, recycling, and disposal than in several other Pacific region nations.

Impact



The comprehensive and detailed legislation in the Republic of the Marshall Islands – centred on the *National Environmental Protection Act*, the *Ministry of Environment Act*, and a wide range of detailed prescriptive regulations – makes a significant difference to waste management, environmental protection and in meeting a range of human health and community welfare objectives. Without such a regulatory and institutional framework in place, there would be more serious economic and social pressures facing the Republic of the Marshall Islands given the country’s remote location, the confined land space and the growing climate change impacts experienced in the nation. The legislative regime is also able to adapt reasonably quickly to deal with emergent waste issues.

The legislative powers provide definite impact to waste matters as the *National Environment Protection Act 1984* has a hierarchy of forms of legal action and compliance measures that can be taken. Specifically, section 145 allows the EPA to take enforcement action, including: cease and desist orders; imposition of civil penalties; institution of civil proceedings; and any other action authorised under the relevant chapter or any other law. Under section 146, where the discharge of waste is in violation of legal requirements or a waste facility is approaching capacity, the EPA is authorised to require the discharger to submit for approval by the EPA. Section 147 requires any person who discharges pollutants in violation of the relevant chapter, or any permit, requirement, or order of the EPA, to clean up the pollutant and abate its effects on order of the EPA.

A particularly effective measure (based on United States of America environmental legislation) is that section 151 allows any person or body to bring an action in the High Court for declaratory or equitable relief against any person or body in order to protect the environment from pollution. This provision allows community members to bring an action where wastes constitute pollution and would be applicable to a range of hazardous wastes, and potentially plastic waste.

There is a relatively well-developed court system in the Republic of the Marshall Islands but a search of case law did not reveal any prosecutions or civil actions in respect of the Republic of the Marshall Islands’ waste management laws. This may be due to effective compliance but is equally likely to be due to a range of resource and capacity constraints.

SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of the Republic of the Marshall Islands' capacity to engage in different aspects of waste governance is on a scale ranging from low to high. It considered drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under relevant Multilateral Environmental Agreements (MEAs).

Methodology

Approach and Elements

This legislative capacity assessment was undertaken utilising a qualitative approach, evaluating the capacity of the Republic of the Marshall Islands' to engage in different aspects of waste governance on a scale ranging from low to high.

The evaluation was made based on the following aspects of the Republic of the Marshall Islands' waste management legislation/governance:



Drafting

Relating to processes for the drafting of new, modified or additional legislation, including the availability of legal expertise, personnel and supporting technical knowledge or information.



Enactment

Relating to processes for enacting new, modified or additional legislation, including the existence of appropriate powers to legislate on the topic and relevant obligations of the country under international conventions and agreements, such as MEAs, as well as trade and investment agreements.



Implementation

Capacity to carry out existing or proposed legislation, including the availability of appropriate personnel, information, powers, administrative delegations, and resources.



Compliance and Enforcement

Capacity to ensure those bound by obligations under legislation comply with those obligations, as well as the capacity to prosecute or otherwise take action in response to breaches of legislative requirements, including the availability of enforcement personnel, powers, administrative delegations, tribunals for bringing enforcement actions and resources



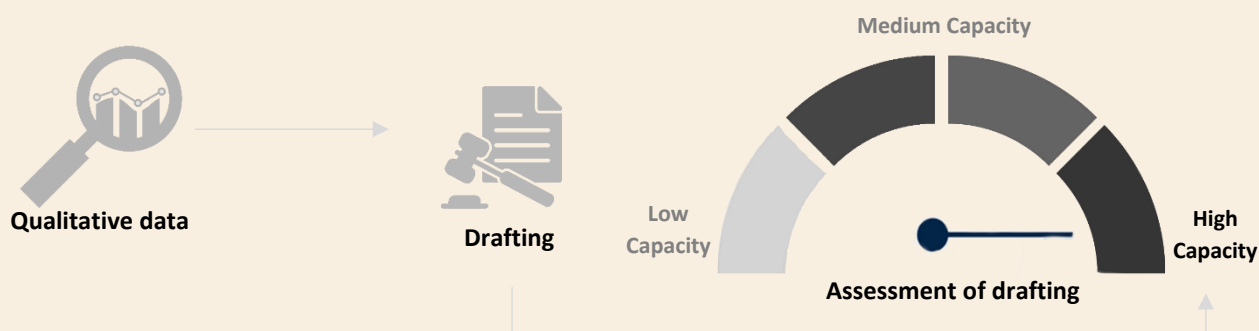
Reporting under relevant MEAs

Capacity to comply with reporting and other notification requirements specified under relevant MEAs to which the participating country is party, including availability of data, personnel and resources to produce the required reports. The assessment of MEA reporting compliance adopted a coding approach that rated the countries' level of compliance based on several indicators.

Capacity Assessment

This section contains a qualitative assessment of the Republic of the Marshall Islands' capacity with respect to drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under the MEAs to which it is party.

Drafting



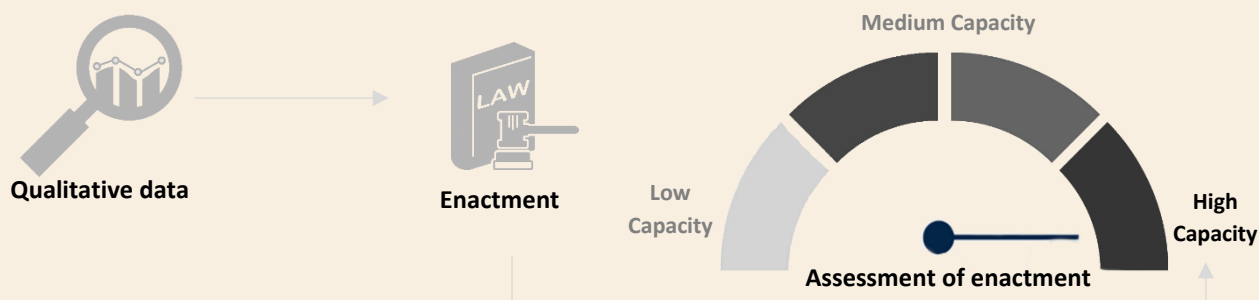
The body of legislation, and associated regulations, that deal with waste management and environmental protection in the Republic of the Marshall Islands demonstrates a high-level capacity to draft new, modified or additional legislation. This demonstrated high-level capacity reflects relevant legal expertise supported by extensive reference to technical standards, and the incorporation of relevant scientific, technical and other expertise. In addition, there are clearly developed cooperative and consultative frameworks for interagency input to legislative drafting.

The central legislation, the *National Environment Protection Act 1984*, which establishes the Environment Protection Authority (EPA), is extremely comprehensive and detailed in its coverage of priority waste streams. It also provides a governing framework for regulations, which incorporate complex scientific and technical information to facilitate regulation from e.g. engineering, health and medical settings, chemistry and economic information. This model also allows for regulations that can be more readily modified or updated. Regulations made in this manner also provide the more detailed operational information needed for the practical implementation of the National Environment Protection Act. The legislation develops a comprehensive range of environmental protections, which indicates a capacity to draft laws that engage well with community values. Other recent legislation, such as the *Ministry of Environment Act 2018* reveal a similar depth of drafting capacity. There are procedures for review of legislation and to report on the effectiveness of legislation, under the *Ministry of Environment Act*.

There are some areas where the laws do not so clearly incorporate best available knowledge, for example, in respect of circular economy and market-based waste measures, but the majority of legislation is consistent with contemporary drafting models in environmental law and waste management.

The drafting capacity in the nation, given its small population base, appears to be largely confined to the government sector. With only a small pool of legal officers available in a country there are likely to be a range of competing legislative priorities. The Republic of the Marshall Islands appear, however, to be able to draw on external technical and scientific knowledge from a range of sources to enhance its drafting capacity as needed. The EPA has both a policy setting and regulatory function for waste management and environmental protection.

Enactment



Based on an assessment of the Republic of the Marshall Islands' legal and governance system, it appears to have few impediments to its enactment capacity in relation to waste management laws.

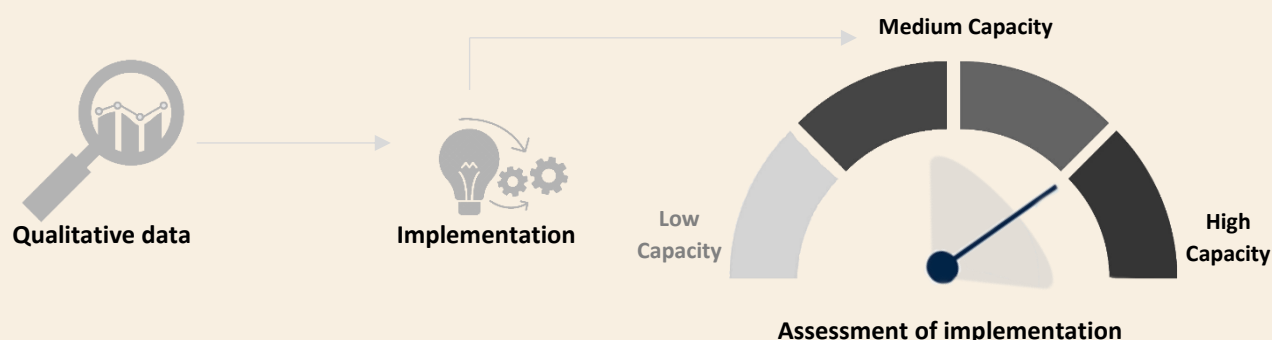
The Republic of the Marshall Islands has very recent and up-to date legislation for environmental protection that integrates waste management, together with a range of associated regulations, notably coordinating responses to climate change. While there have been some delays in endorsing and enacting solid waste strategies, this appears to be one of the few areas of delay. Plastic wastes and recyclables have seen recent enactment initiatives in the Republic of the Marshall Islands. In 2016, there were Government instructions to prepare legislation on prohibiting plastics and putting in place a container deposit scheme which interviewees report was relatively rapidly enacted.

There appears to be a close working relationship between the executive government (i.e. Cabinet), the legislature, the Ministries and the EPA which facilitates the capacity to enact new legislation or make legislative amendments effectively. Legislation dealing directly with waste management and environmental protection has clearly articulated powers for relevant authorised officers to make regulations, issue notices and permits and to administer the laws.

The *National Environment Protection Act*, under section 113, confers regulatory powers on the EPA to make by-laws for internal governance of the authority. The *National Environment Protection Act*, under section 120, also gives the EPA powers to determine its policies. The Authority, however, must act transparently by keeping '...the President informed of the policies of the Authority and of any major plans, programs and measures for the protection, improvement and management of the environment or any aspects thereof in which the Authority proposes to engage'.

An example drawn from the *Ministry of Environment Act 2018* demonstrates a broad strategic and advisory function for the National Environment Council that guides legislative direction and implementation. Section 619 requires the Council, and appropriate agencies and entities, to 'address the need for regulations, policies, recommendations and implementation strategies which specifically address non-urban atolls (or those atolls and places within the Republic of a primarily rural or non-urban character), relating to the environment, conservation and climate change, taking into special account the unique character and challenges of such places, and acknowledging that many acts and related regulations referenced in the Act apply to the entire Republic'.

Implementation



The impact of waste on the Republic of the Marshall Islands is profound as the vast majority of items imported to the country remain in the country (as waste). This issue underscores the implementation capacity challenges facing the Republic of the Marshall Islands. While the Republic of the Marshall Islands demonstrates strong capacity in drafting and in its capacity to enact and revise or review laws on waste management related to the priority waste streams, it is more of a challenge to ensure there is the combined capacity (primarily related to the availability of appropriate personnel and resources) to carry out existing or proposed legislation given the multifaceted difficulties that are encountered.

The flow of information to the Republic of the Marshall Islands to assist in managing the priority waste streams is generally well organised. The extent to which the relevant legislation requires research into, and incorporation of, best available scientific and technical information is exceptional. The extent to which this information then flows to the community may be a little less successful given the need to translate concepts into the Marshallese language.

There are clear administrative delegations of powers to manage wastes under relevant legislation. There are relatively new institutional arrangements under the *Ministry of Environment Act*, and interviewees noted that how these relate specifically to wastes may need to evolve further. Interview data also highlighted that the expansion of the ability and capacity of the administration of wastes and public health issues by the newly established environmental health unit in the Ministry of Health will also evolve over time. Currently, most national waste management functions are centralised in the EPA. This arrangement in a small jurisdiction is an effective allocation. Other areas, such as wastewater management, operate within a specialised legislative framework but necessarily intersect with the EPA and other Ministries in implementation.

The administrative organisation of the central authority (including in relation to regulating wastes) is clearly and extensively articulated. Section 126 of the *National Environment Protection Act* states, '[t]he functions and duties of the Authority shall be:

- to administer the provisions of this Chapter and the regulations made thereunder
- to recommend to the President, national environmental policy and criteria for the protection of any aspect of the environment with respect to the uses and values, whether tangible or intangible, to be protected, the quality to be maintained, the extent to which the discharge of wastes may be permitted without detriment to the quality of the environment, and long-range development uses and planning and any other factors relating to the protection and management of the environment.'

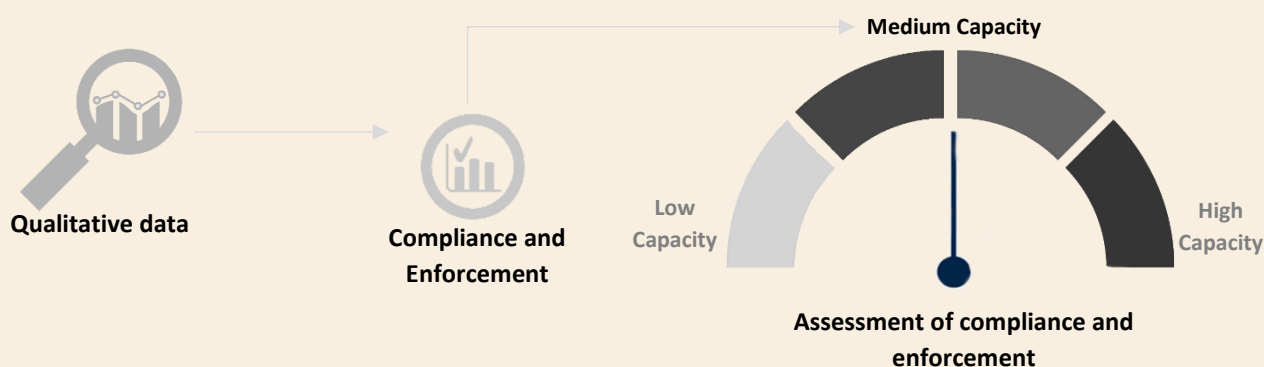
The section then enumerates an extensive list of powers (see also ss 127, 127A). The *Public Health Safety and Welfare Act*, under section 103, articulates a range of Ministerial regulatory and administrative powers, such as requiring such 'certificates, permits or licenses as he may deem necessary adequately to regulate'.

An area that may require attention is the administration and operation of waste management beyond the national scale. Many of the outer islands, where customary practices of burning or burying waste are the norm, were regarded by interviewees as not being as effectively serviced by the waste management laws and their implementation as was the case in the more urbanised areas.

In turn, there are challenges in funding waste collection at a local government level, and the Majuro Atoll Waste Company faces financial challenges in meeting its responsibilities.

One of the most pressing problems affecting the capacity to implement laws appears to be resource constraints. Interview data emphasised that there were minimal staffing levels in key implementation areas such as inspection, monitoring and enforcement, and even in community awareness programs. This issue is significant, particularly in terms of the possibility of reduced external funding for the Republic of the Marshall Islands that may occur after 2023 in areas of environmental and health funding.

Compliance and enforcement capacity



There are areas of strong compliance built around an effective regulatory presence for the EPA. In other sectors and in outer islands and rural areas, a more targeted and community-grounded approach to compliance and enforcement, particularly in areas of customary land ownership, is the more normal process.

Compliance and enforcement of waste management laws in the Republic of the Marshall Islands cross a diverse range of activities that are supported by legislative models. Interviewees advised there is a wide range of monitoring and testing in relation to waste discharges that takes place under the auspices of the EPA. There is also routine testing in government agencies and private sector entities regarding areas that may be impacted by waste discharges such as water and air contaminants.

With respect to the bulky waste and e-waste waste streams, there are routine penalties that may be imposed, but more innovative measures based on incentives for compliance and extracting economic value were more beneficial. If such measures were introduced, then they would need to rely on registration and tracking systems such as through government procurement inventories which interview data suggested are not currently in operation. Interviewees also expressed the view that the involvement of the private sector in waste recovery is also not as fully incentivised as possible.

The customs entry point was regarded as an important area for ensuring waste management compliance. Legislative models that attached fees to goods or products at the customs point were regarded as more efficient in securing compliance than attempting to achieve compliance with waste management laws when products were in circulation in the economy due to the limited staff capacity for enforcement.

The procedures for issuing licences (permits) for discharge of wastes and in relation to development control and building codes were regarded as well-structured and working well. Procedures for handling and export of wastes, including hazardous wastes, were also seen as highly compliant with national protocols and international obligations.

A compliance issue considered highly problematic was the siting and operation of the Majuro landfill. The mounting piles of waste, runoff and leachate problems, and the landfill's inappropriate location near the sea, were exacerbated in the past by a lack of operational guidelines and knowledge gaps in managing landfills on coral atolls. While there has been a tightening of operational procedures, and enhanced capacity to address some of the technical and engineering problems, apparently many of the inherent problems in managing the landfill remain. Currently there is a lack of available alternative sites. The necessity to record and monitor the problems, including design standards, were regarded as a means to ensure future landfills were more effective.

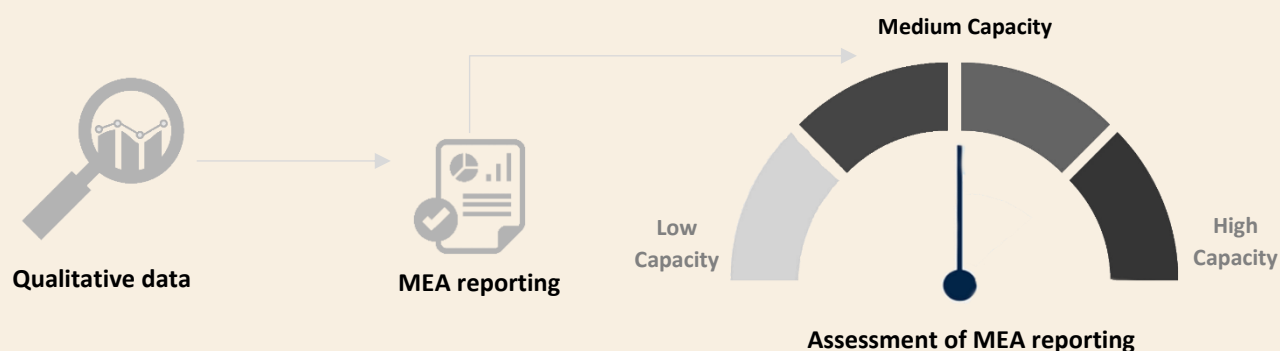
There was also a need to enhance the capacity of the health sector in updating or creating meaningful healthcare waste management plans and standards that are readily implemented. Strong enforcement measures (e.g. penalties) are not realistic when most of the community is vulnerable economically. Standards that use landfill disposal as an endpoint may need to better consider interim stages, and community capacity to undertake those steps.

Overall, to achieve stronger compliance with healthcare waste segregation and effective treatment and disposal of wastes it was regarded as necessary to engage in education to increase the awareness and build capacity in the community. There was seen to be a need to identify differential needs for managing healthcare wastes at various levels in the community.

Notwithstanding the impressive range of enforcement measures under the *National Environment Protection Act 1984* and associated regulatory instruments, research into civil and criminal enforcement for breaches of waste management laws in the Republic of the Marshall Islands did not reveal any enforcement actions through the courts. The lack of enforcement actions may in part also be due to a lack of capacity in the Republic of the Marshall Islands' legal system given a relatively small staff in the Attorney-General's Office and many competing demands on that Office.

In a relatively small community, such as the Republic of the Marshall Islands, some informal compliance measures typically may be adopted rather than formal sanctions executed. Interviewees gave the example of breaches of 'swimming bans' for beaches issued by the EPA due to contaminated waters where community enforcement takes place rather than penalties being issued. Interview data revealed that enforcement action has been taken at the 'border' i.e. at the port where much of the waste flow is initiated. Actions have been taken to compel vessels to retain garbage and wastes on board, as illegal waste dumping has been detected and penalties issued. A consistent regional approach to enforcement in relation to vessels and waste management was the preferred approach for effective compliance.

MEA reporting



The Republic of the Marshall Islands is party to the Basel, Stockholm, Rotterdam, and Minamata Conventions. The level of compliance with notification, information sharing and reporting requirements under the MEAs to which it is party has varied between the different Conventions.

Compliance with reporting and other similar requirements under the **Basel Convention** focused on hazardous waste management has been higher than for the **Stockholm** and **Rotterdam Conventions** dealing with hazardous chemicals. Notably, for the Rotterdam Convention that governs notification procedures for imports and exports of hazardous pesticides and industrial chemicals, the Republic of the Marshall Islands has so far submitted no import responses to the 51 cases notified by the Rotterdam Secretariat. By contrast, the Republic of the Marshall Islands is one of the few Pacific Island parties to the Basel Convention to have submitted national reports, which were provided for 2004 and 2014.

In respect of its obligations under the **Stockholm Convention**, the Republic of the Marshall Islands finalised a National Implementation Plan (NIP) in 2008, which included a strategy for meeting its reporting requirements under the MEA. The country is reported to be in the initial process of updating its NIP under a GEF funded project. The Republic of the Marshall Islands has not submitted any national reports under the Stockholm Convention in the first four reporting cycles. The Republic of the Marshall Islands has also not submitted its first short form report due under the Minamata Convention, although it is engaging in a process to prepare an initial assessment for the MEA under a GEF/UNEP funded program.

The Republic of the Marshall Islands has a sophisticated system of laws for waste management that include some legislation specifically targeted to implementing its obligations under relevant MEAs. For instance, the *Pesticides and Persistent Organic Pollutants (POPS) Regulations 2004*, promulgated under the *National Environmental Protection Act 1984*, provide that their purpose is 'to establish a system of control over the importation, distribution, sale, and use of pesticides by persons within the Republic of the Marshall Islands, and further, to ban or restrict the use of twelve of the world's most highly toxic persistent organic pollutants ("POPS"), 9 of which are pesticides, one of which is an industrial chemical, and two of which are unintentional chemical by-products, all targeted by the United Nations Stockholm Convention on Persistent Organic Pollutants'.

It does not appear that the Regulations have been amended to include additional POPs now listed under the **Stockholm Convention**. The Regulations set up a system of certifications and permits to control the importation, sale, and distribution of restricted pesticides. Provisions are also made for records to be maintained by certified commercial applicators and licensed dealers, which are accessible by the Republic of the Marshall Islands' Environmental Protection Authority (rr 19-22). This information could be a basis for producing national reports but as noted above, the Republic of the Marshall Islands has not submitted any national reports under the Stockholm Convention.

In respect of its obligations under the **Basel Convention**, the Republic of the Marshall Islands' 2014 national report notes that there are no existing national laws that specifically implement the convention's requirements for restricting transboundary movements of hazardous wastes.

However, the report identified several elements of Marshall Islands' legislative framework as more generally relevant to hazardous waste management, including the *National Environmental Act 1984*, the *Solid Waste Regulations 1989*, the *POPs Regulations 2004*, and the *Ozone Depleting Substances Regulations 2004*. Other legislation in the Republic of the Marshall Islands makes general provision for implementing the country's international obligations. For instance, section 603 of the *Foreign Affairs Act 2007* gives the Minister of Foreign Affairs responsibility for: 'ensuring that the *Nitijela*, as far as is applicable to local circumstances, enacts domestic legislation to give effect to the Republic's obligations under international treaties and conventions which it has ratified' (see also section 605(2)).

It is likely that similar implementation capacity issues as discussed above also apply in the Republic of the Marshall Islands regarding national capacity to fulfil its reporting obligations under relevant MEAs. Capacity-building support in this regard may be available through SPREP's Pacific Regional Centre for Training and Technology Transfer, which serves both the Basel and Waigani Conventions. According to its current business plan, the Centre also seeks to enhance cooperation with the Secretariats of the Stockholm, Rotterdam, and Minamata Conventions. The Republic of the Marshall Islands is one of several Pacific region countries serviced by the Centre.

Table 7: Compliance with MEA reporting requirements

Relevant MEAs party to	Comments
<i>Basel</i>	Competent authority/focal point designated. National reports provided for 2004 and 2014. Latest update of national legislative definition of waste provided 11 May 2018.
<i>Rotterdam</i>	Official contact point notified, and National Focal Point designated for information exchange. National Implementation Plan (NIP) finalised January 2008 (submitted 2009) including strategy for meeting reporting requirements. Marshall Islands has GEF-funded project for development of updated NIP. No national reports submitted in first four reporting cycles.
<i>Stockholm</i>	Designated National Authority notified. No import responses provided.
<i>Minimata</i>	Focal point not specified. No further notifications provided. Initial assessment in preparation with funding from GEF/UNEP. First short form report due 31 Dec 2019, not submitted.

SECTION 4: LEGISLATIVE OPPORTUNITIES



The opportunities identified in this section have been drawn from the findings of the legislative assessment and capacity assessment to provide guidance to the Republic of the Marshall Islands on possible actions they may wish to take to strengthen the legislative frameworks governing waste management

Legislative models for waste governance

Waste management has become a pressing concern for the PacWastePlus participating countries. These nations are impacted by growing levels of hazardous and non-hazardous wastes, which cause environmental pollution, and may threaten human health. The mounting levels of waste place socio-economic burdens on these nations and may pose risks to important cultural values and customary land ownership that distinguish these countries and the region. Internationally, Goal 12 of the 2015 United Nations Sustainable Development Goals calls for ensuring sustainable consumption and production patterns.

Trends in waste governance across the participating countries

Waste is a particular problem for many Pacific region countries due to increasing imports of waste-producing items (such as electronic and consumer goods), limited in-country facilities for collection, treatment and storage of many wastes, and a reduced availability of suitable land for conventional waste disposal methods, such as landfills.

In several cases, participating countries have adopted innovative legislation and instruments to better manage and minimise waste, such as: dedicated legislation for waste management, measures to incentivise recovery and recycling, prohibitions on specific waste-generating items entering the country, and measures to promote waste minimisation and cost recovery. Several Pacific countries are also exploring new institutional arrangements, such as identifying lead agency responsibilities for coordination of waste management laws, arrangements for more effectively managing responsibilities across different levels of government, and/or approaches to increase private sector involvement in waste management through licencing regimes and partnerships for extended producer responsibility.

Many countries in the Pacific adopted applicable laws and institutional structures for managing wastes some time ago that may no longer serve current needs. Significant challenges remain in some nations in establishing a firm economic basis to underpin waste management within the relevant legal frameworks, and in dealing with longstanding waste management issues, such as the sorting of wastes and their diversion, where possible, from landfill.

Increasing attention is being directed to questions of how to promote effective implementation of existing laws and to the development of new legislation and regulation for waste management if this is required. This raises critical issues for resourcing of various components of the waste management cycle within each nation, as well as the possibilities for regionally harmonised approaches. A range of ancillary legislation beyond specific waste management laws may be important for facilitating implementation, and there is a need in some participating countries to develop more coherent cross-agency referral models.

Compliance with, and enforcement of, waste management laws is also vital to their effectiveness and impact. At the same time, these measures must be sensitive to the community context, realistic in terms of the available staffing and technical expertise in government departments and municipal organisations, and cognisant of the competing compliance priorities in the legal system. There is scope within the legislation of several participating countries to widen the range of compliance and enforcement measures beyond monetary penalties and criminal prosecutions.

In addition, there are opportunities to broaden the engagement with communities and the non-governmental sector, and to provide a legislative basis or more formal designation for measures such as community education, consultation and partnerships in managing wastes, particularly those of a non-hazardous nature. The participation of the private sector, whether as waste collector contractors, operators of recycling companies, sewage transporters or tourism agents, is likewise important for effective waste management laws. Regulation needs to be carefully targeted but also to ensure transparency and accountability.

Key recommendations to increase national legislative and institutional capacity

Overall, the existing legislation of the RMI for waste governance was assessed as performing at a medium-to-high to high level. The capacity of the RMI with respect to various aspects of the administration of its waste legislative framework was assessed overall as medium-to-high, with the greatest needs arising in respect of expanding measures to fund waste management effectively through economic value recovery or recycling, and the extension of waste management and community awareness programs to rural areas.

Ultimately, a lack of resources and sustainable financial support for waste management appears to be a significant factor in any lack of effectiveness and impact for the Republic of the Marshall Islands' legislation on waste management and environmental protection. This pressure will increase as U.S. Compact-based funding may be reduced after 2023. In this context, there are opportunities also for an integrated waste management approach in the Republic of the Marshall Islands.

Opportunities for improving legislative instruments to support improved waste management

In the Republic of the Marshall Islands, the *National Environment Protection Act 1984* establishes the National Environmental Protection Authority (EPA) and allows the Authority under section 121 to make regulations regarding: '(c) pollutants; (d) pesticides; and (e) discharge of hazardous waste'. The scope of the *National Environment Protection Act* in relation to waste management is extended by a series of regulations dealing with solid wastes (including bulky wastes), sanitation and sewerage relevant to wastewater and organics, pesticides, and persistent organic pollutants, as well as regulations covering environmental impact assessment (EIA) and sustainable development. The central legislation governing waste management in RMI is an environmental protection and regulatory control model.

Other pieces of legislation regulate specific waste streams (including the ban on certain single-use plastics and introduction of a container deposit program) and establish institutional responsibilities relevant to waste management.

- Strengthening disaster management legislation to address risks from waste storage.
- Specific legislative instruments for facilitating waste-to-energy, where economically feasible, perhaps as part of climate mitigation strategies under the Climate Change Directorate.
- Recovery of costs for waste collection, management and waste treatment on a user-pays basis employing a sliding tariff structure to address equity concerns.
- Expansion of the Container Deposit Legislation (or creation of new specific legislation) to enable a wider variety of products to be incorporated into the sustainable financing system.
- Development of an integrated waste management approach, building on the Majuro pilot project and introducing or extending levies that are dedicated to specified waste management.
- Strengthening the waste preventative focus of the legislative framework through additional experimentation with prohibitions on products beyond plastic waste.
- Expansion of a product stewardship or extended producer responsibility model in new legislation to provide incentives for the return of waste items.
- Expansion of the waste minimisation model in the Republic of the Marshall Islands' legislation by adopting a wider range of prohibitions at the customs point, extending beyond plastic waste. These measures might be adopted in combination with enhanced extended producer responsibility models at the customs point, and in regulations under the *Environment Protection Act* to provide stronger incentives for the return of items such as e-waste and bulky wastes.
- More innovative legislative measures based on incentives for compliance and extracting economic value.

There are opportunities for the Republic of the Marshall Islands to consider regional or shared approaches to waste management issues that are common to several Pacific nations. There are programs currently being developed that are

associated with stockpiling of wastes and the transport of wastes for treatment and/or disposal out of country. Consideration could be given to how these approaches might be supported legislatively and administratively.

Recommendations to address legislative capacity needs

- **Governance**

- Strengthening institutional models, administration, and operation of waste management beyond the national scale, for example in outer islands, with increased funding of waste collection at the local level. These measures might be supported by regulations for mandatory community consultation and participation.
- Increasing staff capacity and training in key implementation areas, such as inspection, monitoring and enforcement, as well as in conducting community awareness programs.
- Expansion of strategic planning, review, and reporting requirements for the waste management sector, including planning for land fill rehabilitation and/or relocation.
- Additional support for experimentation with measures to reduce waste streams at the customs point.
- Registration and tracking systems developed through government procurement inventories.

- **Sustainable funding**

- More sustainable funding measures for waste collection at the local level.
- Additional support for developing innovative measures based on incentives for increased compliance, and to extract economic value in relation to bulky waste and e-waste. These measures could be supported by the introduction of registration and tracking systems developed through government procurement inventories.
- Enhancing incentives for involvement of the private sector in waste recovery.

- **Capacity building**

- Enhancing capacity of the health sector in updating healthcare waste management plans and standards that are readily implemented in communities.
- Recording and monitoring problems with current landfill design and operation to be incorporated into environmental impact assessment requirements to ensure future landfills are more effective.
- Enhancing capacity of the health sector in updating healthcare waste management plans and standards so that these are readily implemented in communities.
- Capacity-building to support data collection and submission of national reports under the Basel, Stockholm, Rotterdam, and Minamata Conventions, potentially through SPREP's Pacific Regional Centre for Training and Technology Transfer.

- **Transparency**

- Stronger community engagement on waste management, including strengthening the involvement of traditional landowners and community leaders.
- Additional support for translating concepts into the Marshallese language to assist community understanding of laws.
- Increased resources and staff capacity in key implementation areas, such as inspection, monitoring (noting there is regular testing of identified waste discharges) and enforcement of existing laws, as well.

Annex 1: Glossary of legal terms

Table 8: Glossary of legal terms

Term	Definition
<i>Accession</i>	Accession is the act by which a country accepts the offer or the opportunity to become a party to a convention already signed by other states. It has the same legal effect as ratification.
<i>Acts</i>	Also called statutes or laws. An Act is a document stating the law that has been passed by the legislature (the law-making body of government).
<i>Acts as made</i>	Also called Acts as passed, Acts as enacted, and Sessional Acts. An 'Act as made' is an Act with its contents exactly as they were when passed by the legislature.
<i>Amending Acts</i>	Amending Acts are Acts that change one or more provisions of the Principal Act, often titled, for example, as the Environment Protection (Amendment) Act. Amending Acts must also be passed by Parliament. Where amendments have not been included in the Principal Act, the Principal Act and the Amending Acts must be read together.
<i>Bills</i>	Proposed Acts. Once passed by the legislature and enacted by any formalities required in the country (for example, signature, assent, publication, or notification in the official Gazette), a bill becomes an Act.
<i>Chapter</i>	Some countries consolidate all their Acts at the same time. For example, Tonga consolidated all its legislation (both Acts and Regulations) in 2016. Each Act in the Consolidation was given a Chapter number, so the front cover of an Act in this consolidation states e.g. Environment Management Act, Chapter 47.02, 2016 Revised Edition. The Act as made was the Environment Management Act, Act 27 of 2010. 'Chapter' is often abbreviated to Cap. An Act made after the Consolidation will not have a chapter number.
<i>Code</i>	<p>Several countries are former U.S. territories and arrange legislation into Codes. Such Codes contain all the Acts enacted by the legislature that are current (in force) at the time of the compilation of the Code.</p> <p>Codes are arranged by numbered topic. Each topic is called a Title. As each Principal Act is made it is assigned to a Title. The Act may become a chapter in that Title or only a single new section in an existing chapter, or it may amend an existing chapter or section.</p> <p>Example: in the Republic of the Marshall Islands, all environmental Acts are contained in Title 35: Environment. Chapter 2 of this Title is the <i>Littering Act 1982</i>. This is abbreviated to 35 MIRC Ch 2 i.e. Title 35 (Environment), Marshall Islands Revised Code, Chapter 2.</p> <p>Once in the Code the section numbers in an Act change because the Code numbering is consecutive. So, what was section 1 in the Act as made becomes section 201 in the Code i.e.: Chapter 2, section 1. Sections are generally denoted in Codes by the symbol §, as in U.S. legislation.</p>
<i>Consolidated Acts</i>	Comprise the Act as made and all amendments up to the date of the consolidation. For example, a 2012 consolidation of an Act originally made in 1999 will include all amendments up until 2012. They may also be known as consolidations or compilations or noted 'as amended'.
<i>Executive</i>	The Executive or the Government, is the branch which implements laws through the making of regulations and administers and enforces the laws. The Executive is also generally the branch of government that signs and ratifies international conventions.
<i>Judiciary</i>	Also, the Courts, the branch of government which interprets laws and formally determines legal disputes.
<i>Legislation</i>	The collective term for both principal (Acts) and subordinate laws (usually regulations).

Term	Definition
<i>Legislature</i>	The Legislature or the Parliament, is the branch of government which makes laws.
<i>International conventions</i>	Are also known as international agreements, and treaties. Conventions come into effect on a certain date. This is not the date the Convention takes effect in a particular country. For the Convention to take effect in a particular country, the country must become a party to the Convention. Countries may sign a Convention – this does not make it a party. Countries may ratify or accede to a Convention – this makes it a party. Following ratification or accession, written instruments evidencing the country’s consent to be bound by the convention are deposited with the Depository – this is generally the Secretary-General of the United Nations, but also, for example, the South Pacific Forum Secretariat in the case of the Waigani Convention. Once these written instruments are deposited by enough parties, the convention takes or comes into effect in the country and the country becomes a party to the convention.
<i>Principal Acts</i>	Principal Acts contain the entirety of a topic, for example, the Environment Protection Act.
<i>Provisions</i>	Provisions are individual numbered clauses within legislation. The most used provision types are: <ul style="list-style-type: none"> • Articles in Constitutions – abbreviated to Art. or art. • Sections in Acts – abbreviated to s (or § in the case of Codes) • Regulations within a Regulation - abbreviated to r • Clauses in Schedules at the end of Acts or subordinate legislation
<i>Ratification</i>	Ratification is the act by which a country indicates its consent to be bound to a convention.
<i>Subordinate legislation</i>	Subordinate legislation is also called subsidiary legislation, delegated legislation, and statutory instruments. These are collective terms. Individual pieces of subordinate legislation are most called regulations, but other types of subordination legislation include: <ul style="list-style-type: none"> • Rules • Ordinances • By-laws • Orders-in-council • Executive orders • Decrees • Decree-Laws (this terminology is used in Timor-Leste) <p>Acts (principal legislation) expressly authorise the making of subordinate legislation.</p> <p>Example: Section 121 of the Republic of the Marshall Islands <i>National Environmental Protection Act 1984</i> authorises the Environment Protection Authority to make regulations regarding pollutants and discharge or hazardous waste.</p> <p>Subordinate legislation is made by a person or agency other than the legislature – usually the Government Ministry or Department responsible for implementing the Act. A regulation is usually on a specific topic and contains the practical machinery to implement one or more provisions of the Act.</p> <p>Example: regulations made under Section 121 of the Republic of the Marshall Islands <i>National Environmental Protection Act 1984</i> include the <i>Solid Waste Regulation 1989</i>, the <i>Toilet Facilities and Sewage Disposal Regulation 1990</i>, and the <i>Public Water Supply Regulation 1994</i>.</p>

Annex 2: Acronyms

Table 9: Acronyms

ACRONYM	REFERRING TO
DAC	Development Assessment Committee
ECOLEX	ECOLEX is an information service on environmental law, operated jointly by FAO, IUCN and UNEP
EIA	Environmental Impact Assessment
EU	European Union
FAOLEX	FAOLEX is a database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management.
ICI	Infrastructure Cook Islands
IEA	Island Environment Authority
INFORMEA	United Nations Information Portal on Multilateral Environmental Agreements
MEA	Multilateral Environmental Agreements
MOH	Ministry of Health
NES	National Environment Service
NIP	National Implementation Plan
NGO	Non-Government Organisation
NZPCO	New Zealand Parliamentary Council Office
OECD	The Organisation for Economic Co-operation and Development
PACLII	Pacific Islands Legal Information Institute
PILON	Pacific Islands Law Officers' Network
POPS	Persistent Organic Pollutants
SPREP	Secretariat of the Pacific Regional Environment Programme
UOM	University of Melbourne
UNEP	United Nations Environment Program

Annex 3: Priority Waste Definitions

The PacWastePlus definitions of the priority waste streams included in the programme are detailed below.

Please note, PacWastePlus programme's waste definitions *do not always directly correspond with definitions found in national legislation*.

For example, public health and water/sanitation legislation may reference 'sewage' within concepts of wastewater or broader definitions of solid waste. Where countries' legislation dealing with wastewater or other waste streams includes sewage in the legislative definitions of wastes, these references have been retained for this assessment. This ensures that of the assessment's reproduction of the legislative provisions are accurate, even though human wastes are not encompassed within the PacWastePlus definition of 'wastewater'.

Table 10: PacWastePlus programme definitions

Priority waste	Definition/understanding
<i>Asbestos</i>	Asbestos refers to six naturally occurring silicate minerals composing of long and thin fibrous crystals. These crystals contain many microscopic fibres that can be released into the atmosphere by abrasion and other processes. Asbestos has been used as a building material for many years. Natural disasters can increase the risk of exposure to asbestos found in damaged building materials.
<i>Healthcare waste</i>	Waste generated by health care facilities. Includes used needles and syringes, soiled dressings, body parts, diagnostic samples, blood, chemicals, pharmaceuticals, medical devices, and radioactive materials. It is essential that all medical waste materials are segregated at the point of generation, appropriately treated, and disposed of safely.
<i>E-waste</i>	Electronic waste or e-waste refers to discarded electrical or electronic devices. Used electronics which are destined for refurbishment, reuse, resale, material recovery, or disposal are also considered e-waste. Electronic scrap components, such as CPUs, contain potentially harmful materials such as lead, cadmium, beryllium, or brominated flame retardants.
<i>Organic waste</i>	Organic waste is waste that is biodegradable and has the potential to disintegrate. These wastes often include vegetable and fruit peelings, paper, and food waste. Organic waste is typically a significant proportion of a waste stream, and if managed through landfill creates leachate and harmful greenhouse gases. When processed appropriately, organic waste can add significant value to soil quality and potentially increase food production/soil water retention and help in elimination of invasive weeds.
<i>Disaster waste</i>	The generated waste during a natural disaster i.e. a sudden devastating event (cyclone, flood, earthquake, tsunami, fire etc) that seriously disrupts the functioning of a community or society and causes human, material, economic or environmental losses that exceed the community's or society's ability to cope using its own resources.
<i>Recyclables</i>	Recyclable wastes refer to wastes that can easily be recovered or made into other products. They typically include glass, paper, cardboard, metal, plastic, tyres, textiles, batteries, and electronics.
<i>Bulky waste</i>	Bulky waste (end-of-life vehicles, tyres, white goods, furniture, and other large household goods) describes waste items that are too large to be accepted by the regular waste collection service. It includes damaged furniture, abandoned vehicles and large appliances.
<i>Wastewater</i>	Wastewater refers to waterways impacted by solid wastes and related aspects, such as leachates from landfills or point source pollution from storm water drains.
<i>Plastic waste</i>	Plastic wastes may be recyclable wastes as discussed above. Plastic packaging and single-use plastics may also be a significant source of plastic waste.

Annex 4: Existing Legislation Addressing Waste Management

A summary of existing Cook Islands legislation related to waste management is provided in

Table 11.

Table 11: Legislation impacting waste governance in the Republic of the Marshall Islands

Legislation	Regulations	Description
<u>National Environmental Protection Act 1984 [35 MIRC Ch 1]</u>	<u>Solid Waste Regulations 1989</u> <u>Toilet Facilities and Sewage Disposal Regulations 1990</u> <u>Pesticides and Organic Pollutants (POPS) Regulations 2004</u> <u>Environmental Impact Assessment Regulations 1994</u> <u>Sustainable Development Regulations 2006</u> <u>Public Water Supply Regulations 1994</u>	<p>The Solid Waste Regulations 1989 under the <i>National Environment Protection Act 1984</i> provide a comprehensive framework for the regulation of solid waste.</p> <p>Healthcare waste in the Republic of the Marshall Islands is regulated under both the <i>National Environment Protection Act 1984</i> and the <i>Public Health, Safety and Welfare Act 1966</i>, updated to 2015. Definitions in section 4 of the regulations identify ‘infectious waste’ as relating to</p> <ul style="list-style-type: none"> • equipment, instruments, utensils, and fomites of a disposable nature from the rooms of patients suspected of or having a communicable disease and are required to be isolated • laboratory wastes, such as pathological specimens (such as tissues, blood) and any accompanying pathogenic substances • surgical operating room pathological specimens and accompanying disposable materials. In turn, ‘institutional solid waste’ includes solid wastes generated by health care facilities. <p>Asbestos is not specified as an identified waste, but it would fall to be regulated under a range of legislative definitions, such as hazardous waste, within the statute and regulations. Asbestos may also be regulated in respect of EIA processes under the Environment Protection Act, and relevant building codes.</p> <p>Electronic waste is not a specified waste under the Environment Protection Act but it would be regulated as a solid waste under the Solid Waste Regulations 1989 via the category of bulky waste or as ‘commercial solid waste’ defined as all types of solid wastes generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes. Where e-waste contains hazardous materials, for example, lead or cadmium, it may be treated as a source of pollution or hazardous wastes under the <i>Environment Protection Act</i>, which contains more prescriptive standards for its handling and disposal.</p> <p>Food waste is regulated under the EPA’s solid waste regulations as ‘the organic residues generated by the handling, storage, sale, preparation, cooking, and serving of foods, commonly called garbage’. Green waste is a major component of the organic waste that is disposed to landfill as there are few alternatives in a densely populated area. Interviewees indicated that customary practices of burying or burning are no longer possible.</p> <p>It is unclear on available materials the extent to which other forms of plastic waste, such as discarded packaging around imported goods, are regulated under the <i>National Environmental Protection Act</i>. These items would appear to be covered by</p>

Legislation	Regulations	Description
		<p>general duties of environmental protection for the EPA. These include ‘with respect to the uses and values, whether tangible or intangible, to be protected, the quality to be maintained, the extent to which the discharge of wastes may be permitted without detriment to the quality of the environment, and long-range development uses and planning and any other factors relating to the protection and management of the environment’. Plastic wastes may also fall to be regulated as discharges (ss 146, 147) or pollutants where they impact the above values.</p> <p>The Public Water Supply Regulations 1994 under the <i>National Environmental Protection Act</i> provide detailed planning for the provision of water supply, which includes siting of supplies to avoid contamination (including by wastes) and standards for drinking water quality. The regulations also cover bottled water with an emphasis on ensuring water quality, but such regulation could offer a basis to introduce extended producer responsibility concepts if containers are not recycled. According to interview data, the Majuro Water company monitors water quality in respect of health impacts of sanitation and wastewater.</p> <p>The general pollution control measures and provisions regarding discharges of waste under section 126 of the <i>National Environmental Protection Act</i> would be applicable where wastes impact water sources, including contamination from landfill and wastes that are stockpiled and cause in-situ pollution</p>
<u><i>Littering Act 1982</i></u> <i>[35 MIRC Ch 2]</i>	None identified.	<p>This legislation makes all littering an offence and has clear enforcement powers, with penalties ranging between \$50 and \$1,000 fine, or a maximum 6-month imprisonment, or both.</p> <p>Recyclables such as plastics and cardboard may also fall within littering controls under the Littering Act 1982.</p>
<u><i>Public Health, Safety and Welfare Act 1966</i></u> <i>[7 MIRC Ch 1]</i> <i>(commenced 11 May 2015) Part II deals with sanitation e.g. toilets and accumulation of rubbish.</i>	None identified.	<p>The <i>Public Health, Safety and Welfare Act Health Act</i> is directed to public health matters, e.g., food safety, cleanliness of premises and adoption of sanitary measures, including dealing with rubbish, controls on infectious diseases and vectors, but also includes powers to deal with human burials. It is omnibus legislation, where waste and sanitation matters – which would cover wastewater and organic or human wastes – are among responsibilities identified for the MoH.</p> <p>Healthcare waste in the Republic of the Marshall Islands is regulated under both the <i>National Environment Protection Act 1984</i> and the <i>Public Health, Safety and Welfare Act 1966</i>, updated to 2015.</p> <p>The Republic of the Marshall Islands’ Ministry of Health (MoH) adopted a 3-Year Strategic Plan 2017–2019 based on the vision that ‘Health is a shared responsibility’. The Republic of the Marshall Islands has two public hospitals and around 60 clinics on the outer atolls and islands. While addressing healthcare wastes remains a priority in the Republic of the Marshall Islands, many of the most pressing problems with managing healthcare wastes identified in a baseline study in 2014 have been resolved, based on directions from the EPA issued through regulations to health staff and relevant private contractors.</p> <p>The duties of the Minister and delegates include maintaining and improving health and sanitary conditions, establishing standards of medical and dental care and practice, which could extend to many forms of waste regulation, and to supervise and administer all government-owned hospitals, sanatoriums, clinics, dispensaries and such other medical and dental facilities throughout the Republic of the Marshall Islands (s 102). Most are government serviced as there is limited commercial healthcare in the Republic of the Marshall Islands. These general supervisory duties could extend to managing</p>

Legislation	Regulations	Description
		healthcare wastes. A new unit for these purposes has recently been established but its current focus is food safety and vector controls. Section 34 sets out the standards for disposal by incineration of infectious and pathological wastes generated at medical or other facilities. Some healthcare wastes associated with x-ray operations require attention, as they may still be disposed to landfill.
<u><i>Styrofoam Cups and Plates, and Plastic Products Prohibition, and Container Deposit Act 2016 [7 MIRC Ch 5]; and Styrofoam cups and plates, and Plastic Products Prohibition and Container Deposit (Amendment) Act 2018</i></u>	None identified.	The legislation under section 503 places a ' <i>prohibition on the importation, manufacturing, sale or distribution of Styrofoam cups and plates, disposable plastic cups and plates, and plastic shopping bags</i> '. <ul style="list-style-type: none"> • Part III of the Act establishes a container deposit program • Part IV establishes a recycling fund for implementation of the Act. The legislative model addresses a number of waste management issues in the Republic of the Marshall Islands, including measures to limit effectively the amount of plastics entering the country, as well as in-country production, while seeking to provide a revenue basis to fund programs. This helps set the platform for introduction of a wider 'polluter pays' funding basis. The legislation works in conjunction with local waste management and collection services.
<u><i>Ministry of Environment Act 2018 [35 MIRC Ch 6] (commenced 2 October 2019)</i></u>	None identified.	An Act to establish the Ministry of Environment and to enhance or strengthen collaboration and coordination in protection of the environment, conservation, restoration and sustainable use of natural and genetic resources, including safe guarding of related cultural resources, utilization of sustainable energy, including renewable energy, and to address mitigation and adaptation to climate change impacts and natural hazards, including through increased communication within government and stakeholders and enhanced implementation of existing Acts The EPA is clearly established as the lead agency for waste management, including healthcare wastes, but it is part of a more coordinated approach to environmental protection and climate change mitigation and adaptation as established by the Act.
<u><i>Criminal Code 2011 [31 MIRC Ch 1]</i></u>	None identified.	the Criminal Code, Customs (Import Duties) and Foreign Affairs legislation, will have primary objectives unrelated to waste management, but links exist with enforcement of compliance activities
<u><i>Foreign Affairs Act 2007 [43 MIRC Ch 6]</i></u>	None identified.	the Criminal Code, Customs (Import Duties) and Foreign Affairs legislation, will have primary objectives unrelated to waste management, but functions exist with respect to importing of materials that become waste
<u><i>Import Duties Act 1989 [48 MIRC Ch 2]</i></u>	None identified.	the <i>Criminal Code, Customs (Import Duties) Act</i> and <i>Foreign Affairs Act</i> , will have primary objectives unrelated to waste management, but links exist due to the polluter pays principle being applied through the <i>Styrofoam Cups and Plates, and</i>

Legislation	Regulations	Description
		<i>Plastic Products Prohibition, and Container Deposit Act 2016, and Styrofoam cups and plates, and Plastic Products Prohibition and Container Deposit (Amendment) Act 2018</i>

Annex 5: MEA Reporting

Reporting requirements under relevant MEAs

The relevant MEAs for the PacWastePlus project are:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- Minamata Convention on Mercury (Minamata Convention); and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

These MEAs establish requirements for countries which are party to them to provide certain notifications, share information and produce national reports on their implementation of the conventions. **Table 12** below summarises the key notification, information and reporting requirements for each of the relevant MEAs.

Based on the information summarised in Table 3, compliance with these requirements was coded on a five-point scale (with 0 as no data), as follows:

- **5** – high compliance, e.g., all or majority of national reports provided, relevant national authorities designated and updated, all necessary notifications and information provided.
- **4** – medium-to-high compliance, e.g., most national reports provided, relevant national authorities designated, most notifications and information provided.
- **3** – medium compliance, e.g. some national reports provided, some national authorities designated, some notifications and information provided.
- **2** – low-to-medium compliance, e.g. few national reports provided, national authorities not designated or updated, few relevant notifications and information provided.
- **1** – low compliance, e.g. no evidence of national reporting, national authorities not designated, no notifications or information provided.

In some cases, the assessment of reporting compliance was preliminary, for instance, because a particular MEA only recently came into effect for a particular country. An average compliance score was calculated overall based on individual scores for different MEAs for each participating country. This data suggests that participating countries' level of compliance with reporting, information sharing and notification requirements under relevant MEAs tends to increase based on the number of those MEAs to which they are party, although it is noted this is a correlation only.

This trend may arise because countries are able to transfer learning and capacity developed for reporting and information exchange under one treaty to another related treaty. It may also reflect the fact that joining particular MEAs gives countries access to capacity building resources and support under those treaties that has a positive effect for their reporting compliance across other treaties they are party to.

Table 12: Notification, information sharing and reporting requirements of MEAs

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
BASEL CONVENTION	<p>To protect, by strict control, human health and the environment against the adverse effects which may result from the generation, management and transboundary movement of hazardous wastes and other wastes (preamble).</p> <p>Ban Amendment (in force 5 Dec 2019) prohibits all transboundary movements of hazardous wastes from OECD countries to developing country parties.</p>	<p>Parties must notify Secretariat of wastes considered hazardous under national legislation and update as appropriate (Art. 3)</p> <p>Obligation to designate one or more competent authorities (which receive notifications of movements of hazardous wastes) and one focal point (responsible for transmitting decision on import bans) (Art 5.1).</p>	<p>Provision of information to other parties on import bans (Art.4 and Art. 13).</p>	<p>Obligation for annual national reports (Art. 13(3)).</p>
STOCKHOLM CONVENTION	<p>Mindful of the precautionary approach, to protect human health and the environment from persistent organic pollutants (Art. 1).</p>	<p>Notifications to Secretariat for registration of specific exemptions for import/ export (Art. 4)</p> <p>Obligation to designate national focal point for information exchange Art. 9(3) –</p>	<p>Obligation to develop and transmit to Conference of Parties a national implementation plan (NIP), and to review and update plan, as appropriate, on a periodic basis (Art. 7).</p>	<p>Article 15 requires periodic reporting on national implementation measures. At the 1st Conference of the Parties it was decided that national reports should be submitted every four years).</p> <p>Four reporting cycles since convention entered into force (2006, 2010, 2014, 2018). Fourth report was required to be submitted by 31 Aug 2018.</p>

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
ROTTERDAM CONVENTION	<p>To promote shared responsibility and cooperative efforts among parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to parties (Art. 1).</p>	<p>Parties must designate one or more national authorities authorised to act on the country's behalf in performance of the administrative functions required by the Convention. These details are to be notified to the Secretariat no later than the date of entry into force of the Convention for that party and any changes are to be notified 'forthwith' (Art. 4).</p> <p>Parties required to notify the Secretariat of new or existing 'final regulatory actions' banning or severally restricting a chemical e.g. pesticide or industrial chemical regulated by the Convention (Art. 5).</p> <p>Notifications of export of listed chemicals (Art. 13).</p>	<p>Obligations in respect of chemicals listed in Annex III, include notifications to the Secretariat of the country's proposed response for future imports (e.g. decision to prohibit, allow, allow with conditions). Should be accompanied by details of legislative or administrative measures on which it is based (Art. 10).</p>	<p>No specific requirement for national reporting.</p>
MINAMATA CONVENTION	<p>To protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds (Art. 1).</p>	<p>Notifications regarding export of mercury (Art. 3).</p> <p>Requirement for designation of national focal point for information exchange and notifications under article 3 (Art. 17).</p>	<p>Discretionary obligation, following an initial assessment, to develop implementation plan and transmit to Secretariat (Art. 21).</p>	<p>Obligation to report on measures taken for implementation (Art. 21). Pursuant to decision of COP MC-1/8 on the Timing and format of reporting by the parties (2017), reporting is on a biennial basis with short form every 2 years and long form every 4 years.</p>

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
WAIGANI CONVENTION	To prohibit the importation of hazardous and radioactive wastes into Pacific Island developing countries and to facilitate environmentally sound management of such wastes (preamble).	<p>Obligation to notify Secretariat of wastes considered/ defined as hazardous wastes under legislation beyond those listed in Annex I and inform of any significant changes (Art. 3).</p> <p>Must designate one competent authority and one focal point (Art. 5).</p> <p>Notifications of transboundary movements of hazardous wastes (Art. 6).</p>	<p>Obligation to forward to Secretariat information on any illegal hazardous wastes import activity in jurisdiction (Art. 4).</p> <p>Obligation to provide information to Secretariat on changes to competent authorities/ focal points or changes to national definitions of hazardous wastes (Art. 7).</p>	<p>Deadline for 1st biennial short report 31 Dec 2019, 1st long report 31 Dec 2021.</p> <p>Requirement to submit ‘such reports as COP may require’ regarding hazardous wastes generated in jurisdiction (Art. 4).</p> <p>At its Second Meeting in 2004, the COP agreed that Reporting and Transmission of Information forms should be filled out annually by parties and submitted to SPREP in its role as the Convention Secretariat. Parties were requested to begin reporting starting at the 2004 calendar year.</p>

Annex 6: Models and Concepts for Waste Management

There are a number of general models and concepts that inform contemporary waste management regulation and practice. These models often require quite significant supporting institutional and economic infrastructure that may not be in place or possible in many participating countries. Adopting these models may, therefore, be a long-term strategic goal rather than an immediate policy priority for nations.

The Waste Hierarchy

The generally accepted model for waste management that appears in the strategies of a number of countries in the Pacific region, is the 'waste hierarchy' model.

The aims of the hierarchy are:

- To generate as little waste as possible in the first place; and
- To extract the maximum practical benefit from the waste that is still produced.

The waste hierarchy suggests that as a priority order in waste management legislation and policy, governments should pursue waste avoidance, reduction (prevention or minimisation), re-use, recycling, and other recovery (e.g., waste-to-energy) (see Figure 1). The hierarchy dictates that the last option is disposal for end-of-life products.



Figure 1: Waste hierarchy (Creative Commons Licence BY-SA 3.0)

The Circular Economy

The 'circular economy' is also increasingly regarded as relevant to waste management legislation and policy. A 'circular economy' is one that values resources by keeping products and materials in use for as long as possible. This is in contrast to a linear economy – take, make and dispose – approach. In waste management, this means placing a value on re-use and recycling, with the aim of zero waste.

Related to the circular economy are producer responsibility approaches, where producers are required, to design and make products that are recoverable, or recyclable, and accept the return of waste produced by their products. Producer responsibility can be encouraged by importing countries via legislative mechanisms, such as levies on imported products that can be recycled at the end of their operational life.

Environmental Models

These newer policy models sit alongside other general environmental models for managing waste safely and preventing waste pollution. These models may adopt tools such as EIA for waste generating activities, permitting or licensing of waste management facilities, regulation of waste collection and offences for harmful actions with respect to waste such as littering or dumping, as well as incentives to segregate and separate wastes. Few of the participating countries, however, have extensive testing, monitoring and tracking measures in their waste management legislation to support the successful operation of these models. Effective compliance and enforcement of standards are also necessary.

The model used to formulate the waste management legislative framework will necessarily influence the efforts and input needed to manage not only waste, but the legislation and the government's required management:

- Different types of legislative models can be adopted to give effect to different types of policy objectives. In turn these different models require differing levels of institutional support and administrative arrangements to make them work.
- Operation, regulation and enforcement are distinct functions that can be divided among different agencies. Sometimes these roles are divided among public and private bodies, but in some cases, they are all the responsibility of government or semi-public entities. All these functions may involve the community in different ways, such as providing information to the community and involving the community in enforcement activities.

Table 13 summarises, in general terms, different kinds of legislative models for waste management, the overall policy objectives they relate to, and the key institutional underpinning required for their administration and operation, as well as examples drawn from the waste-related laws of the participating countries.

Table 14 describes how the existing and pipeline waste management legislation of participating countries maps against these general models.

Table 13: Legislative models and institutional requirements

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>DEDICATED WASTE MANAGEMENT LEGISLATION [WMA]</p> <ul style="list-style-type: none"> • DEFINITIONS OF WASTE STREAMS /OTHER WASTE AS PRESCRIBED BY REGULATION • DESIGNATION OF RESPONSIBILITIES FOR WASTE MANAGEMENT • STANDARDS/PROTOCOLS FOR COLLECTION, TREATMENT, STORAGE/ DISPOSAL • WASTE LICENCING/ PERMITTING OF WASTE OPERATORS (OHS/SAFE HANDLING) • AUDIT AND MONITORING PROVISIONS • SUSTAINABLE FINANCING MECHANISMS, E.G., LEVIES/ CHARGES • ENFORCEMENT PROVISIONS AND INCENTIVE-BASED REGULATION 	<ul style="list-style-type: none"> • Waste reduction / prevention • Re-use, Recycling, Recovery • Identification and achievement of waste reduction targets • Safe handling, storage and disposal • Minimising harm to environment and people • Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility) • Incentivising behavioural change, including re-use and recycling • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Clear designations of responsibility • Inter-agency cooperative approach • Cooperation between different levels of government • Supporting ‘soft’ law instruments • Staffing / resourcing for implementation, monitoring and enforcement • Ongoing access to information; technical and policy setting • Support for storage, recovery and disposal • Community / private sector consultation 	<ul style="list-style-type: none"> • <i>Waste Management Acts</i> in Samoa, Tonga, Tuvalu, and Vanuatu • Proposed Solid and Hazardous waste legislation in Cook Islands
<p>REGULATION OF SPECIFIC WASTE STREAMS UNDER ENVIRONMENT PROTECTION LEGISLATION E.G., SOLID WASTE, BULKY WASTE, ORGANIC WASTE, RECYCLABLES, PLASTICS, DISASTER WASTE, WASTEWATER [EPACT]</p> <ul style="list-style-type: none"> • DEFINITIONS OF WASTE STREAMS • PROVISIONS RE STORAGE, COLLECTION, SEGREGATION AND DISPOSAL OF WASTE • TECHNICAL STANDARDS/ SPECIALIST IMPLEMENTATION • ENFORCEMENT PROVISIONS 	<ul style="list-style-type: none"> • Effective / efficient waste management • Minimising harm to environment and people • Sustainable financing • Comprehensive Waste Collection • Improvement of waste sorting and diversion from landfill • Recycling; Recovery • Minimising waste pollution and human health risks • Hazard reduction and climate change adaptation 	<ul style="list-style-type: none"> • Clear designations of responsibility • Inter-agency cooperative approach • Supporting ‘soft’ law instruments • Staffing / resourcing for implementation, monitoring and enforcement • Ongoing access to information • Support for secure storage, recovery and disposal • Community / private sector consultation 	<ul style="list-style-type: none"> • <i>Solid Waste Management Regulations</i> in Yap State (the FSM), Palau and the RMI • <i>Environment Management (Waste Disposal and Recycling) Regulations</i> in Fiji • Proposed <i>Waste Management Bill 2016</i> to amend <i>Environment Act</i> in Solomon Islands

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>REGULATION OF HAZARDOUS WASTE E.G., HEALTHCARE WASTE, ASBESTOS, E-WASTE, WASTEWATER [HAZ WASTE]</p> <ul style="list-style-type: none"> • IDENTIFICATION OF HAZARD SOURCES • SEPARATION AND DIVERSION FROM LANDFILL • REGISTERING, TRACKING AND MONITORING • STAFF TRAINING AND CAPACITY BUILDING • LICENCING/PERMITTING (OHS, REGULATED HANDLING AND DISPOSAL) • TARGETED FEE/ CHARGES BASIS TO REFLECT RISK MANAGEMENT REQUIREMENTS • COMPLIANCE WITH MEA OBLIGATIONS 	<ul style="list-style-type: none"> • Effective / efficient waste management • Waste segregation • Safe handling, regulated storage, and out of country disposal, as necessary • Minimising pollution harm to environment and people • Utilisation of best practice technologies, with implementation guidelines, e.g., healthcare waste incineration • Building capacity to deal with disasters/ pandemics 	<ul style="list-style-type: none"> • Clear designations of responsibility • Inter-agency cooperative approach • Cooperation between different levels of government (local operational to national) • Supporting 'soft' law instruments • Staffing / resourcing for implementation, monitoring and enforcement • Ongoing access to information • Support for secure storage, recovery and environmentally sustainable disposal 	<ul style="list-style-type: none"> • <i>Hazardous Wastes and Chemicals Act</i> in Tonga • <i>Solid Waste Management Regulations</i> in Palau and the RMI • Healthcare waste management plans in Samoa, PNG • Asbestos disposal guidelines - PNG • Regulations / guidelines under OHS legislation in Fiji, Samoa and Niue. • Specific part in dedicated waste legislation in Tuvalu • <i>Ozone Layer Protection Act 2010 [2014]</i> in Vanuatu
<p>SUSTAINABLE WASTE-FINANCING SYSTEMS [SUS FIN/CDL]</p> <p>EXAMPLES INCLUDE:</p> <ul style="list-style-type: none"> • CONTAINER DEPOSIT SYSTEM; RECYCLING /RE-USE DEPOSIT FEES • LEVY ON ITEMS AT CUSTOMS POINT E.G., BEVERAGE CONTAINERS/CANS, LEAD ACID BATTERIES, PET BOTTLES • ADVANCE DISPOSAL FEE AT CUSTOMS POINT • SCALED LANDFILL FEES I.E., HIGHER FOR RECYCLABLES • SEPARATE, DEDICATED FUND WITH REGULATIONS. FOR MANAGEMENT AND DISTRIBUTION OF FUNDS; INDEPENDENT AUDIT FUNCTIONS 	<ul style="list-style-type: none"> • Waste reduction / prevention • Re-use, Recycling, Recovery • Effective / efficient waste management • Supporting waste segregation • Minimising waste pollution • Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility) • Incentivising behavioural change e.g., through % of amount paid to consumers as refund after use; % paid to support recycling of items • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Inter-agency cooperative approach and cooperation b/n national and provincial/ local government • Reservation of fund from consolidated revenue with transparency and independent oversight • Staffing / resourcing for implementation at customs point; monitoring and compliance • Ongoing access to information • Support for storage, re-use, recovery and disposal (e.g., export fees) • Community / private sector consultation • Public education - communications expertise and resources 	<ul style="list-style-type: none"> • Container deposit schemes in the FSM (except Chuuk), Fiji, Kiribati, Palau • Waste levy and select refund scheme on wide range of products in Tuvalu, including but not limited to waste that can be recycled/ recovered • Cook Islands – advance disposal fee • RMI - Waste Fund

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>PROHIBITION ON IMPORT OF CERTAIN ITEMS [BAN]</p> <ul style="list-style-type: none"> • MOST COMMONLY IN THE CONTEXT OF PLASTICS E.G., SINGLE-USE PLASTIC BAGS, STYROFOAM CONTAINERS, DISPOSABLE STRAWS/CUTLERY. • MAY TAKE FORM OF LEVY RATHER THAN OUTRIGHT PROHIBITION • APPLICABLE TO OTHER HIGH RISK, WASTE-GENERATING PRODUCTS OR CHEMICALS E.G., ASBESTOS SHEETING, POPS; BIOSECURITY • TYPICALLY COMBINED WITH IN-COUNTRY PROHIBITION ON MANUFACTURE, SALE AND DISTRIBUTION 	<ul style="list-style-type: none"> • Waste reduction / prevention • Effective / efficient waste management • Minimising waste pollution, health and environmental risks • Meeting International waste management obligations • Supporting in-country industries such as tourism and hospitality • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Clear designations of responsibility and authorisations • Inter-agency cooperative approach • Supporting 'soft' law instruments • Staffing / resourcing for implementation at customs point; in-country monitoring and compliance • Ongoing access to information • Storage at customs point, as necessary, and disposal • Community / private sector consultation/ education - communications expertise and resources 	<ul style="list-style-type: none"> • Various prohibitions enacted in the FSM, Fiji, Kiribati, Niue, Palau, PNG, RMI, Samoa, Tonga, Tuvalu and Vanuatu. • Proposed in the Cook Islands for single-use plastics. • 'Zero' plastic initiative in Timor-Leste.
<p>DEVELOPMENT CONTROL / IMPACT ASSESSMENT REGIMES / LICENCES [EIA]</p> <ul style="list-style-type: none"> • WASTE REGULATION AS COMPONENT OF ENVIRONMENTAL LEGISLATION WITH REGULATIONS. FOR PROJECT EIA TO INFORM DEVELOPMENT CONSENTS AND POLLUTION /DISCHARGE CONTROLS TO MINIMISE ENV. IMPACTS. • BROAD POWERS TO IMPOSE WASTE-RELEVANT CONDITIONS ON PROJECT AND OPERATIONAL (POLLUTION CONTROL) LICENCES/PERMITS • SUPPORTING REGULATIONS - SPECIFIC REGULATIONS FOR IDENTIFIED WASTES/ RISK CONTEXTS 	<ul style="list-style-type: none"> • Waste reduction / prevention • Effective / efficient waste management • Safe handling, storage and disposal • Minimising waste pollution, health and environmental risks including siting of landfills • Implement strategic planning objectives e.g., spatial controls to divert wastewater from environmentally sensitive areas • Polluter-pays and targeted discharge licences/fees • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Clear designations of responsibility and authorisations • Inter-agency and intergovernmental cooperative approach • Technical expertise to set standards, and evaluation of EIAs and pollution controls • Staffing / resourcing for implementation, testing/monitoring and enforcement • Capacity building/OHS for operational staff e.g., at landfills to control pollution • Ongoing access to information including technical and scientific standards and BAT • Community / private sector consultation/ joint development of codes of practice 	<ul style="list-style-type: none"> • Environmental and / or planning legislation in Fiji, Kiribati, Niue, Samoa, PNG, Solomon Islands, RMI • Coverage of major developments in Tuvalu <i>Waste Management Act</i> • Solomon Islands Water Authority (Catchment Areas) Regulation restricts introduction of pollutant or wastes into catchment areas.

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> • TESTING, MONITORING & REPORTING REQUIREMENTS, OFFENCE PROVISIONS <p>COMPLIANCE AND ENFORCEMENT/ CHANGING BEHAVIOUR [COMP/ENFORCE]</p> <ul style="list-style-type: none"> • CIVIL AND CRIMINAL OFFENCES, AND ADMINISTRATIVE PENALTIES • COMPLIANCE TOOLS E.G., LITTERING SPOT FINES, CLEAN UP NOTICES, REPUTATIONAL PENALTIES E.G., NON-COMPLIANCE NOTICES • OFFENCE HIERARCHY AND GRADED PENALTIES (INDIVIDUALS VS CORPORATIONS; SINGLE VS RECURRING OFFENCES); NEGOTIATED PENALTIES • IDENTIFIED ROLE FOR COURTS/TRIBUNALS AND CASE REPORTING • COMMUNITY AWARENESS PROGRAMS 	<ul style="list-style-type: none"> • Waste reduction / prevention • Effective / efficient waste management • Minimising pollution, health and environmental risks • Waste Financing (e.g., user-pays / polluter-pays) where e.g., fines revert to waste management • Incentivising behavioural change in industry and community • Supporting new regulatory models e.g., prohibitions on single use plastics • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Clear designations of responsibility for enforcement, and delegations of powers as necessary e.g., to police, municipal officers • Inter-agency and intergovernmental cooperative approach, including with legal officials for prosecutions/ civil actions • Enhanced staffing/resourcing for monitoring, compliance and enforcement • Interagency training and capacity building programs • Ongoing access to information • Integration with traditional/ community-based authorities, esp. in rural areas • Community / private sector consultation and compliance partnerships (soft law) 	<p>All participating countries, e.g.</p> <ul style="list-style-type: none"> • RMI - EPA cease and desist orders; imposition of civil penalties; institution of civil proceedings; and any other action authorised under 'any other law'. • Littering offences and offences under related legislation e.g., Nauru, Vanuatu • Kiribati - Duty to clean-up environment • PNG - Duty to prevent significant environmental harm and offences • Samoa - community involvement in waste management, including making of by-laws and community programs and initiatives
<p>RECOVERY OF WASTE COSTS FROM PRIVATE SECTOR/POLLUTER [PRIVATE/POLLUTER]</p> <ul style="list-style-type: none"> • PACKAGES OF MEASURES UNDER LEGISLATION AND 'SOFT LAW' • TOURISM: INFORMATION AND EDUCATION; RE-USEABLE ITEMS; 'GREEN FEE' AS ARRIVAL OR DEPARTURE TAX; INDUSTRY RESPONSIBILITY TO REDUCE WASTE • EXTENDED PRODUCER RESPONSIBILITY REQUIREMENTS / STANDARDS IN LEGISLATION AND 'SOFT LAW' 	<ul style="list-style-type: none"> • Waste reduction / prevention • Effective / efficient waste management • Minimising waste pollution and reducing environmental and health risks • Sustainable financing (e.g., user-pays / polluter-pays) • Incentivising behavioural change in industry, consumers and community • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Clear designations of responsibility and cooperation between public and private sector • Monitoring and facilitation of compliance directed at 'consumers' • Government procurement regulations/ guidelines • Management and distribution of funds, with transparency and audit regulations. • Community / private sector consultation and partnerships • Public education - communications expertise and resources 	<ul style="list-style-type: none"> • Palau – responsible tourism measures • PNG – mining contractor responsibility to take back their waste • RMI - Majuro Atoll Waste Company (re tourist input) • Nauru – natural disaster assistance • Samoa - <i>Tourism Development Act 2012</i> (minimise waste) • Tuvalu - Tourism departure fee • Cook Islands – advance disposal fee

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> • CONSUMER AWARENESS PROGRAMS E.G., PACKAGING INFORMATION PROVISION, PLANNING AND REPORTING ON WASTE ISSUES [PLANNING/REPORTING] • PROVISIONS IN LEGISLATION FOR PUBLICLY AVAILABLE WASTE MANAGEMENT INFORMATION • STRATEGIC/PRIORITY AND TARGET-SETTING IN LEGISLATION OR REGULATION • MANDATORY REPORTING BY GOVERNMENT AGENCIES AND WASTE INDUSTRY ON KEY TARGETS AND OPERATIONS • WASTE AUDITS AND REPORTING • REQUIREMENTS FOR PUBLIC CONSULTATION/ EDUCATION 	<ul style="list-style-type: none"> • Waste reduction / prevention • Efficient and effective waste management • Incentivising behavioural change in industry, consumers and community • Supporting cultural values in terrestrial and marine environments 	<ul style="list-style-type: none"> • Designations of responsibility for planning and reporting • Inter-agency and intergovernmental cooperative approach • Staffing/resourcing/training for community and industry programs • Ongoing access to information • Community and industry consultation 	<ul style="list-style-type: none"> • Examples of State of the Environment reports in FSM and Palau • Vanuatu – National Statistics Office waste reporting • Tuvalu waste audits

Table 14: Legislative models in participating countries' waste laws

MODEL	COOK ISLANDS	FSM	FIJI	KIRIBATI	NAURU	NIUE	PALAU	PNG	RMI	SAMOA	SOLOMON ISLANDS	TIMOR-LESTE	TONGA	TUVALU	VANUATU
DEDICATED WASTE MANAGEMENT LEGISLATION															
REGULATION OF SPECIFIC WASTE STREAMS UNDER ENVIRONMENT PROTECTION LEGISLATION.															
REGULATION OF HAZARDOUS															
SUSTAINABLE WASTE-FINANCING SYSTEMS															
PROHIBITION/LEVY ON IMPORT OF CERTAIN ITEMS															
DEVELOPMENT CONTROL / IMPACT ASSESSMENT REGIMES / LICENCES															
COMPLIANCE AND ENFORCEMENT/ CHANGING BEHAVIOUR															
RECOVERY OF WASTE COSTS FROM PRIVATE SECTOR/POLLUTER															
INFORMATION PROVISION, PLANNING AND REPORTING ON WASTE ISSUES															



Not present in existing legislation



Present in existing legislation



Present in pipeline legislation



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