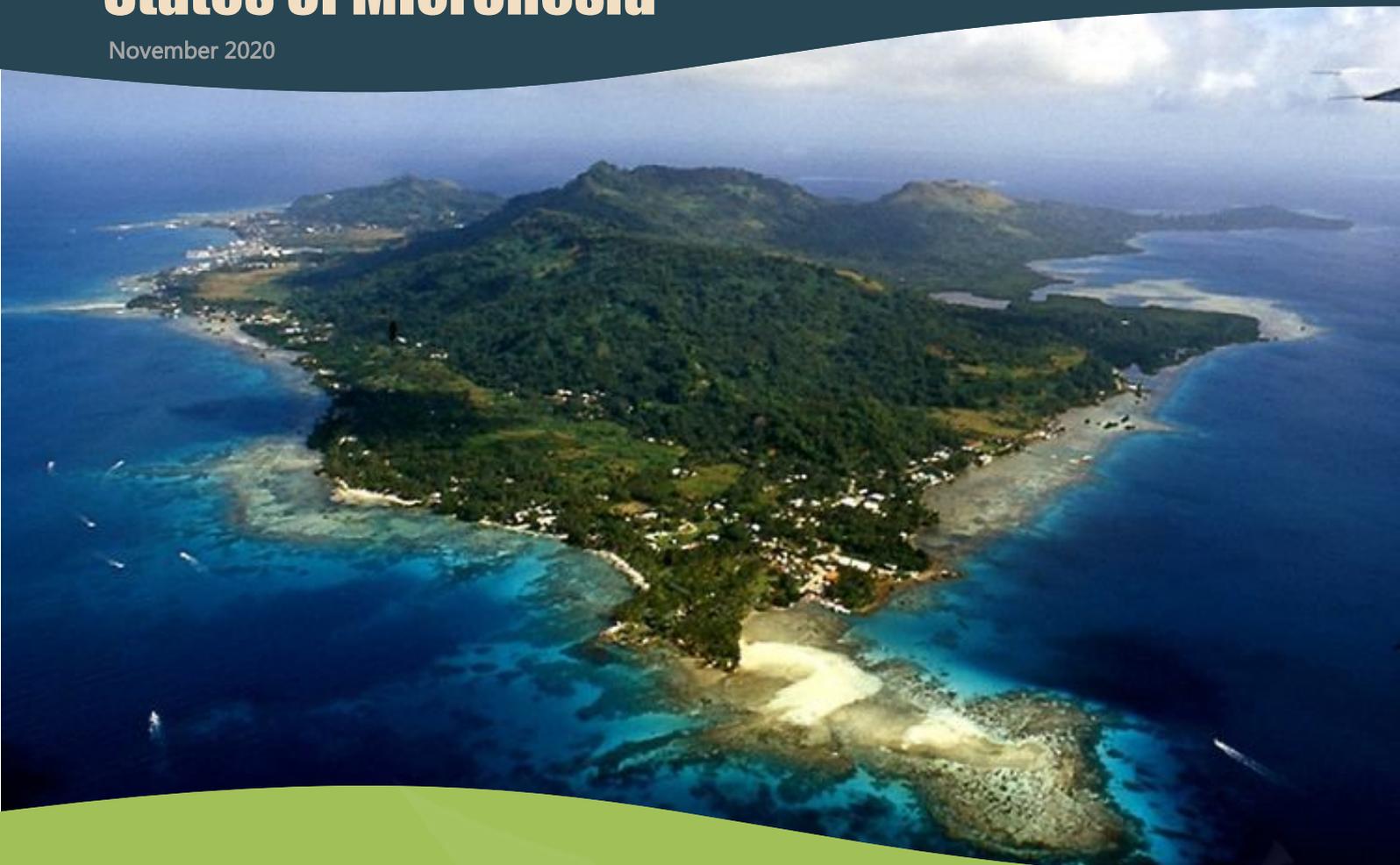




Assessment of Legislative Frameworks Governing **Waste Management** in the Federated States of Micronesia

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)



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



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



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

In the Federated States of Micronesia, 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 wastewater) 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 Federated States of Micronesia. It provides:

- A **stocktake of the existing legislative environment for waste management** in the Federated States of Micronesia, 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 Federated States of Micronesia, 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 Federated States of Micronesia's government to enact the instruments included in the legislative framework
- **Options for strengthening the legislative framework** for the Government of the Federated States of Micronesia 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 Federated States of Micronesia

Legislative Summary

Legislation impacting waste governance

The political structure of the Federated States of Micronesia is made up of four semi-autonomous states. The states of Yap, Chuuk, Pohnpei, and Kosrae have their own executive, legislative, and judiciary branches and retain autonomy to manage their own domestic affairs.

Although the Federated States of Micronesia National Government and the State governments share the responsibility of managing environmental issues, the state governments are primarily responsible for development planning and natural resource and land management. The National Government is tasked to protect and preserve the environment in close consultation with the states through the formulation of policy, enforcement, and other activities. State governments are responsible for their own environment related issues. Hence, each state has its own set of regulations and laws regarding solid waste matters.

In general, the state governments regulate chemical and waste management while the National Government as mandated by the Federated States of Micronesia Constitution provides regulatory oversight. Many national regulations, as well as State laws and regulations relevant for waste management and governance in the Federated States of Micronesia, are not available online and can only be accessed from governing agencies and departments.

There is a *National Solid Waste Management Strategy 2015-2020* for the Federated States of Micronesia. The Strategy seeks to develop and implement policies, plans, legislations, regulations, and institutional arrangements that encourage sustainable solid waste management. This is similar to the previous national *Solid Waste Management Strategy 2010-2014*. Each State also has a detailed Solid Waste Management Strategy (out to 2027/2028 for Chuuk, Yap and Kosrae) including action plan items.

Waste management, including solid waste collection and disposal, is the responsibility of each of the four states, with the national government responsible for waste matters relevant to international conventions (2018 Federated States of Micronesia State of the Environment Report). Typically, the regulation of waste falls under the ambit of environmental protection legislation in each of the states. In some cases, legislation on health and sanitation, and laws relevant to public utilities, is also relevant to waste management. Similar to the U.S. legal system, national and state laws of the Federated States of Micronesia are contained in a Code which is arranged by Title and Chapters. Codes must be read in conjunction with any Acts passed after the Code was most recently consolidated. The development and implementation of legislation on waste management in each of the states is guided by state solid waste management strategies, which are combined in a national mandate.

The following tables provide a stocktake of the existing legislative environment for waste management and governance the Federated States of Micronesia. 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 Federated States of Micronesia.
- **Table 6** lists the key policy instruments and reports.
- **Table 7** notes the departments with responsibilities for waste management.

Table 1: National Legislation impacting waste governance in the Federated States of Micronesia

LEGISLATION	REGULATIONS
<p>Constitution of the Federated States of Micronesia (as at 1990, last amendment) s 2 of Art XIII states that radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the Federated States of Micronesia without government approval.</p> <p>Code Title 25: Environmental Protection, Subtitle I: the Federated States of Micronesia Environmental Protection Act (as at 2014) Code Title 25 is the pre-eminent Code in the Federated States of Micronesia as it was amended from the various Trust Territory Codes. It is noted the Trust Territory Codes remain relevant, but in practice the Title Codes are the key legislative instruments utilised.</p> <p>Chapter 2 establishes the Environmental Protection Office. s209 outlines the general powers and duties of the Office, including to abate, control, and prohibit pollution and contamination of air, land and water; and to comply with measures undertaken to prohibit or regulate the testing, storage, use, disposal, import and export of radioactive, toxic chemical, or other harmful substances. s210(1) outlines the specific powers and duties of the Office, including to implement the Basel, Montreal, Stockholm and Waigani Conventions.</p> <p>Chapter 3 sets out enforcement provisions. s302 requires persons taking actions that may significantly affect the quality of the environment to submit an environmental impact statement. s302 gives the Director and his/her delegates rights of entry and seizure. s304 allows the Office to take enforcement action in response to violations, including (1) cease and desist orders; (2) clean up orders; (3) maximum \$100,000 per day civil penalties; (4), (5) civil actions in Court; and (6) public hearings. s307 makes false statements to the Office liable to a maximum \$100,000 fine or maximum imprisonment of ten years, or both.</p>	<p>None identified</p> <p>Regulation to control Transboundary Movements of Hazardous Waste and to Ban Persistent Organic Pollutants in Accordance with the Basel, Waigani, and Stockholm Conventions (2014)</p>
<p>Federated States of Micronesia Climate Change Act (Public Law 18-34 (2014-15), amends Code Title 25: Environmental Protection, Subtitle I: the Federated States of Micronesia Environmental Protection Act (as at 2014) to create Chapter 8</p> <p>Requires various departments and agencies to prepare plans and policies on climate change consistent with the provisions of the Nationwide Integrated Disaster and Climate Change Policy.</p>	<p>None identified.</p>
<p>Act for the Prohibition on the Importation, Sale or Distribution of One Time Use Disposable Styrofoam and Plastic Food Service Items and Plastic Shopping Bags (Public Law 21-76, effective 7 February 2020) amends Code Title 25: Environmental Protection, Subtitle I: the Federated States of Micronesia Environmental Protection Act (as at 2014) to create Chapter 4</p> <p>s401 makes it unlawful to import, sell or distribute single use disposable Styrofoam or plastic food service items. s402 has an exception for reusable or recycled. s403 allows an immigration or customs officer to seize and destroy such items.</p>	<p>Emergency Regulation governing the Prohibition on the importation of one time use disposable Styrofoam and Plastic Food Service Items and Plastic Shopping Bags (2020)</p>

LEGISLATION	REGULATIONS
<p>Ozone Layer Protection Act and Regulations The Ozone Layer Protection Act and associated regulations implement Vanuatu’s obligations as a party to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer. The Ozone Layer Protection Act today is made up of the:</p> <ol style="list-style-type: none"> 1. Ozone Layer Protection Act No. 27 of 2010 2. Ozone Layer Protection (Amendment) Act No. 4 of 2014 3. Schedule to the Ozone Layer Protection Act No. 27 of 2010 (Amendment) Order 	<p><u>Ozone Layer Protection Regulations</u></p>

Table 2: Chuuk State Legislation impacting waste governance in the Federated States of Micronesia

LEGISLATION	REGULATIONS
<p>Constitution of the State of Chuuk s 1 of art XI states the legislature shall provide by law for the development and enforcement of standards of environmental quality, and for the establishment of an independent state agency vested with responsibility for environmental matters.</p>	<ul style="list-style-type: none"> • Marine & Fresh Water Quality Regulation • Toilet & Disposal Regulation • Solid Waste Regulations
<p>Chuuk State Clean Environment Act of 2018 s7 provides for the phasing out of single-use plastic shopping bags and expanded polystyrene (Styrofoam). s7(1): It is prohibited for any person or business to import, possess, sell or distribute single-use plastic shopping bags after December 31, 2020. s7(2): It is prohibited for any person or business to import, possess, sell or distribute expanded polystyrene (Styrofoam) after December 31, 2021. ‘Single-use plastic bag’ is defined in s 3: ‘a bag made of plastic including but not limited to bags made of an and all grades of polyethylene, polyethylene terephthalate, polyvinyl chloride, nylon with a thickness of less than 1.5 millimetres provided at the checkout stand, cash registered, point of sale or other point of departure and that are intended for the purpose of transporting food or merchandise out of the establishment. s7(3) provides that ‘Enforcing persons from the Chuuk State Environmental Protection Agency and the Division of Sanitation of the Department of Health Services shall have the right to enter any establishment during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this Section. Upon finding a violation of this Section an enforcing person shall issue a written citation for the violation with a penalty of First Offense: \$500.00 fine and confiscation of the subject stocks. Second Offense: \$1,000.00 and confiscation of the subject stocks. Third and subsequent Offense: \$5,000 fine and confiscation of the subject stocks.</p>	<p>None identified.</p>

LEGISLATION

Chuuk State Environmental Protection Act (CSL 2-94-01, Act 2-17) (commenced 1994) [note in-country contact referred to this as Code Title 22, Chapter 1]

Amended by CSL 2-94-09, Act 2-33

s4 establishes the Chuuk State EPA.

s5 outlines the powers and duties of the Agency, including to control and prohibit pollution through various means. s 5(3) gives the Agency powers of subpoena and quasi-judicial powers of contempt, issuance of orders, and enforcement of the provisions of the Act.

s6 requires a person to submit an environmental impact statement (EIS) to the EPA prior to taking any major action which may substantially affect the quality of the environment.

s7 gives the EPA right of entry.

s8 allows the EPA to undertake enforcement action, including (1) up to \$100,000 civil penalty per day of violation; (2) and (3) civil action in Court; and (4) criminal action, in addition to civil action, with a maximum ten years' imprisonment or \$500,000 fine or both.

Littering Act 1991, CSL 191-33, Act 1-48 (An Act to Provide for the Control of Littering in Chuuk, to Establish a Process for the Designation of Appropriate Sanitary Public Dump Sites and Maintenance of Such Sites, to Set Forth Penalties for Violations of this Act, to Repeal TDL No. 23-12, and for Other Purposes) [note in-country contact referred to Title 22, Chapter 3 (Littering)]

s 1 makes it unlawful for any person, establishment, corporation, or firm to throw, discard, scatter or abandon any waste materials, garbage or other debris in any form or substance upon any public road, street, easement, land or body of water other than a public dumping ground.

s 3 requires businesses to have a sufficient number of garbage receptacles. To securely contain all garbage resulting from the operation of the business.

s 4 requires the EPA to designate a sanitary dump site after an Environment Impact Statement, to be maintained by the Department of Public Works.

s 5 relates to penalties and enforcement. Under s 5(1), violation of s 1 of the Act is liable to a maximum \$50 fine, rising to \$500 at the third or subsequent offence. under s 5(2) a violation of s 3 of the Act is liable to a maximum \$500 fine. s 5(3) allows the Division of Public Safety to use any enforcement methods it sees fit.

s 6 allows the Court to apply alternative sentencing such as clean-up programs.

REGULATIONS

None identified.

None identified.

LEGISLATION	REGULATIONS
<p>Environmental Improvement Tax and Truk Environmental Action Agency 1979 (Truk State Law 1-1-7, Act 1-33) (commenced 1979) [note in-country contact referred to Code Title 29, Chapter 5 (Environmental Improvement Tax); also referred to ‘Recycling Law (<i>aluminium cans</i>) -never signed’] Amended by CSL 191-23 Act 1-20 and CSL 8-05-05 Act 8-06</p> <p>Section 1 imposes a \$0.05 tax per metal can. Section 4 requires the Chuuk Visitors Bureau operate a refund and processing program for the return of such cans at \$0.02 per can.</p> <p>Section 6 provides taxes not paid are subject to a penalty of 20% per month on unpaid taxes.</p>	None identified.
<p>Code Title 12: Crimes and Punishment, Ch 10: Miscellaneous Offenses (as at 2001) s5054(1) provides that any person permitting a junk vehicle to remain on public property thirty days after a junk vehicle warning shall be guilty of littering. s5054 (7) provides that any person who violates any provision of s5054 is guilty of a misdemeanour and, upon conviction, will be fined not more than \$25.00.</p>	None identified.
<p>Code Title 21: Health & Sanitation, Ch 13: Sanitation (as at 2001) s1601 requires latrines or toilets to conform to public health regulation standards and prohibits depositing faeces within 500 yards of a dwelling. s1602 prohibits accumulation of rubbish and states a person who fails to remove such accumulation within a reasonable time after notice in writing by a Department of Health Services representative shall be deemed to have violated the Section. s1621 establishes September as the annual Sanitation Month. s1606 states the penalty for violation is maximum \$500, or maximum one-year imprisonment, or both.</p>	None identified.
<p>Code Title 4: The Executive, Ch 1: Executive Organisation (commenced 1990) Amended by CSL 2-94-10 Act 2-31 and CSL 7-03-05 Act 7-09 (commenced 2003)</p> <p>This 2003 amendment substantially reorganised the Executive Branch. The Department of Health Services includes divisions of Public Health and Sanitation; the Department of Transportation and Public Works includes a division of Land. The Division of Public Works is responsible for maintenance of public roads, government facilities, and for the review of approval of drawings, or plans for proposed government facilities; the Department of Administrative Services includes a Division of Planning and Statistics under s 7(e) to formulate development plans, review and make recommendations on projects and programs of the state government; the Department of Public Safety includes a Division of Police Operations.</p>	None identified.
<p>Chuuk Public Utility Corporation Act of 1996 (CSL 3-97-05, Act 3-36) (link broken to most up to date version: Code Title 30: Public Utilities, ch 1: Public Utilities Corporation)</p> <p>Under s 4(a) the Chuuk Public Utility Corporation has the power and duty to provide sewerage systems.</p> <p>Legislation identified by in-country contact but not yet verified: Code Title 7, Chapter 9 (Municipal Taxing Power)</p>	None identified.

LEGISLATION	REGULATIONS
<p>Code Title 24, Chapter 11 (Public Lands and Condemnation)</p> <p>Constitution of the State of Chuuk s 1 of art XI states the legislature shall provide by law for the development and enforcement of standards of environmental quality, and for the establishment of an independent state agency vested with responsibility for environmental matters.</p>	<ul style="list-style-type: none"> • Marine & Fresh Water Quality Regulation • Toilet & Disposal Regulation <p>Solid Waste Regulations</p>

Table 3: Kosrae State Legislation impacting waste governance in the Federated States of Micronesia

LEGISLATION	REGULATIONS
<p>Constitution of the State of Kosrae (as at 1995) Proposed amendment to Art XI, s 2 (2005) [not confirmed as in effect] Article XI s 1 provides that ‘A person has the right to a healthful, clean, and stable environment. While providing for the orderly development and use of natural resources, the State Government shall by law protect the State's environment, ecology, and natural resources from impairment in the public interest’. s 2 states that ‘there may be no nuclear, chemical, gas or biological weapons, or radioactive material hazardous to public health or safety, within the State. No hazardous waste or other hazardous substance may be disposed of within the State except as expressly authorised by State law’. The 2005 proposed amendment to s 2, if in effect, adds the term ‘recognised harmful pollutant’.</p> <p>Code Title 11: Land and Environment, ch 13: Protection of Environment N.B. to be confirmed if the Development Review Commission (DRC) has been renamed Kosrae Island Resource Management Authority (KIRMA) Chapter 13 comprises 3 sections only – a brief s 11.1301 on the right of entry for the purposes of enforcing the chapter, s11.1302 – an extensive enforcement section, and s 1.1303 on court proceedings. s1301 gives the DRC right of entry. s 11.1302(1) allows the DRC to issue a cease and desist, impose a civil penalty up to \$10,000 per day of violation, or commence civil action. Under s 11.1302(4), the Commission must hold a public hearing in relation to a cease-and-desist order. s11.1303 requires the Attorney-General to initiate court proceedings upon failure to comply with a DRC order, on the DRC’s request.</p> <p>Code Title 11: Land and Environment, Ch 19: Control of Plastic Wastes Act of 2017 Amended to include plastic grocery bags (Act 11-174 of 2018) Chapter 19 to ‘prohibit the use of plastic bags in the sale or distribution of merchandise’. s11.1903(1) of the amending Act 11-174 prohibits provision of plastic grocery bags.</p>	<p>-Persistent Organic Pollutants (POPs) Regulations (2013) -Pollution Regulations (2013) -Pesticide Regulations (2013)</p> <p>*REFER TO KOSRAE CODE updated as of September 2014 for all ENVIRONMENT-related matters and their applications.</p> <p>None identified.</p> <p>None identified.</p>

LEGISLATION

s11.1904 lists multiple exceptions, including (1) original plastic packaging; (2) use for chilled or frozen merchandise; (4) reusable bags; (5) fresh produce bags; (6) freezer or snap lock bags; and (7) garbage bags not distributed individually.

s11.1903(2) imposes a maximum \$100 fine for each offence.

Code Title 7: Agencies and Government Financed Enterprises, Ch 4: The Development Review Commission Amended by State Law No 10-2 2011 [which amends ‘Titles 1, 4, 7 and 11 of the Kosrae State Code to add new definitions and requirements relating to climate change and climate change adaptation measures...’]

N.B. to be confirmed if the Development Review Commission (DRC) has been renamed Kosrae Island Resource Management Authority (KIRMA)

s7.401 establishes the Development Review Commission (DRC), a power and duty of which under s7.402 is to (1) control and prevent pollution; (8) establish and provide for the continuing administration of a permit system for the discharge of a pollutant in the air, land or water; and (12) order a polluting party to abate the causing of, and to remove, polluting matter.

s7.405 requires all persons include in their development proposals an environmental impact assessment study which shall include consideration of the effects of climate change.

Code Title 9: Taxation & Revenue Sharing, Ch 22: Recycling Deposits

s9.2201 imposes a refundable recycling fee of five cents per container on all aluminium beverage containers. s9.2203 contracts the Kosrae Community Action Program as the State’s recycling agent, administering the scheme.

Code Title 13: Offenses and Penalties, Part I: Offenses, Ch 5: Offenses Against the Public Welfare and Tradition (Littering and Pollution)

s13.506 prohibits littering on public property or private property without consent. It is a category three misdemeanour.

s13.530 defines polluting as wilfully or negligently discharging pollutants in violation of Chapter 4 of Title 7 (below). It is a category 1 misdemeanour.

Legislation identified by in-country contact but not verified:

Code Title 10, Chapter 2 (Fiscal management)

POPs Regulations

REGULATIONS

Regulations for Development Projects

Outlines the process of Environmental Impact Assessment, Development Review Permit, Environmental Impact Statement and other elements of development project approval. Regulation 4.1 requires preparation of an EIS whenever the DRC determines a project may have a significant impact on the environment, including (b) where it is reasonably foreseeable that the project will fail to comply with applicable minimum and environmental quality standards for water and air quality, waste management and noise control. Regulation 5.2(d) states an Environmental Impact Statement shall include a description of the specific requirements for the proposed action for the disposal of sewage and other waste material.

None identified.

None identified.

Table 4: Pohnpei State Legislation impacting waste governance in the Federated States of Micronesia

LEGISLATION	REGULATIONS
<p>Constitution of Pohnpei Article 7 (Responsibilities of the Government of Pohnpei) states, under s 1, that the Governor shall establish and execute comprehensive plans for the conservation of natural resources and the protection of the environment. s 2(2) of Article 13 requires the Legislature to provide by statute for the strict control of harmful substances, limiting their introduction, storage, use, and disposal within Pohnpei to activities necessary for the enhancement of public health, public safety, and economic development.</p>	<p>None identified.</p>
<p>Environmental Protection Act (State Law 3L-26-92) (at 1992) [no copy available online; see below unverified references to Code, Title 27]</p>	<p>No copies available online of:</p>
<p>Amendment to Environmental Protection Act (at 1993) [no copy available online]</p>	<p>Solid Waste Regulation (30 March 1995) Drinking Water Regulations (effective 3 April 1995) Earthmoving Regulations (amended to 10 April 2008) Environmental Impact Assessment Regulations (effective 3 April 1995) Pesticide Regulations (effective 3 April 1995) Restaurant and Food Selling Places Regulations (effective 3 April 1995) Toilet Facilities & Sewage Disposal Regulations (effective 3 April 1995) Marine and Fresh Water Quality Standard Regulations (effective 3 April 1995)</p>
<p>Environmental Quality Fund and Litter Reward Fund (State Law 6L-66-06) [no copy available online]</p>	
<p>Legislation identified by in-country contact but not yet found online or verified: Title 27, Chapter 2: littering in public places and premises Title 27, Chapter 2: pollution of air, water, and land as an offense Title 27, Chapter 3: establish recycling fee of five cents on aluminium imported Title 27, Chapter 3: imposes deposit of 6 cents on all beverages produced or imported Title 27, Chapter 4: prohibits importation, use, and disposal of non-recyclable shopping bag less than 5 mm</p>	

Table 5: Yap State Legislation impacting waste governance in the Federated States of Micronesia

LEGISLATION	REGULATIONS
<p>Constitution of the State of Yap Article XIII relates to the Conservation and Development of Resources. s1 allows the State Government to provide for the protection, conservation and sustainable development of agricultural, marine, mineral, forest, water, land and other natural resources.</p> <p>Code Title 18: Conservation and Resources, Division 4: Environmental Protection, Chapter 15: Environmental Quality Protection Act s1504 establishes the Yap State Environmental Protection Agency. Under s1507, the Agency has the power and duty to control and prohibit pollution of air, land and water, including through (c) adopting and providing for the continuing administration of a Yap State-wide program for the prevention, control, and abatement of pollution of the air, land, and water of Yap State; (e) adopting and implementing plans for the certifications of importers and applicators of restricted use pesticides; and (f) establishing and providing for the continuing administration of a permit system for pollution. s1508 grants the Agency right of entry for various purposes. s1509 requires development proposals to include an environmental impact assessment study. s1512(a) relates to discharge of waste. Under sub-s (1), when the Agency finds that (A) discharge of waste is taking place, or is threatening to take place, in violation of the Act or regulations; or (B) the waste collection, treatment or disposal facilities of a pollution discharger are approaching capacity; the Agency must require the discharger to submit a detailed time schedule of specific action to prevent a violation for approval by the Agency. Under sub-s (2), when the Agency finds that a discharge of waste is taking place, or is threatening to take place, in violation of the requirements, the Agency must issue a cease-and-desist order. s1512(b) relates to pollutants, requiring a person who (A) discharges pollutants to air, water or land in violation of this chapter or a permit; or (B) intentionally or negligently causes a pollutant to be discharged to air, water or land; to clean up the pollutant or abate its effects on the order of the Agency.</p> <p>s1512(c) states a person who violates any provision of the chapter is liable to a civil penalty of between \$100 and \$10,000 for each day of violation. s1512(d) allows the Attorney General to initiate proceedings on behalf of the Agency of State Government.</p>	<p>None identified.</p> <p><u>Regulations for Environmental Impact Assessment (commenced 15 February 1995)</u> Outlines the Environmental Impact Assessment process, with a checklist for applicants. Includes preliminary, draft and final Environmental Impact Statements and assessment of these.</p> <p><u>Regulations for Earthmoving and Sedimentation Control (commenced 29 November 1994)</u> Regulations relating to earthmoving activities such as dredging, quarrying and construction. All earthmoving activities must be conducted in accordance with the regulations, including with a plan for disposal of materials (r3.3(j)).</p> <p><u>Regulations for Persistent Organic Pollutants (commenced 30 December 2014)</u> r2.1 states no person may possess, manufacture, use, store, transport, discard or otherwise discharge any substance on the Priority List, unless in accordance with a Director-approved Disposal Plan. Part III gives the Agency powers of search and seizure. Regulation 4 makes violation of the provisions liable to civil penalties in s1512 of the Act.</p>
<p>Yap State Law 8-45 [no copy available online] News Release ‘Yap Environmental Protection Agency Bans Plastic Bags’, Micronesia Forum (10 July 2014) states that: ‘The Yap State Environmental Protection Agency wishes to remind all retailers of their obligations under Yap State Law 8-45 and the Yap EPA Plastic Bag Regulations. As of July 4, 2014, retailers are not permitted to distribute plastic grocery bags to customers. Police officers and Yap EPA officers will be monitoring retailer compliance in this matter. Retailers who distribute plastic grocery bags to customers will be subject to a fine of \$100 per violation’.</p>	<p>Yap EPA Plastic Bag Regulations [no copy available online]</p>

LEGISLATION**REGULATIONS**

Code Title 11: Crimes and Punishment, Ch 3: Offences against Property Rights (s330: Littering) [note an in-country contact identified this as Title 14]

s330(a) establishes an offence of littering.

s330(g) grants 50% of any fine collected to the person who reported the offence to the police. The remaining portion is to be deposited in a Clean-up Activities Account, to be used for cleaning and beautification programs and activities organised by the Yap Government.

S 330(c) imposes an imprisonment term between two days and six months, or a fine between \$25 and \$500, or both, for littering of non-biodegradable material. S330(d) imposes an imprisonment term between one day and six months, or a fine between \$15 and \$500, or both, for littering of biodegradable material.

s330(e) allows the court to impose community service.

Code Title 11: Crimes and Punishment, Ch 8: Miscellaneous Offences (s813: Junk Vehicles) [note an in-country contact identified this as Title 14]

s813(a) states any person who permits a junk vehicle to remain on public or private property 30 days after a junk vehicle warning shall be guilty of littering

Under s813(g), violation of this provision is a misdemeanour with a maximum \$25 fine.

Recycling Finance Law 2009 [no copy available online]

Recycling Program Law 2008 [no copy available online]

Legislation identified by in-country contact but not yet found online or verified:

YSL #4-4 Yap State Public Service Corporation (Utilities Company's mandate for 'refuse collection and disposal')

Title 14: Enabling legislation creating YSPSC

Pesticide Regulations

None identified.

None identified.

None identified.

Recycling Program Regulations 2008 [no copy available online]

Table 6: Policies and reports impacting waste governance in the Federated States of Micronesia

POLICY	DESCRIPTION
Strategic Development Plan 2004-2023	Three-volume plan for strategic development. Volume I outline policies and strategies for development. Strategic Goal 2 under the environment sector is to improve waste management and pollution control. Outcome measures include Stockholm Convention ratification, reduction targets for certain types of waste, access to sanitary human waste systems, and responses to pollution emergencies. Volume II outlines strategic planning matrices and appendices. Volume III outlines Infrastructure development. Solid waste and wastewater management discussed extensively throughout. Heading 5.2.2 discusses existing wastewater system. Heading 5.3 discuss solid waste management.
Solid Waste Management Strategy (Yap) 2018–2027	Overview of context and background; strategy; and action plan. Action plan components include expansion of waste collection services to areas outside of Colonia; privatisation of waste collection service provided in Colonia; enhancement of container deposit system; proper management of public disposal site; green waste recycling; and proper management of inappropriate waste disposal such as waste oil and tires. Annex 1 details current waste flow in Yap.
Solid Waste Management Strategy (Chuuk) 2019–2028	Solid Waste Management Strategy (Chuuk) 2019–2028
Solid Waste Management Action Plan (Pohnpei) 2014–2018	Strategic priorities include institutional arrangements; policy, legislation and enforcement; data collection; waste minimisation; waste collection; waste disposal; e-wastes, waste oil, batteries and tires; medical waste management and capacity building, education and awareness.
Solid Waste Management Strategy (Kosrae) 2018–2027	Overview of context and background; strategy on; and action plan. Action plan components include improvement of waste collection system; improvement of container deposit system; proper management of public landfill site; and proper treatment of waste oil. Annex 1 details current waste flow in Kosrae.
National Solid Waste Management Strategy (2015-2020)	Not publicly available online.
Solid Waste Management Strategy (National) 2010–2014	Background section includes strategic context for solid waste management; its current situation; difficult wastes; and hazardous wastes. Strategic objective 1 is to develop and implement policies, plans, legislation, regulations, and institutional arrangements, which set the right environment to encourage sustainable solid waste management. Strategic objective 2 (is to develop, implement, and operate facilities and programs for solid waste management, which are sustainable, and which protect public health and the environment. Strategic objective 3 is to teach, train, and educate the population to facilitate efficient implementation of systems and programs and enable compliance with these systems and programs.
Biodiversity Strategy and Action Plan (FSM National) 2018	Waste management and pollution identified as a threat to biodiversity on p 6. Waste management challenges discussed in section 2.8 Major Threats to Biodiversity in the Federated States of Micronesia, Theme 7.
Biodiversity Strategy and Action Plan (Chuuk) 2018	Waste management and pollution identified as a threat to biodiversity on p 8, but also not emphasised within Plan as falls under EPA responsibility. Action item is to have followed the EPA’s strategic action plan for waste management by end of 2018,
Biodiversity Strategy and Action Plan (Kosrae) 2018	Waste management and pollution identified as a threat to biodiversity on p 8. Strategy and action plan include minimising waste contributing to environmental pollution.
Biodiversity Strategy and Action Plan (Pohnpei) 2018	Waste management and pollution identified as a threat to biodiversity on p. 8. Objective 5 includes to increase awareness of proper waste disposal and recycling and pollution control.

POLICY	DESCRIPTION
Biodiversity Strategy and Action Plan (Yap) 2018	Waste management and pollution identified as a threat to biodiversity on p 7. Objective 5 (pp 10, 20, and vi of Annex 1) is managing pollution.
Infrastructure Development Plan 2016-2025	Wastewater systems and solid waste management are key sectors discussed throughout the report. The objectives for these sectors are on p 16. Includes a separate plan for each State.
Nation Wide Integrated Disaster Risk Management and Climate Change Policy 2013	Waste management and sanitation is a strategic outcome.
Joint State Action Plan for Disaster Risk Management and Climate Change (Chuuk) 2017	Objectives listed on p 8 include 4.2 to improve waste management and promote environmentally friendly recycling; and 5.1 increased environmentally friendly sanitation coverage. Poor sanitation and waste management identified as human-induced vulnerability to biodiversity on p 16.
Joint State Action Plan for Disaster Risk Management and Climate Change (Kosrae) 2015	Objective 3.6 on p 37 is to strengthen waste management. Includes actions, sub actions, sources of actions and lead/supporting agencies.
Joint State Action Plan for Disaster Risk Management and Climate Change (Pohnpei) 2016	Objective 6.6 under Objective 6 Infrastructure is to improve management of solid waste, on p 79. Solid waste management discussed on p 28.
Joint State Action Plan for Disaster Risk Management and Climate Change (Yap) 2015	Objective 3.4 under Objective 3 Resources and Development and Environment is to address and improve management of solid waste, sanitation and hazardous waste, on p 45 and 50.
National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants 2007	Submitted in fulfilment of the Federated States of Micronesia’s obligations as a party to the Stockholm POPs Convention.

REPORTS	DESCRIPTION
Baseline Study for the Pacific Hazardous Waste Management Project – Healthcare Waste 2014	Report on healthcare waste management structure in the Federated States of Micronesia, identification of key issues, options analysis and recommendations.
Baseline Survey Reports on Used Oil, Recycling, Asbestos	Through PACWASTE and JPRISM, survey reports were developed to assess systems for managing Used Oil, Asbestos, and Recycling in 2013, 2014, 2017.
Environmental Law in the Federated States of Micronesia: A Review 2009	Comprehensive review of environmental law in the Federated States of Micronesia, focusing nationally. Section 2 relates to the Constitution; Section 3 on the national government administrative arrangements; Section 4 on Title 25 of the Federated States of Micronesia Code; Section 5 on International Environmental Treaty Implementation (including Stockholm, Basel, Waigani and Rotterdam); Section 7 on Pohnpei State Environmental Law; and Section 8 on conclusions and recommendations.
Federated States of Micronesia Profile in the Solid Waste and Recycling Sector 2018	Data on solid waste and recycling in the Federated States of Micronesia.
Fifth National Report to the Convention on Biological Diversity 2014	Waste discussed throughout. Pollution through ineffective and insufficient waste management practices discussed on p 24. Theme 7 of report is waste management, including case study of Basel-approved recycling operator.
Persistent Organic Pollutants National Implementation Plan Inventory Collection Workshop: Outcome Report 2019	Report on workshop conducted to train attendees on identification and inventory collection of POPs.

REPORTS	DESCRIPTION
Chemical Management National Guidance Report (2016)	List of current issues and the proposed actions were first developed during a national training course on chemical management which was held in Pohnpei over the period 4 July 2016 to 8 July 2016. SPREP contracted USP to conduct the training.
Chemical Management Training Outcomes (2016)	SPREP contracted USP to conduct a training on best practices best practice laboratory chemical management, chemical inventories and Stockholm Convention NIP updating and reporting, including POPs inventories. Some of these areas were also covered in the separate sessions for Customs Officers, along with information on the enforcement of national chemical regulations in the context of the chemicals and waste MEAs.
Good Practices Report on SWM (2015)	Highlighting SWM good practices in the four states through JPRISM in 2015
Good Practices Report on SWM (2016)	Highlighting SWM good practices in the four states through JPRISM in 2016
Good Practices Report on SWM (2017-2019)	Highlighting SWM good practices in the four states through JPRISM in 2017-2019
Leachate Guidelines (2015)	Establishing standards for leachate monitoring
Review of Natural Resource and Environment Related Legislation: Federated States of Micronesia 2018	Overview of environment-related legislation in the Federated States of Micronesia as of January 2018. Includes section on waste management and pollution.
Second National Communication to the UNFCCC 2015	Waste management highlighted as a significant environmental health issue throughout. Includes carbon emissions associated with waste sector.
State of Environment Report 2018	Waste management, and water and sanitation, included under theme of built environment.
Environmental Social and Management Plan (ESMP) for Upgrades and Expansions to Existing Power Stations and Networks	Covers proposed upgrades and expansions to power stations and networks funded by the Energy Sector Development Program in the four States.
Basel Convention National Report 2001	Submitted in fulfilment of the Federated States of Micronesia's obligations as a party to the Basel Convention.
Basel Convention National Report 2002	Submitted in fulfilment of the Federated States of Micronesia's obligations as a party to the Basel Convention.

Table 7: Government departments with waste responsibilities in the Federated States of Micronesia

GOVERNMENT DEPARTMENTS	RESPONSIBILITIES
Department of Environment, Climate Change and Emergency Management (DECCEM) (National)	New national department that provides support to the President on matters relating to emergency, environment and sustainable development and climate change, including waste management. Also, overseas coordination between States.
Chuuk Environmental Protection Agency (EPA)	State environmental agency.
Pohnpei Environmental Protection Agency (EPA)	State environmental agency.
Yap Environmental Protection Agency (EPA)	State environmental agency. This webpage from an Australian environmental volunteer organisation, AVI, provides some up to date information about the mission and functions of the EPA.
Kosrae Island Resource Management Authority (KIRMA)	State environmental agency.

Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in the Federated States of Micronesia. Information on these activities was obtained from the desktop research, as well as survey responses and interviews with in-country stakeholders.

The National Department of Environment, Climate Change and Emergency Management (DECEN) is apparently working with SPREP to revisit some of its legislations. Other proposed new legislative initiatives include a Littering Law for Chuuk, and Solid Waste Regulations under the Chuuk Clean Environment Act.

For Yap State in the Federated States of Micronesia, the main waste minimisation activity is the State Container Deposit Legislation Recycling Program, which is created by law and administered via regulations under the Yap State Environmental Protection Agency. Currently, the Program takes in four recyclable materials categories. Quantities of these targeted materials imported and recycled are tracked by the agency, as well as associated deposits/levies collected upon import for the materials, and subsequent refunds issued upon redemption. The Solid Waste Management Strategy for Yap includes an action plan item for enhancement of this program. The Solid Waste Management Strategies for Chuuk and Kosrae States include action plans to introduce their own container deposit systems.

Amendments to current State recycling laws and national legislation have been made to prohibit the importation of single use disposable styrofoam and plastic food service items, and plastic shopping bags. The national measures were due to become effective on 1 July 2020.

In conjunction, there are a number of actions being undertaken:

- ongoing awareness campaigns in respective state schools and communities on waste, littering, and the 3Rs through projects such:
 - as the "Chuuk Litter Bug Project," facilitated by the Chuuk Women's Council
 - the "Environment Club" facilitated by Pohnpei State EPA
 - the "Spiffy, garbage collector" facilitated by KIRMA
 - the "Solid Waste/3R campaign" facilitated Yap State EPA
- Pohnpei has proposed the introduction of a single use plastic bag ban. The legislative basis for this may be 'Title 27, Chapter 4: Prohibits importation, use, and disposal of non-recyclable shopping bag less than 5 mm'.
- During the Micronesian Island Forum in 2019, leaders from the Micronesia region (Republic of the Marshall Islands, the Federated States of Micronesia, Palau, Guam, Commonwealth of the Northern Mariana Islands,) designated September 13 as Micronesia Clean Up day where the region will address clean-up efforts through activities with all facets of society.
- the Federated States of Micronesia has partnered with UNEP to strengthen its capacity to manage chemical waste, in line with relevant MEAs, in a three-year project. This may include establishment of a Chemical Management System and the role of Chemical Waste Management Officer being incorporated into a revised National Implementation Plan (NIP) for the Stockholm POPs Convention. The status of the revised NIP is in finalisation stage.

Table 8: Pipeline activities for the Federated States of Micronesia

PIPELINE ACTIVITY	DESCRIPTION	TIMEFRAME
NATIONAL WASTE POLICY	National government partnering with SPREP to produce this policy.	In progress.
NEW STATE LEGISLATIVE INITIATIVES	Chuuk State -Municipal ordinances and State Solid Waste under the Clean Environment Act	In progress.
CONTAINER DEPOSIT SCHEMES	Introduction proposed in Chuuk; Proposed expansion in Yap.	Action plan items in relevant State Solid Waste Management Strategies for 2018/9-2027/8
CHEMICAL MANAGEMENT SYSTEM	Capacity building project with UNEP. Includes plans for a new Chemical Waste Management Officer.	<u>UNEP project has a three-year implementation timeframe.</u>

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 Federated States of Micronesia to these MEAs.

Table 9: MEAs active in the Federated States of Micronesia

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
Basel Convention	5 Dec 1995	Mr. Andrew R. Yatilman Secretary Department of Environment, Climate Change, and Emergency Management (DECEM) PS-69 FSM National Government Palikir, Pohnpei, FSM 96941 Tel: (691) 320-8814/8815 Fax: (691) 320-8936	Title 25 (2012) Also see Basel Convention National Report 2001 (submitted in 2003) and Basel Convention National Report 2002 (submitted in 2003).

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
		Email: decem.fsm@gmail.com	-Regulations to control transboundary movement of hazardous waste (2015)
Minamata Convention	Not party		
Montreal Protocol	6 Sept 1995	Mr. Andrew R. Yatilman Secretary Department of Environment, Climate Change, and Emergency Management (DECEM) PS-69 FSM National Government Palikir, Pohnpei, FSM 96941 Tel: (691) 320-8814/8815 Fax: (691) 320-8936 Email: decem.fsm@gmail.com	Title 25 (2012)
Rotterdam Convention	Not party		
Stockholm Convention	13 Oct 2005	Political Focal Point Department of Foreign Affairs Federated States of Micronesia Postal address: P.O. Box PS123 96941 Palikiiri Micronesia (Federated States of) Phone: +691 320 8814 Fax: +691 320 2933 Email: foreignaffairs@mail.fm, climate@mail.fm Environmental Health Coordinator Division of Health Services Department of Health, Education & Social Affairs FSM National Government P.O. Box PS 70 96941 Palikir Micronesia (Federated States of) Phone: +691 320 8300 Fax: +691 320 8460 Email: climate@mail.fm	Title 25 (2012) Yap State: <u>Code Title 18: Conservation and Resources, Division 4: Environmental Protection, Chapter 15: Environmental Quality Protection Act Regulations for Persistent Organic Pollutants (State of Yap and Kosrae)</u> See also: <u>National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants 2007</u> (submitted in 2017).
Waigani Convention	21 Oct 2001	Mr. Andrew R. Yatilman Secretary Department of Environment, Climate Change, and Emergency Management (DECEM) PS-69 FSM National Government Palikir, Pohnpei, FSM 96941 Tel: (691) 320-8814/8815 Fax: (691) 320-8936 Email: decem.fsm@gmail.com	Title 25 (2012)

SECTION 2: LEGISLATIVE ASSESSMENT



This qualitative assessment of the Federated States of Micronesia's legislative environment has classified the Federated States of Micronesia's 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 Federated States of Micronesia 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 Federated States of Micronesia's 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 Federated States of Micronesia to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

Overview of the legal system

The Federated States of Micronesia is an independent sovereign state in a Compact of Free Association with the United States of America (USA). It comprises 607 islands, 65 of which are inhabited, making up the four states of Pohnpei, Kosrae, Chuuk, and Yap in the east of the Caroline Islands group. The population of the Federated States of Micronesia is approximately 104,000 (2019 UN estimate). Chuuk State, comprising seven major island groups, and Pohnpei State, the site of the national capital Palikir, have large populations of almost 49,000 and 36,000 people, respectively. There are smaller populations in Yap State, comprising four large islands and seven small islands and atolls, and Kosrae State, a single high island.

The Caroline Islands were formerly known as the New Philippines when they were colonised by Spain as part of the Spanish East Indies. Following Spain's defeat in the Spanish American War, Spain sold the archipelago to Germany under the German–Spanish Treaty of 1899, and Germany incorporated the island group into German New Guinea.

During World War I, the islands were captured by Japan. Following the war, the League of Nations awarded a mandate for Japan to administer the islands as part of the South Pacific Mandate. In 1947, they became part of the Trust Territory of the Pacific Islands under the administration of the USA.

The eastern four island groups became the Federated States of Micronesia in 1979, adopting a constitution. In 1986, the Federated States of Micronesia achieved independence under a Compact of Free Association with the USA, which was renewed in 2004. Under this Compact, the USA is responsible for defence and also provides financial aid for economic development. In 1990, the Federated States of Micronesia's independence as a matter of international law was confirmed when the United Nations ended the country's Trusteeship status pursuant to Security Council Resolution 683.

The President is the Head of State and Head of Government and the Cabinet includes the vice president and the heads of the executive departments. The legislative branch (Congress) is unicameral and comprises 14 senators. The court system comprises the National Supreme Court and four State courts. Each State is headed by a Governor and Lt Governor who are elected by the people and serve four-year terms. The Legislature is unicameral except for Chuuk State, and consists of representatives and senators.

the Federated States of Micronesia has a mixed legal system of common law and customary law. Sources of law are the Constitution (as the supreme law), legislation passed by the Congress and received law from the former Trust Territory, customary law and the common law applied in the USA and elsewhere. Each State also has its own constitution and State laws and regulations.

National and state legislation for the Federated States of Micronesia is available on the online the Federated States of Micronesia Legal Information System. This website contains an extensive number of laws but, in most cases, the State Code Titles addressing environmental protection are not available and only part of the National Code addressing environmental matters is accessible. Acts passed since consolidation of the codes and secondary legislation, such as regulations, are generally not available online.



This assessment of legislation is based on legislation relevant to waste at the national level and in Yap State, where information was available. Where laws for the other states have been available, they are also described, but it should be noted that not all the laws relevant to waste in the other jurisdictions could be obtained for analysis. The consultant was only able to obtain current laws relevant to waste for Yap State (little information was available online or provided from contacts from Chuuk, Kosrae or Pohnpei. Accordingly, the following information is organised to first provide a detailed analysis of Yap State's legislation and its relevance to the priority waste streams. Yap is used in this way as a 'case study', suggestive of approaches that might also have been adopted in the other the Federated States of Micronesia states but which could not be confirmed. Where the consultant has been able to obtain information about laws in states other than Yap, those laws are also described. Where relevant, national laws are also noted.

Legislative Assessment

This section contains a qualitative legislative assessment for the Federated States of Micronesia 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



Overall, the Federated States of Micronesia's legislation regarding waste is assessed as having medium-to-high relevance for the priority waste streams, with a degree of variation between each of the four states.

In Yap, the legislation is assessed as having high relevance for the priority waste streams as all eight priority waste streams continue to be priorities. Waste is covered generally through, definitions of 'waste' and 'pollutant', and in some cases specific waste streams are defined in the legislation, including secondary laws such as regulations.

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

Table 10: Definitions of waste the Federated States of Micronesia’s legislation

Legislation	Definitions
<p>National</p> <p><i>Title 25 of the FSM National Code, Subtitle I, incorporating the Environmental Protection Act, Chapter 1, section 103(5)</i></p>	<p>‘Pollutant’ is defined as: ‘one or more substances or forms of energy which, when present in the air, land, or water, are or may be harmful or injurious to human health, welfare, or safety, to animal or plant life, or to property, or which unreasonably interfere with the enjoyment by the people of life or property’</p>
<p>Yap State</p> <p><i>Title 18 Conservation and Resources</i></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>‘hazardous healthcare waste’ is defined as ‘Solid Waste generated by healthcare providers, mortuaries, and other parties who manage human tissue, that is potentially hazardous to human health’. It includes, but is not limited to, ‘used or unused sharps; waste that is suspected to contain pathogens or otherwise be infectious; pathological waste such as human tissues, organs, fluids, and body parts; pharmaceutical waste; and radioactive waste’</p> <p>‘Sludge’ is defined as ‘any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility.’</p> <p>‘plastic bag’ as ‘a carry bag that has handles, made from (in whole or in part) polyethylene and is either biodegradable or non-biodegradable’</p>
<p>Yap State</p> <p><i>Title 11 on Crimes and Punishment</i></p>	<p>‘Junk vehicle’ is defined as ‘any vehicle normally powered by an engine and normally having four or more wheels, which vehicle is incomplete or damaged to the extent that the hood, windshield, engine, steering wheel, radiator, or any tire or wheel (except any spare tire or wheel) is missing or detached, or two or more tires are flat, or one or more doors are hanging loose, or fifty percent (50%) or more of the body surface is covered by rust.’</p>
<p>Yap State</p> <p>Regulation (r 1.4).</p>	<p>‘Solid Waste’ is defined to mean ‘any waste, garbage, trash, refuse, Sludge or other material, substance, or by-products that is unwanted or unusable.’</p> <p>‘Hazardous Substances’ means ‘any substance defined as a Hazardous Substance and regulated under the Agency’s Hazardous Substance Regulations, excluding waste crude oil or petroleum products’.</p> <p>‘Recyclable’ is defined as ‘any item that is included within the Yap State Recycling Program in accordance with the Agency Recycling Regulations’</p>
<p>Chuuk State Code</p> <p><i>Title 22, Chapter 1, section 4</i> establishes the Chuuk State Environment Protection Authority</p>	<p>‘pollutant’ is defined to mean ‘one or more matters or forms of energy which, when present in the air, land and water are or may be harmful or injurious to the health, welfare or safety of humans, animals, plants, or property, or which unreasonably interferes with the enjoyment by the people of life or property’ (s 3(5))</p> <p>‘littering’ is defined as ‘dumping, throwing, placing, depositing, or leaving, or causing to be dumped, thrown, deposited or left any refuse of any kind or any object or substance which tends to pollute, mar or deface, into or upon or about:</p> <ol style="list-style-type: none"> a. any public street, highway, alley, road, stream, watercourse, or by other body of water; or b. any private property without the consent of the owner or occupant of such property’. The definition of littering also encompasses ‘any unpermitted writing, drawing, painting, engraving, on any wall, structure, building, vessel, vehicle or boat’ (s 2).

Legislation	Definitions
<p>Kosrae State Code <i>Title 19 Environmental Protection and Management</i></p>	<p>'Littering' is defined as 'the wilful or negligent throwing, dropping, placing, depositing, spitting or sweeping of any waste matter on land or water in other than appropriate storage containers or areas designated for such purposes'</p> <p>'Fouling of public rivers and public water supply' is defined as 'introducing impurities into a stream, river or public water supply, except for the introduction of impurities in a stream or river in connection with washing of clothes or a person'</p> <p>'Polluting' (ss 19.502-504) Polluting is defined as 'wilfully or negligently discharging pollutants in violation of Title 19 or in violation of any condition or limitation included in a permit issued pursuant to Title 19 or, in the case of introduction of pollutants into publicly owned treatment works, violating a pre-treatment standard or toxic effluent standard'. 'Hazardous substances' means: (a) Any substance which is toxic, corrosive, an irritant, a strong sensitizer, flammable, combustible, or generates pressure through decomposition, heat or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children or any substance which the Kosrae Island Resource Management Authority (KIRMA), in consultation with the Director of Health, finds comes within the definition of this paragraph.(b) Any radioactive substance, if with respect to such substance as use in a particular class of article or as package, KIRMA, in consultation with the Director of Health, determines that the substance is sufficiently hazardous to require labelling in order to protect that public health. (c) Any substance that KIRMA, in consultation with the Director of Health, determines is a hazardous substance consistent with the purpose and intent of this chapter, including but not limited to substances containing pesticides</p> <p>'Radioactive substance' means 'a substance that emits ionizing radiation.</p> <p>'Solid waste' is defined to mean 'any waste composed of metal, paper, plastic, other synthetic materials or any other solid substance deemed unsafe for the health of the forest and designated by KIRMA through regulation</p> <p>'Liquid waste' means any liquid substance, synthetic or organic, which may pollute soil, groundwater or surface water, including but not limited to petroleum products, pesticides, chemicals, or any other substance deemed unsafe for the health of the forest and designated by KIRMA through regulation.</p>
<p>Pohnpei State Code <i>Title 27 Environment Protection, 2. Chapter 2</i></p>	<p>'garbage', defined to mean 'the solid or semi-solid but reusable animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods, including cans, bottles, containers, and cartons, in which it was received and wrapping in which it may have been placed for disposal'.</p> <p>'litter' meaning 'rubbish, refuse, waste material, garbage, trash, offal, or any debris of whatever kind or description, whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste'</p> <p>'rubbish' meaning 'disposable solid waste, including ashes, consisting of both combustible and non-combustible waste such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and broken or rejected matter or litter of any kind</p>

Details specifically related to the relevance of laws to the PacWastePlus programme are included in **Table 11**.

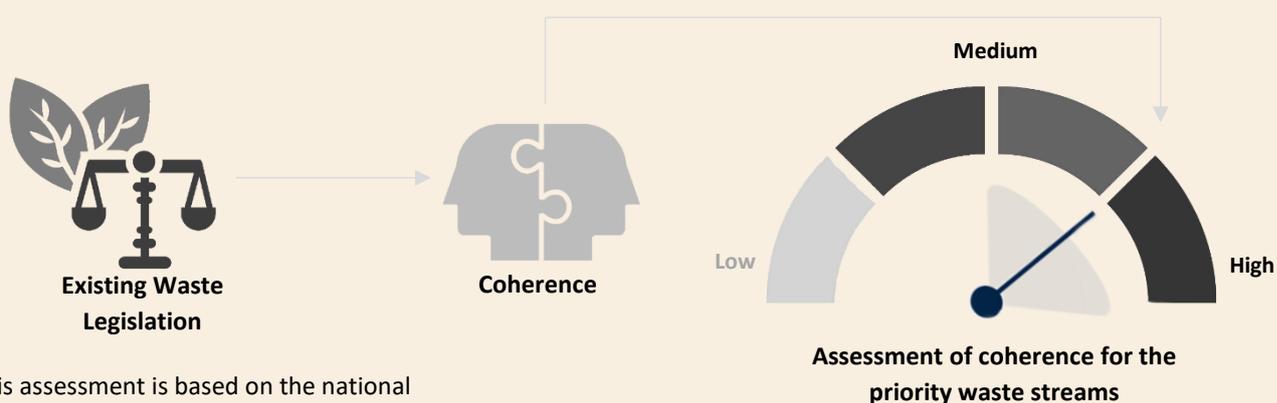
Table 11: Laws relevant to PacWastePlus waste streams

State	Legislation	Comment
National	<i>National Code Title 25</i>	<p>Plastic</p> <ul style="list-style-type: none"> effective in mid-2020, introduced a ban on the importation of Styrofoam, plastic food service items and plastic shopping bags. Under a new Chapter 4 in Title 25, it is ‘unlawful for a person to import one-time-use disposable Styrofoam and plastic food service items, such as: plates, cups and eating utensils, and plastic shopping bag’ (section 401). Section 402 provides that nothing in the section prevents a ‘person from importing reusable or recycled Styrofoam or plastic food service items, or plastic shopping bags’. The relevant terms are not defined
Yap State	<i>Chapter 15 of Yap State Code Title 18</i>	<p>E-waste</p> <ul style="list-style-type: none"> Appliances, e-waste and electronics fall into Category F (r2.1). Under regulation 2.2, ‘category F Solid Waste must be Disposed of at the Yap State Waste Management Centre in contained areas separate to the Cells for review and, where appropriate, collection by the Recycling Operator’
Yap State	<i>Yap State Code Title 18 by the Yap State Recycling Act of 2007, Chapter 16</i>	<p>Recyclables</p> <ul style="list-style-type: none"> Establishes the Yap State Recycling Program whereby ‘the State of Yap shall from time to time appoint a recycling agent to collect such waste materials as are designated by regulation and, to the extent possible, dispose of such material by sale and shipment from Yap’ (s 1603). A Recycling Deposit Fee in an amount specified by the Recycling Program Regulations shall be charged to an importer of any items designated by the Recycling Program Regulations arriving in the State of Yap (s 1606). The Yap State Recycling Program Regulations made under the Yap State Recycling Act (Title 18, Chapter 16), and signed in 2008, designate certain containers as being covered by Yap’s Recycling Program. Specifically, the regulations cover any beverage container made of aluminium, any glass beverage container, any beverage container made from PET, and any cooking oil container made from PET (Schedule A). The Regulations contain provisions relevant to financial and operational aspects of the container deposit scheme. As discussed further below, there is scope for the Yap Recycling Program to cover all forms of recyclable waste in the future, as appropriate. <p>Plastics</p> <ul style="list-style-type: none"> There is a ban on plastic bags, Section 1701 provides that retailers are prohibited from distributing or selling any plastic grocery bags within Yap. Prior to the ban becoming effective, retailers were required to impose a surcharge on

State	Legislation	Comment
		<p>plastic bags and to display signs raising awareness about the ban on plastic bags.</p> <ul style="list-style-type: none"> The Solid Waste Management Regulations do not include a definition for plastics, aside from the general definition of recyclable (which would include PET containers, Category A). Any plastic would therefore be presumably covered by the catch all category J. Category J waste must be disposed of at the landfill
Yap State	<i>Solid Waste Management Regulations</i>	<p>Recyclables</p> <ul style="list-style-type: none"> categories of waste that can be recycled are either required to be recycled in accordance with the Yap State Recycling Program or at the Yap State Waste Management Center (rr 2.1 and 2.2). 'Recyclables' (category A) and scrap metal (category E) must be disposed of through the Yap State Recycling Program while rubber tires (category C) and waste oil (category H) must be disposed at the Yap State Waste Management Center.
Pohnpei State	<i>Pohnpei State Code Title 27, Chapter 3 Recycling of Beverage Containers</i>	<p>Recyclables</p> <ul style="list-style-type: none"> The Recycling Program is administered by the Pohnpei Environmental Protection Agency. The Recycling Fund (s3-105) created from deposits of 6 cents on certain beverage containers 'produced or brought into' Pohnpei State (s3-110) and attached at the time of first sale (s3-111), is administered by the Department of Treasury and dispensed to meet the costs of administering the Recycling Program, including for the purchase of empty beverage containers for 5 cents (3-106). the Recycling Program law requires regulations to make the program operational by designating the types of recyclables that will be covered (3-108).
Pohnpei State	<i>Pohnpei State Code Title 27, Chapter 4 Control of Plastic Wastes</i>	<p>Plastics</p> <ul style="list-style-type: none"> prohibits wholesalers and retailers from providing plastic grocery bags to customers (s4-103): Under section 4-102, '[e]xcept as provided in Section 4-104 of this chapter, "plastic bag" means a carryout bag that is less than 5.0 mils thick and made primarily of thermoplastic synthetic polymeric material which is provided by a wholesale or retail establishment to a customer at the point of sale and incidental to the purchase of other goods.' Exceptions are made under section 4-104 for: original packaging materials; plastic bags for chilled or frozen merchandise; plastic bags certified by Pohnpei EPA to be biodegradable; certain 'durable' plastic bags.
Kosrae State	<i>Kosrae State Code Title 19, Chapter 6</i>	<p>Recyclables</p> <ul style="list-style-type: none"> It is an offence to import empty aluminium beverage containers (Title 13, Chapter 6). Kosrae's environmental protection authority, KIRMA, is the agent and administrator of the Recycling Program (s19.602, 19.603), funded by a

State	Legislation	Comment
Kosrae State		Recycling Deposit Fee which is paid by a person or entity importing or manufacturing covered items (s19.604), into a Recycling Fund (s19.605)
	<i>Kosrae State Code Title 11, Chapter 19 Control of Plastic Wastes</i>	<p>Plastics</p> <ul style="list-style-type: none"> prohibits wholesalers and retailers from providing plastic grocery bags to customers (s11.1903). Under section 11.1902, “plastic bags” means ‘shopping or grocery carryout bags that [have] handles, made from (in whole, or in part) polyethylene and is either biodegradable or non-biodegradable provided by a wholesale business or retailer, including shops, restaurants and salespeople to a customer at the point of sale and incidental to the purchase of other goods.’ Section 11.1904 contains exceptions for: original plastic packaging materials; plastic bags for chilled or frozen merchandise; bags or baskets made entirely of paper or local plant materials; re-useable bags; single use fresh produce bags without handles; freezer or snap lock bags; garbage bin liners or garbage bags.
Chuuk State	<i>1991 amendment to the 1979 Act establishing the Environmental Improvement Tax and Truk Environmental Action Agency Clean Environment Act of 2018</i>	<p>Recyclables</p> <ul style="list-style-type: none"> The Chuuk Visitors Bureau is responsible for the administration of a tax and refund scheme on certain metal beverage cans. The recycling program established in 1979 and subsequently amended is no longer implemented although it reportedly remains in force <p>Plastics</p> <ul style="list-style-type: none"> the import, possession, sale or distribution of “single-use plastic shopping bags” and “expanded polystyrene (Styrofoam)” is prohibited from December 2020 and December 2021 respectively (s7). ‘Single-use plastic bag’ is defined in section 3 as ‘a bag made of plastic including but not limited to bags made of an and all grades of polyethylene, polyethylene terephthalate, polyvinyl chloride, nylon with a thickness of less than 1.5 millimetres provided at the checkout stand, cash registered, point of sale or other point of departure and that are intended for the purpose of transporting food or merchandise out of the establishment’

Coherence



This assessment is based on the national and Yap State laws and could vary for the other states.

At the national level, the Department of Environment Climate Change and Emergency Management (DECCEM) is the lead department responsible for environmental issues, including waste.

The Federated States of Micronesia Environmental Protection Office is the national regulatory body dealing with environmental matters, it has the responsibility of giving effect to the Federated States of Micronesia's obligations under environment treaties namely:

- the Basel Convention
- the Montreal Protocol
- the Stockholm Convention
- the Waigani Convention (s 210)

The Federated States of Micronesia Environmental Protection Office may also *'[a]dopt and administer nationwide programs for the protection of the environment, human health, welfare, and safety of FSM'* and *'[c]ollect information and establish recordkeeping, monitoring, and reporting requirements as necessary and appropriate to carry out the purposes'*.

DECCEM, as opposed to the Federated States of Micronesia Environmental Protection Office, appears to take a lead role in the coordination of waste management issues with the state EPAs. Under a provision in the Federated States of Micronesia *Environmental Protection Act* in *National Code, Title 25 (Subtitle I)*, DECCEM provides the Federated States of Micronesia Environmental Protection Office *'with necessary technical and legal assistance'* to fulfil its role (s 206). The Director of the Federated States of Micronesia Environmental Protection Office is also *'authorised to enter into written cooperative agreements with the departments or agencies of the National Government of the Federated States of Micronesia to assist in achieving the purposes of' National Code Title 25, Subtitle I (s 301)*.

At the state level, environmental protection agencies have been established to regulate environmental issues, including waste, these are:

- the Chuuk Environmental Protection Agency
- Kosrae Island Resource Management Authority (KIRMA)
- Pohnpei Environmental Protection Agency
- Yap Environmental Protection Agency

State government departments and bodies responsible for the environment, as well as for such matters as health, sanitation, public works, public utilities, finance, and tourism, play an important role in the development and implementation of legislation relevant to waste management.

Waste disposal sites are reportedly managed by government entities in Yap, Chuuk and Kosrae, and by a private company in Pohnpei. In Yap, the Department of Public Works and Transportation manages waste collection services and contracts these out to a private contractor.

the Federated States of Micronesia *Environmental Protection Act in National Code Title 25 (Subtitle I)* authorises the Director of the Federated States of Micronesia Environmental Protection Office 'to enter into written cooperative agreements with the States or state agencies to assist in achieving the purposes set out in' the Federated States of Micronesia Environmental Protection Act (s 301). the Federated States of Micronesia does not currently have any law or arrangement governing the division of national and state responsibilities for environmental protection in general, or for waste management. A draft memorandum of understanding (MoU) between DECEM and the individual state EPAs on 'Cooperatively Protecting the Environment' has been prepared and circulated for comments in the case of at least one of the Federated States of Micronesia states, but the status of that initiative is not known. The draft MoU did not address the matter of waste management in general, but hazardous waste, regulated by international conventions.

In practice, the decentralised nature of responsibilities for waste management as between the national and state governments appears to be well-accepted. The role of the DECEM is to coordinate with the states and to consolidate their efforts, the national government does not direct the states as to how to manage waste. The national government communicated with the states on their strategies for waste management at the state level. State strategies are integrated into the *National Solid Waste Management Strategy (2015-2020)* and a DECEM representative is coordinating the implementation of that strategy. The states also work closely with the national government on issues relevant to international conventions, such as reporting, and in other areas of national jurisdiction, such as exports. The DECEM facilitated the export of waste oil from Pohnpei to New Zealand and it would be responsible for overseeing any future arrangements for exports of wastes from the individual states of the Federated States of Micronesia.

The coherence of legislation governing waste and supporting institutional infrastructure in Yap appears to be medium-to-high. Several government departments and bodies are engaged in waste management in Yap but the distinction between regulatory and operational functions appears to be clear and appropriate. The Yap Environmental Protection Authority (Yap EPA) has wide-ranging powers to control and prohibit pollution of air, land, and water. Under Chapter 15 of the Yap State Code Title 18, the Yap EPA has the power and duty to control and prohibit pollution of air, land, and water through a range of instruments and mechanism, including by adopting regulations (s 1507). It has adopted Regulations that address specific issues arising from solid waste and on recyclable containers (for a container deposit scheme), and plastic bags (giving effect to a ban). The Department of Public Works and Transportation has operational responsibility for waste collection. The Department of Health Services is responsible for healthcare waste issues.

The Yap EPA also has regulatory oversight in respect of groundwater, with operational responsibilities for water assigned to Gagil-Tomil Water Authority (GTWA), Southern Yap Water Authority (SYWA) and Yap State Public Service Corporation (YSPSC).

Effectiveness



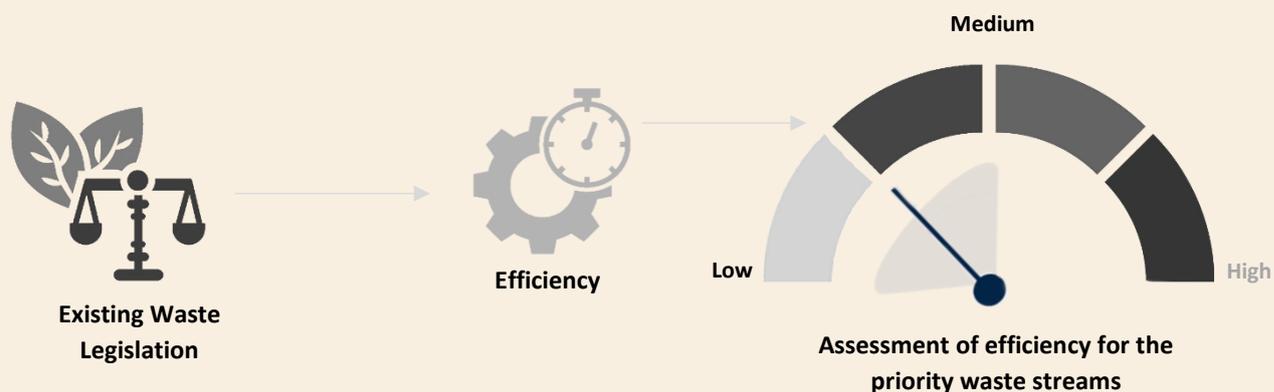
That the enabling legislation for waste management sits under the broader ambit of environmental protection at the national and state levels in the Federated States of Micronesia increases the effectiveness of the Federated States of Micronesia's waste-related legislation. The establishment of the environmental regulatory agencies is also critical to the effectiveness of the laws. *Subtitle 1 of National Code Title 25* provides the Federated States of Micronesia Environmental Protection Office with general powers and duties in the following terms (s 209): *'[t]he Office shall have the power and duty to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water in accordance with this subtitle and with the regulations adopted and promulgated pursuant to this subtitle, including measures undertaken to prohibit or regulate the testing, storage, use, disposal, import and export of radioactive, toxic chemical, or other harmful substances. The Office shall balance the needs of economic and social development with those of environmental quality and shall adopt regulations and pursue policies which, to the maximum extent possible, promote both these needs and the policies set forth in section 102 of this subtitle'*.

Also significant to effectiveness is the requirement to produce an annual report on the environment. Under *National Code Title 25*, the Director of the Federated States of Micronesia Environmental Protection Office *'shall transmit to the President and Congress, no later than September 30th of each year, an environmental quality report for the preceding calendar year, covering the status and conditions of the environment of the Federated States of Micronesia, and a review of the programs and activities of the National Government, state governments, municipal governments and nongovernmental entities, with particular reference to their effect on the environment of the Federated States of Micronesia'* (s 208). A Federated States of Micronesia State of the Environment Report for 2018 is available.

At the state level, states' laws for waste management are also principally directed at environmental protection. Taking the particular example of *Yap State*, *Title 18 Chapter 15* provides the following mandate for the Environmental Protection Agency (s 1502): *'[t]he Yap State Government, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth and redistribution, cultural change, resource exploitation, and technological advances, and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the State of Yap, in cooperation with the Federated States of Micronesia National Government, municipal governments, and other concerned public and private organizations, to use all practical means and measures, including financial and technical assistance, to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the State of Yap'*.

Yap State has developed its laws on waste management, particularly through regulations, to increase the effectiveness of the environmental laws. Targeted regulations providing for the sophisticated segregation of wastes can be highly effective at managing waste streams. Public information is also recognised as important with, for example, the requirement in the Prohibition of Plastic Bag Regulations that retailers display signs raising awareness about the ban on plastic bags. The Yap EPA does not have a dedicated website providing information about their activities. This contrasts with Pohnpei and Kosrae, both of which have websites although in some cases links were broken or pages incomplete.

Efficiency



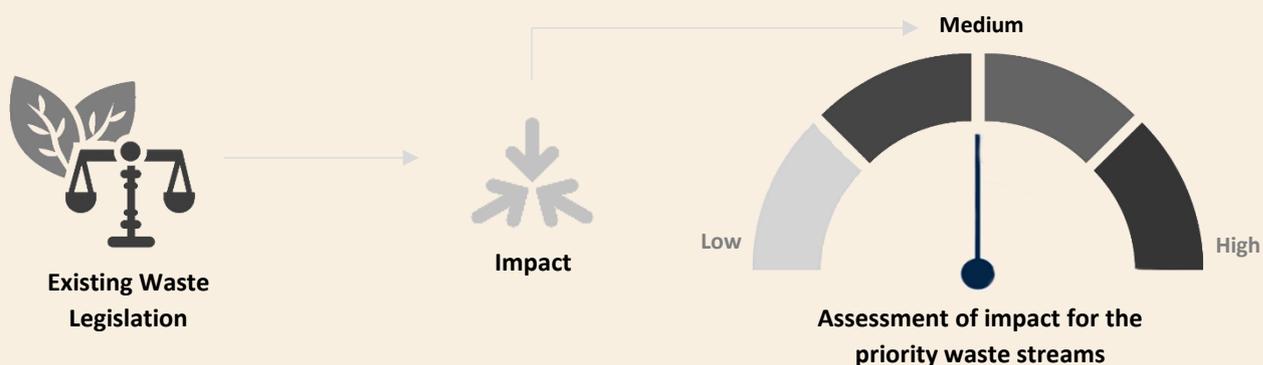
Overall, the efficiency of the Federated States of Micronesia’s waste-related laws is assessed as low-to-medium. Generally, responsibilities appear to be properly allocated, but it is not clear that there is enough staff, or the necessary infrastructure, to fulfil all of those responsibilities.

Although having a number of laws in place targeting the effective management of waste streams can be positive, developing laws to fit the capacity for implementation and enforcement is required. The State Recycling Programs are intended to be self-sustaining in terms of revenue from deposits meeting the costs of collecting and processing the waste returned for recycling. The laws contain the necessary powers to expand the Recycling Programs, beyond recyclable beverage containers to other forms of recyclable waste, with the potential to increase revenue further. It was noted, that in many cases there may not be the necessary capacity – either in terms of operators, or equipment – to address other recyclable items.

Some of the Federated States of Micronesia states use promotion and awareness campaigns around waste management, including recycling, to try to manage the challenges of implementation capacity. Community clean ups, such as the *‘Beautification of Lelu Blue Holes’* coordinated by KIRMA and the Kosrae Association of Tourism Operators in collaboration with community and small business owners, help to raise awareness about the impact of waste on the environment and small island economies.

The DECEM, at the national level, has an important role in facilitating access to funds to improve the efficiency of waste laws through, for example, securing international and regional partners for funding. Overall, the national government coordinates with state EPAs and KIRMA and, through the EPAs and KIRMA, they work together with non-governmental organisation (NGO) and other agencies on promoting waste initiatives.

Impact



Yap's laws on waste, including its regulations, are reasonably comprehensive and detailed. If the other states have regulations similar to those in Yap, they will have good legislative frameworks. Those frameworks provide the potential to have positive impacts on the management of waste, if supported with the resources necessary to aid implementation. However, obtaining copies of laws relevant to waste management, particularly secondary laws such as regulations and standards, was not possible in most cases, making it difficult to assess any correlation between the laws and waste management practices in each of the states of the Federated States of Micronesia. The fact that the laws were not readily available suggests that their impact could be low.

Waste laws have had a medium impact on the management of solid waste at landfills and rubbish dump sites. The Federated States of Micronesia State of Environment Report 2018 found that: '*[m]anagement of solid waste has improved over the years, due to the proper management of public disposal sites.*' It noted, however, that '*[c]hallenges remain in the provision of regular collection services especially by smaller municipalities with limited finances. Sewage management is still underdeveloped across the states and require efforts to improve current conditions.*'

The impact of recycling laws appears to be high. The State of the Environment Report noted that under Yap's Recycling Program the recycling rate of aluminium cans, PET bottles and glass in 2016 was as high as 96%. Under the equivalent container deposit program in Kosrae, the recycling rate of beverage containers was reported to be 'as high as 95% in 2015'.

SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of the Federated States of Micronesia's 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 Federated States of Micronesia's 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 Federated States of Micronesia's 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



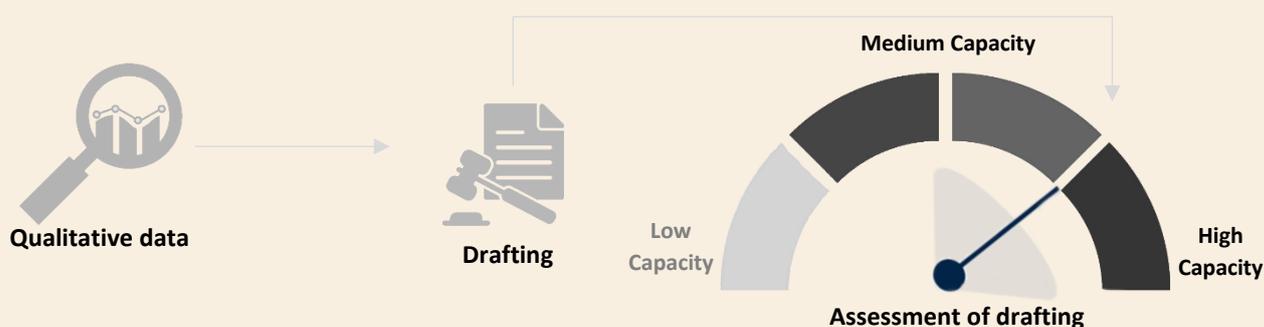
Reporting under relevant MEAs

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 Federated States of Micronesia’s 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 framework laws for environmental protection in the Federated States of Micronesia are comprehensive, detailed and generally longstanding. It is likely that regulations made under them have not been reviewed and revised in recent years. The Federated States of Micronesia has, at the national and state levels, recently drafted and enacted laws to ban single-use shopping bags and other plastics. These laws vary in their structure and content with different definitions.

The national law (dated February 2020 and reportedly effective in mid-2020) is particularly brief, possibly leaving any further details to secondary legal instruments. Pohnpei’s ban on plastic grocery bags, introduced in 2011 (Title 27 Chapter 4), was followed by Yap’s ban on plastic bags (Act of 2014 amending Title 18), Kosrae’s ban on plastic grocery bags introduced in 2017 (Title 11, Chapter 19, amended 2018) and Chuuk’s ban on plastic bags and Styrofoam (Act of 2018). These relatively recent laws to ban plastic bags and other plastics indicate a medium capacity to support legal drafting. Yap has also undertaken a review and revision of its regulations, including on solid waste management, in 2014-2015. Sanitation regulations were or are also under review.

Despite recent activity in legal drafting, there is across the states of the Federated States of Micronesia an extremely limited number of people available to draft instructions for new laws and a very small number of lawyers employed in the task of legal drafting for the State Offices of Attorney General. This has led the Federated States of Micronesia to rely heavily on volunteer lawyers from abroad to identify areas for reform and to assist with legal drafting, indicating a low capacity for drafting in the absence of such volunteer support. Details of volunteer assistance provided is detailed below.

There appears to be no guidance or training provided to EPA staff by government, whether state or national, on drafting laws for environmental protection in general, or waste management. Legal drafting manuals have been developed by several of the other countries participating in the PacWastePlus project. Those manuals describe in detail the process for drafting and making laws, including templates for drafting instructions. Use of such manuals may be of benefit to the Federated States of Micronesia. Tonga’s Legislative Drafting Manual of 2019 is a recent example of a manual directed at policy personnel tasked with drafting instructions for proposed laws.

Some laws and information about drafting processes and practices can be gathered from the online ‘Legal Information System’ of the Federated States of Micronesia and state-based whole of government websites. However, those sources contain only limited information relevant to drafting laws and they are not, in all cases, comprehensive or up to date. This is presumably due to limited personnel and funding constraints for their maintenance. It is not necessarily the case that the manuals on legal drafting in other PacWastePlus participating countries are followed in practice.

Drafting manuals are a useful resource for government staff unfamiliar with the process for making law and can set clear and detailed requirements for any person engaged from outside government to prepare drafting instructions from government policy.

the Federated States of Micronesia Department of Justice is the legal arm of the Federated States of Micronesia National Government, which is mandated to enforce all laws in the nation. The functions and duties of the Division of Law include drafting bills; the functions and duties of the Division of Litigation include prosecuting violations of national laws; and the functions and duties of the Division of the National Police which include enforcing laws and investigations.

A 2017 report from the Secretariat of the Pacific Islands Law Officers' Network (PILON) explains that each of the four states of the Federated States of Micronesia has its own executive, legislative and judicial branch and that they each have their own Attorney General's Office.

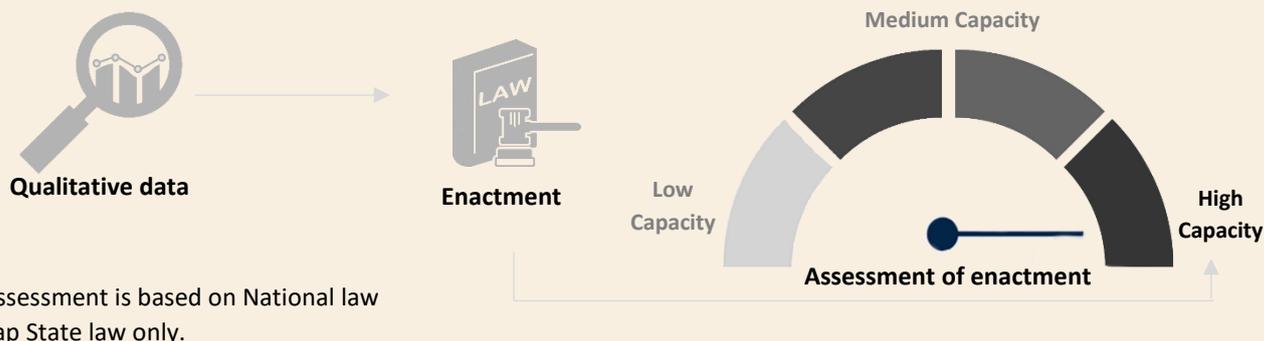
Title 3 of Yap's State Code, section 128 provides the Yap's Office of the Attorney General with the following mandate: *'[t]he Office of the Attorney General shall be composed of the Divisions of Litigation and Public Safety, and shall provide legal services to the State Government, its agencies, instrumentalities and political subdivisions and promote and protect the safety and peace of the public, maintain order, enforce all laws, conduct criminal investigations and prosecution, provide necessary court attendants, serve legal processes, operate and administer penal and juvenile institutions, and operate fire protection equipment'*. Yap may benefit from training on 'how to start and create and enforce waste laws'.

Previously, volunteer lawyers have been placed for extended periods in the Yap EPA and at the Kosrae Island Resource Management Authority (KIRMA). One Australian lawyer volunteered at Yap EPA for over two years as an Environmental Lawyer, working with Yap EPA staff, the EPA Board, state government and partner governments and organisations to prepare 'over 35 legal instruments to improve regulation of environmental issues' (DFAT website; see also news from Australian Volunteers). A second volunteer assisted in the role of 'Compliance Program Development Adviser, focusing on permit writing and providing guidance on enforcement options available to the EPA such as civil penalties.' (DFAT website). A volunteer Australian lawyer was also based at KIRMA for two years 'reviewing and updating regulations, frameworks and policies, and providing legal guidance for agency-linked activities', and 'to regulations and bills addressing environmental issues including recycling, pesticides, pollution, waste management, air quality and protected area forest management.' (DFAT website).

On 18 February 2020, a new Australian ambassador was appointed to the Federated States of Micronesia and to the Republic of the Marshall Islands. A press release noted that Australia has a strong relationship with the Federated States of Micronesia, starting with Australia's early diplomatic recognition of the country in 1987. Information about Australia's aid program states that it has 'helped update and implement the Federated States of Micronesia 's Environmental Protection Act through specialist volunteer placements'.

Networks such as Pacific Legislative Drafters' Technical Forum of Pacific Islands Forum Secretariat, and the Pacific Legal Policy Champions facilitated by the Pacific Islands Law Officers' Network, have contributed to training and resources on legislative drafting in Pacific nations and might be a source of future training and support for legal drafting in the Federated States of Micronesia.

Enactment



Based on an assessment of the Federated States of Micronesia's legal system, it appears to have high capacity to enact laws relating to a range of waste management issues. Powers to make laws and regulations in the Federated States of Micronesia are robust, with adequate scope to address waste management under the ambit of environmental protection.

The Federated States of Micronesia is a federation of four states (Chuuk, Kosrae, Pohnpei and Yap) in free association with the United States of America. It has a mixed legal system of Anglo-American common law and customary law. The Constitution is the supreme law of Micronesia. It includes a bill of rights (Art. IV) and acknowledges and protects the role and functions of traditional leaders as recognised by custom and tradition (Art. V). Article IX of the Constitution establishes the legislature, comprising a single house, the 'Congress of the Federated States of Micronesia', with 14 senators elected for districts in each state according to population. Under individual state constitutions, each of the four states of the Federated States of Micronesia elects its own legislature and governor.

Constitutions at both the national and state levels in the Federated States of Micronesia provide the governments with broad mandates to enact legislation relating to the environment, including waste management. The National Congress has the power to make legislation in specific areas, several of which might be relevant to the regulation of waste. For example, it has powers to:

- ratify treaties
- impose taxes, duties, and tariffs based on imports
- regulate navigation and shipping except within lagoons, lakes, and rivers
- define national crimes and prescribe penalties, having due regard for local custom and tradition (Art. IX s 2).

General provisions in the Federated States of Micronesia Constitution provide (Article XIII):

- Section 1: 'The national government of the Federated States of Micronesia recognises the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services'.
- Section 2: 'Radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the national government of the Federated States of Micronesia'.

Each of the four states have powers to make laws in respect of environmental protection under their constitutions:

- **Chuuk:** Section 1 of article XI of the Constitution of the State of Chuuk states that the legislature shall provide by law for the development and enforcement of standards of environmental quality, and for the establishment of an independent state agency vested with responsibility for environmental matters.

- **Kosrae:** Section 1 of Article XI of the Constitution of the State of Kosrae provides that ‘a person has the right to a healthful, clean, and stable environment. While providing for the orderly development and use of natural resources, the State Government shall by law protect the State's environment, ecology, and natural resources from impairment in the public interest’. Moreover, section 2 states that ‘there may be no nuclear, chemical, gas or biological weapons, or radioactive material hazardous to public health or safety, within the State. No hazardous waste or other hazardous substance may be disposed of within the State except as expressly authorised by State law’. A proposed amendment in 2005 to section 2 added the term ‘recognised harmful pollutant’ but it appears the proposed amendment was not adopted.
- **Pohnpei:** Section 1 of Article 7 of the Constitution of Pohnpei that the Governor shall establish and execute comprehensive plans for the conservation of natural resources and the protection of the environment. Section 2(2) of Article 13 requires the Legislature to provide by statute for the strict control of harmful substances, limiting their introduction, storage, use, and disposal within Pohnpei to activities necessary for the enhancement of public health, public safety, and economic development.
- **Yap:** Section 1 of Article XIII of the Constitution of the State of Yap allows the State Government to provide for the protection, conservation, and sustainable development of agricultural, marine, mineral, forest, water, land and other natural resources.

The environmental laws enacted by the respective legislatures and incorporated into the Codes at the national and states levels. They are:

- National Code Title 25: Subtitle I, Environmental Protection Act
- Chuuk State Code Title 22: Environmental Protection and Preservation
- Kosrae State Code Title 19: Environmental Protection and Management
- Pohnpei State Code Title 27: Environment Protection
- Yap State Code Title 18: Conservation and Resources, Chapter 15: Environmental Quality Protection.

These laws establish the environmental regulatory bodies at the national (the Federated States of Micronesia Environmental Protection Office) and state levels (EPAs and KIRMA), giving them powers to make regulations and other secondary legal instruments on a range of matters that are relevant to waste management.

The specific powers and duties of the Federated States of Micronesia Environmental Protection Office include (Title 25, s210):

- Adopting, approving, amending, revising, promulgating, repealing, and enforcing regulations. These may include regulations to give effect to the Federated States of Micronesia’s obligations under environment treaties namely (a) the Basel Convention, (b) the Montreal Protocol, (c) the Stockholm Convention and (d) the Waigani Convention.
- Collect any fees from persons submitting applications or receiving licences/permits, in accordance with any regulations adopted (fees to be paid to the Treasury of the Federated States of Micronesia to credit the General Fund of the Federated States of Micronesia).
- Accept appropriations, loans, and grants from any appropriate sources, public or private, to be expended only for the purposes of the subtitle.
- Adopt and administer nationwide programs for the protection of the environment, human health, welfare, and safety of the Federated States of Micronesia.
- Collect information and establish recordkeeping, monitoring, and reporting requirements as necessary and appropriate to carry out the purposes of the subtitle.

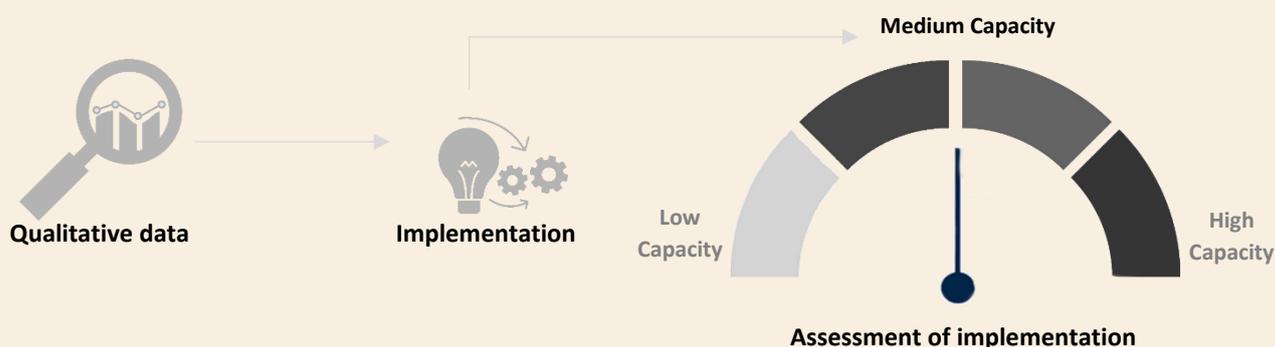
At the state level, using the example of Yap, Chapter 15 of State Code Title 18 establishes the Yap State Environmental Protection Agency (Yap EPA) to control and prohibit pollution of air, land, and water.

Under section 1507, the Yap EPA has the power and duty to control and prohibit pollution of air, land and water in accordance, including through such things that would be relevant to waste management as:

- adopting/enforcing regulations;
- adopting and providing for the continuing administration of a Yap State-wide program for the prevention, control, and abatement of pollution of the air, land, and water of Yap State;
- adopting and implementing plans for the certifications of importers and applicators of restricted use pesticides; and
- establishing and providing for the continuing administration of a permit system for pollution.

Yap State legislature has used its law-making powers recently to enact a plastic bag ban and the Yap EPA has made several regulations, including regulations on solid waste management. Yap's law creating a Recycling Program (YSL7-18 of 2007, amended by YSL9-18 of 2015) has scope to apply to any waste capable of being recycled but regulations made under it are, for the time being, limited to deposits and refunds on beverage and cooking oil containers.

Implementation



The implementation of longstanding laws for the management of solid waste and disposal of wastewater is monitored by the regulatory authorities, but limited personnel and constraints on financial resources pose continuing challenges. Container deposit schemes in the various states have reportedly seen a rise in recycling, but the scope of waste streams covered remains limited and supporting operational, financial and export arrangements are labour and skills intensive. Bans on plastic bags and other plastics in all the jurisdictions are relatively new and, at the national level, not yet in force, so mechanisms supporting implementation are in their infancy.

At the national level, the Department of Environment Climate Change and Emergency Management (DECEM) is the lead department responsible for environmental issues, including waste. The Waste Management and Pollution Control Unit sits within the Division responsible for the environment. Activities include the coordination of waste management strategies and engagement with regional and international partner governments and organisations around the implementation of international treaty commitments. DECEM signs off on export arrangements for waste from the Federated States of Micronesia states. It has contributed to the drafting of a government policy to promote awareness and environmentally sustainable practices in national government and is active in Micronesia Clean-Up Day activities. DECEM appears to assist greatly on matters assigned to the Federated States of Micronesia Environmental Protection Office, the national regulatory body dealing with environmental matters.

A significant element in implementation of the Federated States of Micronesia's waste laws is the development of waste management strategies at the state levels, which are consolidated into a national strategy (*National Solid Waste Management Strategy 2015-2020*). DECEM's assistance with the production of these strategies, and support with carrying out the strategies, assists the states in their review of requirements for waste management, including legislative reform and additional instruments. A draft memorandum of understanding (MoU) between DECEM and the individual state EPAs on 'Cooperatively Protecting the Environment' has been prepared and circulated for comment in the case of at least one of the Federated States of Micronesia states. A formal inter-governmental agreement or understanding on the cooperation on environmental matters, including waste management, among all the Federated States of Micronesia states and the national government, rather than on a bilateral national-state basis, could be useful in regularising the forms of cooperation already undertaken in practice around waste management in the Federated States of Micronesia. A formal arrangement could assist to identify further areas for cooperation, particularly between the states, in implementation of waste laws.

State level environmental protection agencies have been established to regulate environmental issues, including waste. State government departments and bodies responsible for the environment, as well as for such matters as health, sanitation, public works, public utilities, finance and tourism, play an important role in the development and implementation of legislation relevant to waste management. Waste disposal sites are reportedly managed by government entities in Yap, Chuuk and Kosrae, and by a private company in Pohnpei.

In the case of Yap, the Environmental Protection Agency (EPA) is responsible for policy and regulation of wastes. It periodically monitors the landfill, oversees the container deposit recycling scheme, and organises environmental awareness-raising campaigns with the community. The Department of Public Works and Transportation has operational responsibility for rubbish dump sites and operates and maintains equipment and vehicles. It also manages waste collection services and contracts these out to a private contractor. The contractor, Island Paradise Metal Company, also operates the container deposit and recycling program established by law in Yap. The Department of Health Services is responsible for sanitation and healthcare waste.

Yap Regulations on Solid Waste were revised in 2015. Regulation 2.2 creates specific disposal requirements for specific waste categories. More generally, Part III of the regulations contains requirements regarding community landfill facilities and Parts IV-VI creates responsibilities of the waste operator. Under Chapter 15 of Yap State Code Title 18, the requirement for development proposals to include an environmental impact assessment (EIA) could be an important mechanism for implementation of policy objectives relevant to waste management. EIA Regulations have been made, but it is not known how regularly EIAs are required. Funds generated through the collection of deposits on beverage and other containers under the different state laws could help to fund the costs of collecting and recycling or exporting waste for recycling. All the states, except for Chuuk, have an operating form of container deposit legislation in operation, typically called in the relevant law a 'recycling program' and 'deposit fee' system.

- Chuuk had a tax and refund scheme for metal cans established in 1979 and revised in 1991 and 2005, which was managed by the Chuuk Visitors Bureau, but this law is reportedly no longer implemented. A draft law creating a new container deposit scheme in Chuuk is reportedly being developed and it is expected to either amend or repeal the law from 1979.
- Kosrae has a recycling program for beverage containers enacted in its State Code Title 19 (Chapter 6 Waste Management & Recycling). This program is reportedly the subject of regulations.
- Pohnpei also has a recycling program for beverage containers enacted in 2011 in its *State Code Title 27 (Chapter 3 Recycling of Beverage Containers)*. This program is reportedly the subject of regulations. According to the Pohnpei State Code, only 1 cent from sales of the covered beverage containers remains to administer the recycling program after 5 cent refunds of the 6 cent deposits are paid. Pohnpei's beverage container system is limited to aluminium beverage cans but that the state government is considering an expansion of the scheme to cover a wider range of containers.
- Yap has a long-standing recycling program, which has been active pursuant to regulations since 2009 in respect of beverage and cooking oil containers (Recycling Program YSL7-18 of 2007, amended by YSL9-18 of 2015, and accompanying Recycling Program Regulations). Yap State's Recycling Program (State Code Title 18, Div 4, Chapter 16) and its Recycling Program Regulations provide for 6 cent deposits and 5 cent refunds on certain beverage and oil containers. It is anticipated that further funds are then generated from the subsequent sale of the recyclables that have been returned for a deposit but that relies on a market for those recyclables.

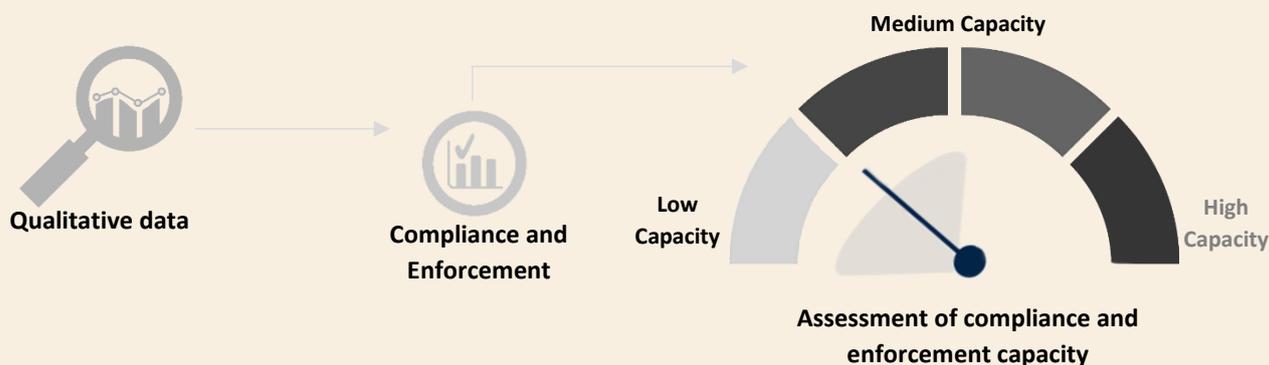
The 2018 State of the Environment Report noted that, under Yap's Recycling Program, the recycling rate of aluminium cans, PET bottles and glass in 2016 was as high as 96%. Under the equivalent container deposit program in Kosrae, the recycling rate of beverage containers was reported to be 'as high as 95% in 2015'. All the states might consider expanding their recycling programs beyond beverage containers to other recyclables, such as e-waste or bulky waste, but such considerations would, as for Yap, be subject to initial and ongoing resources for proper handling, processing, and export opportunities.

The private recycling company that operates Yap's container deposit scheme also undertakes recycling of some other wastes, such as e-waste, although this and other forms of recyclable waste are not yet covered under regulations made under the Recycling Program Law. The container deposit scheme has been slow to be fully implemented, with funds not meeting costs, and that it is only since 2019 that the arrangements for collecting deposits have been functioning properly. Yap EPA is reportedly now considering expanding the recycling program to other wastes, but it is aware of needing to ensure first that proper procedures for the safe handling of waste and operational and financial mechanisms are in place and can be maintained.

Awareness raising required by Yap's law creating a ban on plastic bags, is a mechanism important for implementation of legislative objectives on waste. Regulations made under Yap's prohibition on plastic bags under a new provision in State Code Title 18 (introduced by YSL 8-65 2014) required retailers to display signs raising awareness about the ban on plastic bags for a period of 12 months. Other community awareness campaigns are undertaken in Yap and throughout the Federated States of Micronesia, particularly around Micronesia Clean-Up Day. The Chuuk Women's Council Litterbug Project, and KIRMA's collaboration on the 'Beautification of Lelu Blue Holes', are examples of community awareness raising that can aid implementation of recycling laws and bans.

The Kosrae Association of Tourism Operators has also been involved in community programs around the impact of waste, but it is not known if KATO, or other tourism associations of private operators, are required or have themselves initiated any codes of practice around the minimisation of waste. Kosrae's laws on persistent organic pollutants contain detailed provision for community education and a publicly accessible database of regulated substances (State Code Title 19, Chapter 5, s19.519).

Compliance and enforcement capacity



Compliance and enforcement capacity relevant to waste management in Yap State is addressed in this section by way of a ‘case study,’ which could be indicative of capacity issues relevant to the other states in the Federated States of Micronesia.

The environmental laws in the Federated States of Micronesia typically set out clear offences and penalties, as well as ‘enforcement’ provisions assigning powers and responsibilities for enforcement. For example, Chapter 3 of National Code Title 25: Subtitle I, Environmental Protection Act, is dedicated to enforcement, stipulating rights of entry and seizure as well as the procedures for enforcement action. However, laws regarding waste in the different states of the Federated States of Micronesia, and nationally, are reportedly rarely enforced as a matter of practice.

Examples of waste-related offences in Yap’s State Code include:

- Title 11 (Littering): Section 330(c) imposes an imprisonment term between two days and six months, or a fine between \$25 and \$500, or both, for littering of non-biodegradable material. Section 330(d) imposes an imprisonment term between one day and six months, or a fine between \$15 and \$500, or both, for littering of biodegradable material. Section 330(e) allows the court to impose community service.
- Title 11 (Junk Vehicles): Under section 813(g), violation of this provision is a misdemeanour with a maximum \$25 fine. Enforceable by the Police.
- Title 18 (Pollution offences): Section 1512(c) states a person who violates any provision of the chapter is liable to a civil penalty of between \$100 and \$10,000 for each day of violation. Section 1512(d) allows the Attorney General to initiate proceedings on behalf of the Agency of State Government. Enforceable by the EPA.
- Title 18 (Recycling Program): Section 1609, ‘Criminal penalties’, provides that it is a violation for anyone to wilfully refuse, neglect, or fail to pay a Recycling Deposit Fee. Each day the Recycling Deposit Fee is not paid shall constitute a violation. Such a violation shall incur a penalty of ten dollars (\$10.00), one day of imprisonment, or both.
- Title 18 (Plastic Bag Ban): Section 1701 (d) is the penalty provision. It provides that ‘Any retailer who violates this section shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00)’. Enforcement is by police officers and Yap EPA officers.

Yap EPA maintains, for internal use, a table of offences and penalties under environmental laws, indicating who has responsibilities for enforcement. It includes offences and penalties related to waste. It appears to be a useful tool for identifying offences and powers of enforcement that could, if not already, be reproduced in other of the states of the Federated States of Micronesia. It might also be useful to use the information as a basis for public guidance, for dissemination among waste management operators and in the community.

Several provisions in Yap's State Code could contribute to compliance or otherwise facilitate enforcement, including:

- Title 18: Section 1512(a) (discharge of waste): Under sub-section (1), when the Agency finds that (a) discharge of waste is taking place, or is threatening to take place, in violation of the Act or regulations; or (b) the waste collection, treatment or disposal facilities of a pollution discharger are approaching capacity; the Agency must require the discharger to submit a detailed time schedule of specific action to prevent a violation for approval by the Agency.
- Title 18: Section 1512(a) (discharge of waste): Under sub-section (2), when the Agency finds that a discharge of waste is taking place, or is threatening to take place, in violation of the requirements, the Agency must issue a cease-and-desist order.
- Title 18 Section 1512(b) (pollutants): a person who (a) discharges pollutants to air, water, or land in violation of this chapter or a permit; or (b) intentionally or negligently causes a pollutant to be discharged to air, water or land; shall be required to clean up the pollutant or abate its effects on the order of the Agency.
- Title 11: Section 330(g) grants 50% of any fine collected to the person who reported the offence to the police. The remaining portion is to be deposited in a Clean-up Activities Account, to be used for cleaning and beautification programs and activities organised by the Yap Government.

Laws on waste management appear to not be enforced, as such, specific training relevant to enforcement, particularly on methods of monitoring compliance and demonstrating non-compliance would be of value.

Monitoring of waste management practices is reportedly a significant and time-intensive aspect of the Yap EPA's work. Monitoring of pollution offences can require technical expertise and proper equipment, which may be lacking or limited. It is difficult to progress matters through the Office of the Attorney General, which relies on a small number of staff to enforce all civil and criminal offences in the state. Yap EPA issues compliance orders in some cases ('cease and desist'), but it is difficult to escalate the matter to the Office of the Attorney General in the event of continued non-compliance. All matters, civil and criminal, need to be referred to the Attorney General. Records of compliance matters are maintained internally by the Yap EPA but are not publicly available.

The practice of taking informal steps to facilitate compliance rather than escalating to enforcement is satisfactory in the sense that it is a practical response to compliance, taking account of limited resources to do anything else. Laws and regulations with corresponding offences remain an essential component of waste regulation, as it is easier to urge compliance in circumstances where a person would otherwise be liable to pay a fine. Offences and penalties are also important in the case of development projects, particularly for investors or donors who want assurances that regulations will be followed and that penalties arise in the case of a breach of those regulations.

In respect of capacity at the national level, a 2017 report from the Secretariat of the Pacific Islands Law Officers' Network (PILON) notes that '*the Federated States of Micronesia Department of Justice have only 4 assistant attorney generals that are responsible for legal support to 8 National Departments and 6 national agencies.*' It goes on to say: '*[i]n the justice sector, lawyers, judges, law enforcement personnel and others require continuing education to keep up with world rapidly changing due to technological innovation and globalization. There is no system of continuing education or training for lawyers both in national and state level.*'

Work undertaken by the Federated States of Micronesia Statistics Division, in consultation with DECEM staff, could make an important contribution to improved compliance with environmental laws, including those relevant to waste management. In 2017, the Federated States of Micronesia Statistics Division produced a report on the need to generate environment statistics. It stated that '[t]here is a high level of interest in improving and better utilizing environment statistics in the Federated States of Micronesia.' Noting that '[w]aste management is a priority for the natural environment of the Federated States of Micronesia', the report maintained that a central database within the Federated States of Micronesia Environmental Protection Office 'that brings together waste information from State EPAs would add value to national policy development.'

MEA reporting



The *Environmental Protection Act* is the legislative means through which the national government of the Federated States of Micronesia implements its obligations under international conventions, with the Environmental Protection Office (EPO) as the principal implementing agency. Specific functions of the EPO Director under the Environmental Protection Act include: the adoption of regulations to give effect to the Federated States of Micronesia's obligations under the Basel, Stockholm and Waigani Conventions, and the Montreal Ozone Protocol; and the collection of information and establishment of associated monitoring and reporting requirements (s 210).

In the case of the Basel and Stockholm Conventions, the Federated States of Micronesia has a three-year project with UNEP, which is designed to strengthen the capacity of the Federated States of Micronesia to manage chemical wastes, including by developing a centralised chemicals and waste management database. It is expected that this database will help support collection of data necessary to meet reporting requirements under the two MEAs. The Federated States of Micronesia is in the initial process of updating its National Implementation Plan (NIP) under the Stockholm Convention with GEF funding support. This process will update the prior 2007 NIP and provide a basis for identifying priority actions for the Federated States of Micronesia's implementation of the MEA, including the treaty's information sharing and reporting requirements.

The project with UNEP has the potential also to strengthen the Federated States of Micronesia's capacity to report under related MEAs, such as the Waigani Convention. To date, the Federated States of Micronesia has not submitted any annual reports under this MEA.

Previous submissions of the Federated States of Micronesia to the Waigani Secretariat for support in implementing its obligations under the Convention suggest a lack of resources and capacity has been a factor in the country's inability to comply with its reporting obligations.

Table 12: Compliance with MEA reporting requirements

Relevant MEAs party to	Comments
<i>Basel</i>	Competent authority/focal point designated. National reports provided for 2001 and 2002 but no reports provided since.
<i>Stockholm</i>	Official contact point notified, and National Focal Point(s) designated for information exchange. National Implementation Plan (NIP) submitted 2007. Submission on PCBs provided to Secretariat questionnaire in 2018. the Federated States of Micronesia has GEF-funded project for development of revised NIP. No reports submitted in first four reporting cycles.
<i>Waigani</i>	Competent authority and focal point designated (updated 25 Jun 2014). No national reports submitted. Appears to be based on lack of resources to support reporting. the Federated States of Micronesia has put requests for support with Waigani Convention implementation to COP at previous meetings.

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 Federated States of Micronesia 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 Federated States of Micronesia for waste governance was assessed as performing at a medium-to-high level. The capacity of the Federated States of Micronesia to administer its waste legislative framework was assessed overall as medium, with the greatest needs arising in respect of support for drafting, implementation, compliance, and enforcement of laws.

In terms of legislation covering the priority waste streams, it appears that there are gaps across all the Federated States of Micronesia states in the area of wastewater management and for the recyclable wastes that require significant resources to process, such as e-waste and bulky waste. While coordination between the national government and states on waste management matters appears to be good as a matter of practice it is not supported by any formal arrangement that could better guide the Federated States of Micronesia states as to the division of responsibilities and open opportunities for greater 'horizontal' coordination of efforts between the states.

Any opportunities for new or amended laws to manage waste must be appropriately adapted to the needs and capacities in the respective states of the Federated States of Micronesia. Such proposals must also address the matter of limited financial resources for implementation.

Improving legislative instruments to support improved waste management

In the Federated States of Micronesia, waste management, including solid waste collection and disposal, is the responsibility of each of the four states, with the national government overseeing waste matters relevant to international conventions. Typically, the regulation of waste falls under the ambit of environmental protection legislation in each of the states. In some cases, legislation on health and sanitation, and laws relating to public utilities, are also relevant to waste management. Similar to the U.S. legal system, national and state laws of the Federated States of Micronesia are contained in a Code which is arranged by Title and Chapters. The development and implementation of legislation on waste management in each of the states is guided by state solid waste management strategies, which are combined in a national mandate.

Waste management in the Federated States of Micronesia is regulated and implemented by a combination of semi-autonomous regulatory authorities (e.g., state EPAs and KIRMA), government departments and private contractors. Key legislative opportunities to manage waste must be appropriately adapted to needs and capacities in the respective states of the Federated States of Micronesia and address limited financial resources for implementation. An opportunity exists to negotiate a formal agreement between national and all state governments, for cooperation on environmental matters that addresses waste management and waste laws, e.g., inter-island transport of waste for recovery or export, issues of coordination of state-based waste-related laws with national implications such as container deposit schemes and prohibitions on plastics.

Recommendations to address legislative capacity needs

Key capacity needs arising for the Federated States of Micronesia relating to legislative drafting, enactment of laws, implementation, compliance, and enforcement activities to enhance its management of waste and related environmental protection include the following.

- **Governance**
 - Introduction, implementation, or expansion of container deposit schemes will require the review of:
 - procedures for the safe handling of waste returned for deposit;
 - operational and financial mechanisms;
 - public awareness; and
 - development of export market opportunities, to ensure schemes are functioning and self-sustaining.

All the states might consider expanding their recycling programs beyond beverage containers to other recyclables, such as e-waste or bulky waste, but such consideration would be subject to initial and ongoing resources for proper handling and processing, as well as export opportunities for those recyclable wastes.

- Bans on plastic bags and other plastics are relatively new or not yet in force and will require ongoing monitoring of implementation and compliance, including associated public awareness around alternative carry bags. Consideration could be given to the coverage of the national ban relative to the state bans to determine whether the scope of the national ban on plastic bags is broad enough to include state bans, and whether the national ban on other plastics has consequences for the more limited bans at the state level.
- Expansion of recycling programs to include a greater range of products that generate recyclable waste, including appropriate mechanisms to fund the collection and processing of recyclable waste. It is important to note that Chuuk is proposing to introduce a container deposit scheme, like what is already in place in the other states.
- Creating arrangements to facilitate the shipping and export of waste for recycling abroad, addressing issues faced by outer islands seeking to transport waste within the Federated States of Micronesia to an international port.
- Creation of detailed standards and procedures for wastewater management and sewage, where not in place.
- **Capacity building**
 - Development of a legislative drafting manual based on models from other Pacific jurisdictions as appropriate.
 - Training and support for legal drafting in the Federated States of Micronesia through networks such as the Pacific Legislative Drafters' Technical Forum of the Pacific Islands Forum Secretariat, and Pacific Islands Law Officers' Network.
 - Technical support to key personnel engaged in the administrative structures that facilitate inter-governmental cooperation on environmental matters, including waste management, among all the Federated States of Micronesia states and the national government, to identify opportunities for further coordination among the states in the implementation of waste-related laws.
- **Transparency & Community Consultation**
 - Provision of a central database, within the Federated States of Micronesia Environmental Protection Office or DECEM bringing together waste information (including relevant laws and information held by responsible departments, agencies, and contractors), from state EPAs, KIRMA and national government departments, and collected by the Federated States of Micronesia Statistics. This would assist capacity-building efforts to support data collection and submission of national reports under the Basel, Stockholm, and Waigani Conventions, which are objectives of the current UNEP Chemicals and Waste Management project for the Federated States of Micronesia.
 - Improved and maintained public access to national and state laws and other information relevant to waste management on an appropriate website (e.g., Legal Information System of the Federated States of Micronesia, DECEM website or creating a new website for the Federated States of Micronesia Environmental Protection Office) to facilitate knowledge of legal requirements and compliance.
 - Requirements on tour operators to make tourists aware of the environmental impacts of waste and procedures for minimising and disposing of waste, e.g., to supply reusable cups, plates and utensils for meals supplied on tours.
- **Enforcement**
 - Training or guidance for EPA and KIRMA staff on monitoring compliance and demonstrating non-compliance with laws related to waste management, including access to technical expertise and testing equipment to facilitate compliance activities.
 - Development by states of tables of offences and penalties under environmental laws, indicating agencies with responsibilities for enforcement, to be used as an information and public guidance tool.
 - Continuing education or training on waste management laws and related technical issues for EPA, KIRMA and government staff, including government lawyers (e.g., from the Departments of Justice, Offices of Attorney-General), responsible for enforcing laws at national and state levels.
 - Training and equipment for EPA staff and/or government staff responsible for sanitation on monitoring, compliance and demonstrating non-compliance with laws for environmental protection that relate to solid waste and wastewater management.

Annex 1: Glossary of legal terms

Table 12: 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 Marshall Islands, all environmental Acts are contained in Title 35: Environment. Chapter 2 of this Title is the Littering Act 1982. 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 commonly 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) Acts (principal legislation) expressly authorise the making of subordinate legislation. Example: Section 121 of the Marshall Islands National Environmental Protection Act 1984 authorises the Environment Protection Authority to make regulations regarding pollutants and discharge or hazardous waste. 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. Example: regulations made under Section 121 of the Marshall Islands National Environmental Protection Act 1984 include the Solid Waste Regulation 1989, the Toilet Facilities and Sewage Disposal Regulation 1990, and the Public Water Supply Regulation 1994.

Annex 2: Acronyms

Table 13: 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 14: 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 Federated States of Micronesia’s legislation related to waste management is provided in **Table 15**.

Table 15: Legislation impacting waste governance in the Federated States of Micronesia

Legislation	Regulations	Description
Title 25 of the FSM National Code, Subtitle I, incorporating the Environmental Protection Act	<i>Environmental Impact Assessment Regulations</i>	<p>This Title contains provisions important for the implementation of the Federated States of Micronesia’s obligations under international conventions, including those relevant to waste.</p> <ul style="list-style-type: none"> Chapter 2 of Title 25 establishes the Federated States of Micronesia Environmental Protection Office. As per section 209, the general mandate of the Office is to ‘have the power and duty to protect the environment, human health, welfare, and safety and to abate, control, and prohibit pollution or contamination of air, land, and water’ including through measures on ‘the testing, storage, use, disposal, import and export of radioactive, toxic chemical, or other harmful substances’. Chapter 3 of Title 25 contains provisions relating to environmental impact statements for any actions that might affect the quality of the environment within the Federated States of Micronesia’s national maritime waters or within boundaries of National Capital Complex at Palikir (s 302). The Chapter is supplemented by the Environmental Impact Assessment Regulations, which outline the Environmental Impact Assessment process. Appendix A lists examples of projects normally having a significant impact on the environment, including (6) breaching standards relating to solid waste or litter control; and (7)-(10) affecting water quality and supply.
Yap State Code, Title 18 Conservation and Resources	<i>Yap state has adopted other regulations that contain provisions relevant to waste management under Chapter 15 of State Code Title 18. These include regulations on hazardous substances, pesticides, persistent organic pollutants (POPs), burning and environmental requirements for transport vehicles.</i>	<p>This is the main law for environmental protection in Yap State.</p> <ul style="list-style-type: none"> Chapter 15 ‘Environmental Quality Protection’ establishes the Yap State Environmental Protection Agency (Yap EPA) (s 1504) to control and prohibit pollution of air, land and water. Yap has made several regulations under Title 18 relevant to waste management. It has also introduced laws that regulate plastic and other recyclables which are discussed below in relation to the specific priority waste streams. Another Title of the Yap State Code contains littering offences (Title 11). <p>Yap State has adopted a number of regulations relevant to waste, including the Solid Waste Management Regulations 2015. These regulations focus on the maintenance and operation of the public landfill site, as well as various small rural rubbish dump sites.</p> <p>The purpose of these regulations is to:</p> <ul style="list-style-type: none"> establish standards and criteria for the establishment, maintenance, use, and Decommission of Landfill Facilities within Yap State

Legislation	Regulations	Description
		<ul style="list-style-type: none"> • regulate the siting, design, development, operation, management, and monitoring of Landfill Facilities in Yap State in a way that is sustainable and minimizes environmental harm • support communities living in the Outer Islands to Dispose of their Solid Waste in an environmentally sustainable manner • regulate Solid Waste collection services for the transport of Solid Waste to the Yap State Waste Management Center • regulate the operation and management of the Yap State Waste Management Center’ (r 1.2). <p>The following categories of solid waste, specified under regulation 2.1, are related to the priority waste streams:</p> <ul style="list-style-type: none"> • Category A: Recyclables • Category B: organic waste, including Sludge, but not including any Hazardous Healthcare Waste • Category C: all types of rubber tires • Category D: Hazardous Substances • Category E: scrap metal • Category F: appliances, e-waste and electronics • Category G: vehicles and machinery • Category H: waste crude oil or petroleum products • Category I: Hazardous Healthcare Waste • Category J: all other Solid Waste that does not fall within Categories A through I of this Regulation 2.1. <p>Regulations 2.1 and 2.2, which require the segregation of waste, provides that hazardous healthcare waste (category I) ‘must be disposed of in strict accordance with the Department of Health and Sanitation’s rules, regulations, and guidelines governing the management of Category I Solid Waste’. They further note that ‘Category I Solid Waste (i.e., hazardous healthcare waste) may not be Disposed of at any Landfill Facility’. From a legislative perspective, this provision provides for clear segregation of this category of waste, to aid safe and separate disposal.</p> <p>Yap State has introduced drinking water regulations under Chapter 15 of Title 18 which aim to ensure the consistent provision of Safe Drinking Water to the public. Regulation 1.4 defines a ‘contaminant’ as ‘any physical, chemical, biological or radiological substance or matter in water which, as determined by the Agency, may have an adverse effect upon human health or may be harmful to the public welfare. This includes, but is not limited to, all of the substances and matters listed in Schedules 1, 2 and 3 of these Regulations’.</p>

Legislation	Regulations	Description
<p>Chuuk State Code Title 22 Environmental Protection and Preservation</p>		<p>In Chuuk State, the main sources of law relevant to waste management are:</p> <ul style="list-style-type: none"> • Title 22 Environmental Protection and Preservation <ul style="list-style-type: none"> ○ Chapter 1 EPA ○ Chapter 3 Littering • Title 21 Health and Sanitation <ul style="list-style-type: none"> ○ Chapter 13 Sanitation <p>Chuuk State also passed the Chuuk Clean Environment Act 2018 which creates prohibitions around plastic bags, tin roofing and junk vehicles.</p> <p>Title 22, Chapter 1, section 4 establishes the Chuuk State Environment Protection Authority (Chuuk EPA).</p> <ul style="list-style-type: none"> • Section 5 outlines the powers and duties of the Agency, including to control and prohibit pollution through various means. • Section 6 requires a person to submit an environmental impact statement (EIS) to the Chuuk EPA prior to taking any major action which may substantially affect the quality of the environment.
<p>Kosrae State Code Title 19 Environmental Protection and Management</p>		<ul style="list-style-type: none"> • Chapter 1 establishes the Kosrae Island Resource Management Authority (KIRMA) with the purpose ‘to protect the environment, human health, welfare and safety and to abate, control and prevent pollution or contamination of air, land and water’. • Chapter 5 relates to pollution. Prohibitions relevant to waste management include ‘littering’, ‘fouling of public rivers and public water supply’ and ‘polluting’ (ss 19.502-504). Chapter 5, subchapter C relates to POPs. Under section 19.508, ‘hazardous substances’ and ‘radioactive substance’ are defined. Chapter 6 Waste Management and Recycling establishes the recycling program, which is discussed below. Chapter 8 provides protections for Terrestrial and Marine Protection Areas, including definitions of solid and liquid waste. <p><i>Aside from Title 19, other Titles of Kosrae’s State Code relevant to waste include Title 11, Chapter 19 on the Control of Plastics and Title 13, Chapter 5 on offences of littering and polluting.</i></p>
<p>Pohnpei State Code Title 27 Environment Protection</p>		<ul style="list-style-type: none"> • Chapter 1 establishes the Pohnpei Environmental Protection Agency. <ul style="list-style-type: none"> ○ Under section 1-109, the Agency has the power and duty to protect the environment and human health, welfare and safety and shall abate, control, and prohibit pollution or contamination of air, land, and water’.

Legislation	Regulations	Description
		<ul style="list-style-type: none"> ○ Section 1-103 defines ‘pollutant’ as ‘one or more substances or forms of energy that, when present in the air, land or water, are or may be harmful or injurious to the health, welfare or safety of humans, animals, plants or property or that unreasonably interfere with the enjoyment of the lives and properties of the people’. ○ Chapter 3 on the recycling of beverage containers ○ Chapter 4 on the control of plastic wastes. <p>A number of pieces of subordinate legislation have been adopted under Title 27, including one on solid waste.</p> <p>Other laws relevant to waste management include <i>Title 17 on Health and Welfare (Chapter 9 Refuse Collection and Sanitation)</i>, <i>Title 34 on Public Utilities (Chapter 1 Pohnpei Utilities Corporation)</i>, <i>Title 26 on Conservation and Resources (Subchapter 4 Forest Conservation)</i> and <i>Title 42 on Public Lands (Chapter 10: Land Use Designations)</i> (including provisions for landfill facilities).</p>

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 16** 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 16: 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
<p>Waigani Convention</p>	<p>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>	<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 contrasts with 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 of these functions may involve the community in different ways, such as providing information to the community and involving the community in enforcement activities.

Table 17 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 18 describes how the existing and pipeline waste management legislation of participating countries maps against these general models.

Table 17: 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"> • Waste Management Acts 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"> • Solid Waste Management Regulations in Yap State (FSM), Palau and the RMI • Environment Management (Waste Disposal and Recycling) Regulations in Fiji • Proposed Waste Management Bill 2016 to amend Environment Act in Solomon Islands
<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 	<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 	<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 	<ul style="list-style-type: none"> • Hazardous Wastes and Chemicals Act in Tonga • Solid Waste Management Regulations in Palau and the RMI • Healthcare waste management plans in Samoa, PNG • Asbestos disposal guidelines - PNG

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> • 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"> • 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"> • 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"> • Regulations / guidelines under OHS legislation in Fiji, Samoa and Niue. • Specific part in dedicated waste legislation in Tuvalu • Ozone Layer Protection Act 2010 [2014] 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 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
<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 	<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 	<ul style="list-style-type: none"> • Various prohibitions enacted in 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.

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p>chemicals e.g., asbestos sheeting, POPs; biosecurity</p> <ul style="list-style-type: none"> Typically combined with in-country prohibition on manufacture, sale and distribution <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 Testing, monitoring & reporting requirements, offence provisions 	<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"> Community / private sector consultation/ education - communications expertise and resources 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 Waste Management Act Solomon Islands Water Authority (Catchment Areas) Regulation restricts introduction of pollutant or wastes into catchment areas.
<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 	<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 	<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

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> Community awareness programs 		<ul style="list-style-type: none"> Integration with traditional/ community-based authorities, esp. in rural areas Community / private sector consultation and compliance partnerships (soft law) 	<ul style="list-style-type: none"> 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’ Consumer awareness programs e.g., packaging 	<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 -Tourism Development Act 2012 (minimise waste) Tuvalu - Tourism departure fee Cook Islands – advance disposal fee
<p>Information provision, planning and reporting on waste issues [Planning/reporting]</p> <ul style="list-style-type: none"> 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 18: 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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