Drafting instructions for model national legislation to reduce unintentional persistent organic pollutants

**Overview/ Policy Background**

Persistent Organic Pollutants (POPs) are a group of toxic chemicals that persist in the environment, bio-accumulate in the food chain, and can travel long distances, often ending up in locations and bio-accumulating in human and animal populations that are removed from the source of generation. To reduce the global environmental and human health threat of POPs, the international community adopted the Stockholm Convention on POPs which aims to reduce and ultimately eliminate the production, use and releases of POPs. The Stockholm Convention entered into force on 17th May 2004, and the 14 Pacific Island Countries are currently Parties to the Convention.

The Convention currently regulates 28 chemicals (POPs) under three annexes as follows:

* **Annex A:** these chemicals are mostly pesticides and industrial chemicals scheduled for elimination; Parties may register specific exemptions to continue the use of Annex A chemicals to allow for the time that may be needed to adapt and take necessary management measures required by the Convention.
* **Annex B:** Parties must take measures to restrict the production and use of these chemicals; Parties may register specific exemptions or restrict use of Annex B chemicals to an ‘acceptable purpose’ listed under the Convention.
* **Annex C**: these chemicals are produced unintentionally due to incomplete combustion of materials containing chlorine, and during certain chemical manufacturing processes involving chlorine. They are emitted mostly as a by-product of the burning of hospital waste, municipal waste, and hazardous waste, and from automobile emissions, and the combustion of biomass including coal and wood. They may also be unintentionally released from reservoir sources such as historic dumps containing uPOPs and other POPs-contaminated wastes, and soils and sediments in which POPs have accumulated over time. Parties must take measures to reduce the unintentional release of chemicals in Annex C, with the goal of continuous minimisation and, where feasible, ultimate elimination.

These drafting instructions specifically address the unintentional production and release of POPs listed in Annex C (uPOPs), in accordance with Parties’ obligation under Article 5 of the Stockholm Convention, which are listed below:

1. Develop and implement an action plan to reduce the total releases of uPOPs from anthropogenic sources.
2. Promote practical and feasible measures that can achieve realistic and meaningful reduction or elimination in uPOPs.
3. Promote the development of materials, products and processes to prevent uPOPs, and require their use where appropriate.
4. Promote, and require in accordance with the action plan, the use of best available techniques and best environmental practices for specified new uPOPs sources, taking into consideration relevant guidance adopted by the Stockholm Convention Conference of the Parties.
5. Promote the use of best available techniques and best environmental practise for specified existing sources, and for specified new sources, in accordance with the action plan.

**Detailed drafting instructions**

NOTES: 1. In the following instructions, the ‘Minister’ means the Minister heading the Ministry or Government entity responsible for administering the legislation

 2. The ‘Department’ means the Government entity responsible for administering the legislation

| **Topic** | **Issue or policy intent** | **Drafting instructions** |
| --- | --- | --- |
| Objective | The objective of this legislation is to reduce the formation and release of uPOPs in the country. | Insert a provision that describes the objective of the legislation, which is to reduce the production and formation, and release of unintentional persistent organic pollutants (uPOPs). |
| Relationship to other legislation | These drafting instructions for model legislation address issues that may be found in principal legislation for other areas (e.g. for customs, health, and transportation). In cases where the model provisions are enacted by a country and contradict those of other principal legislation, the latter (which is more comprehensive) should prevail. | Insert a provision to assert that in the case of contradiction with other principal legislation, the provisions of the other principal legislation take precedence. Where a contradiction is encountered, the Minister should, in consultation with other relevant minister(s) consider amending the affected pieces of legislation to harmonise the relevant provisions. |
| General Environmental Duty | Every person should take personal responsibility for protecting the environment, this includes taking practical and reasonable steps to minimise any harm to the environment and human health that their actions may cause. When a person realises that their actions have caused or is likely to harm the environment or human health, that person (or anyone else who becomes aware of certain or likely harm to human health or the environment) should report the matter to the Department as soon as possible, so that corrective steps or preventative measures can be taken. | * Require a person not to conduct an activity that causes or is likely to cause material environmental harm or environmental nuisance, unless the person takes all reasonable and practicable measures to prevent or minimise the harm.
	+ ***environmental nuisance means*** unreasonable interference or likely interference with an environmental value caused by aerosols, fumes, light, noise, odour, particles or smoke
	+ ***material environmental harm means*** any actual or potential adverse effect on the environment or the health and safety of human beings.
* Require a person that becomes aware of actual or likely harm to human beings or the environment to notify the Department as soon as possible after they become aware of the harm.
* The penalty for contravening the provisions is [x] for an individual, and [y] for a corporation. [*Note:* *Country to specify the amount of the penalties*]
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| National guidelines | The Stockholm Convention Secretariat has published a range of technical guidelines on the environmentally sound management of POPs, which can be adopted (with or without modification ) as national guidelines. | Insert provisions to:* Adopt the Stockholm Convention’s *General technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants* as the ‘National Technical Guidelines on Management of POPs’.
* Adopt Section V.A of the Stockholm Convention’s *Guidelines on Best Available Techniques and Provisional Guidance on Best Environmental Practices relevant to Article 5 and Annex C of the Stockholm Convention on Persistent Organic Pollutants* as the ‘National Best Practice Guideline and Standards for Waste Incineration’.
* Adopt Section VI.C of the Stockholm Convention’s *Guidelines on Best Available Techniques and Provisional Guidance on Best Environmental Practices relevant to Article 5 and Annex C of the Stockholm Convention on Persistent Organic Pollutants* as the ‘National Best Practice Guidelines to Reduce POPs Emissions from Domestic Cooking and Heating’.
* The Department may modify a Stockholm Convention Guideline if deemed necessary or desirable to better reflect the local context, prior to adopting it as the National Guideline. For example, the guidelines may be modified to include local terminologies, to omit text irrelevant to the country context, to include local or regional examples and case studies, or to include details of country- or region-specific best-practice procedures and processes.
	+ *Note: the provisions should not necessarily prevent the Department from using other suitable best practice sources, as the basis for developing the national guidelines.*
* The Department must submit the national guideline to the Minister for approval by gazette notice. The national guideline takes effect on the date stated in the gazette notice.
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| Waste Management Planning | Poor waste management, including open burning of waste, healthcare and quarantine waste incineration, and burning on dumps, is a major source of uPOPs emissions in Pacific Island Countries. The first step to addressing these sources is to encourage sectors of society to develop and implement simple waste management plans that improve overall management of waste and reduce opportunities for the formation and release of uPOPs.  | * Require the Department to develop a long-term national waste and pollution management strategy in consultation with stakeholders. The strategy may provide for anything relating to the management of waste and pollution, including but not limited to waste avoidance, reduction, reuse and recycling, product stewardship (or extended producer responsibility), waste tracking, and banning or restriction of imports including POPs and articles containing POPs.
* A draft strategy must be prepared, published for public comments for at least [x days], revised as necessary to accommodate public comments, and then submitted to the Minister for endorsement.
* In preparing the draft strategy, the objectives, goals, targets, and commitments of interrelated national strategies and plans in force (such as the National Implementation Plan for the Stockholm Convention) must be considered.
* Require designated entities to develop, implement and keep updated basic waste management plans. The first plans must be submitted to the Department within [x] months of the provision coming into force. Subsequent (updated) plans must be submitted on expiry of the previous plan.
	+ Designated entities are government departments and agencies, local governments, businesses and organisations with more than [x] employees, and any other entity designated from time to time under a regulation.
	+ The waste management plan for an entity should include the following:
		- A brief description of the entity and its activities
		- Data on the types and amount of waste generated by the entity annually
		- A description of how the waste generated is currently managed
		- Targets for reducing, reusing, and recycling the waste generated, including targets for composting of organic waste if appropriate
		- Activities to be implemented to achieve the targets
		- Indicators to be used to measure progress of implementing the plan
		- A schedule for submitting regular reports on implementation of the plan to the Department
* Require the Department to prepare and disseminate a template for the waste management plan when this provision comes into force.
* Require reporting entities to maintain waste management records and to provide the Department with a waste activity report within 3 months after financial year ends.
	+ A ‘reporting entity’ is an entity that receives, sorts, recycles, treats, disposes or exports waste
	+ A reporting entity is also an entity identified as such by the Department by giving the entity a notice of this decision. The notice must state the decision (i.e. that the entity is being made a reporting entity), the reasons for the decision, the obligations of the reporting entity, when the obligations begin.
* The waste activity report must include:
	+ details of the types and amounts of waste received, sorted, recycled, treated, disposed, or exported; and the sources of the waste received
	+ any other matter prescribed under a regulation.
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| Waste reduction, reuse and recycling | Due to the toxic and persistent nature of POPs, it is important that POPs-containing goods, articles, or wastes be permanently banned from entering the country where feasible, and removed from circulation to minimise ongoing risks to human health and the environment. Many POPs were used as additives in a variety of articles and products (e.g. electronics) and may be found in imported goods that are still in use. At the end of their life, these goods may be targeted for future reuse and recycling initiatives which would result in re-circulation of the POPs. Banning the importation, reuse and recycling of POPs and POPs-contaminated waste eliminates the associated risks to human health and the environment, and also avoids the economic and financial costs associated with managing these wastes | * Enable the Minister to make a regulation to ban the importation of particular products or articles containing POPs. In identifying products or articles to be banned, the Minister must consider whether suitable replacement products or articles are available.
* Ban anyone from importing, reusing or reprocessing POPs and POPs-contaminated wastes.
	+ ‘Importing’ means bringing into the country for storage, use, reuse, reprocessing or disposal,
	+ ‘Reusing’ means using the POPs or POPs-contaminated wastes for their original intended purpose or for an alternative purpose.
	+ ‘Reprocessing’ means transforming the waste into raw materials (e.g. via mechanical or thermal processes), or combining the waste with other materials (whether waste or not) to create raw materials that may be used to make new goods or products.
	+ Enable a list of POPs-contaminated wastes banned from reuse and recycling to be prescribed in regulations.
* Ban the incineration of POPs and POPs-contaminated wastes.
	+ The penalty for contravening the provisions above is [x] for an individual, and [y] for a corporation. [*Note: Country to specify the amount of the penalty]*
* POPs and POPs-contaminated wastes can be exported for environmentally sound disposal or destruction in accordance with requirements of the:
	+ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and/or
	+ Waigani 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
* Require the Department to regularly promote composting of decomposable wastes, segregation and recycling programs, and other best practices that divert materials from landfill disposal, incineration, and open burning.
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| uPOPs emissions from open burning and incineration of waste | Under Article 5 of the Stockholm Convention, Parties must:* For new uPOPs sources, require the use of best available techniques (BAT) for identified source categories including waste incinerators; and promote the use of best environmental practices (BEP)
* For existing sources, promote use of BAT and BEP for identified uPOPs source categories including waste incinerators, open burning of waste including on landfills, fossil fuel-fired boilers, installations fuelled by wood and other biomass fuels, and motor vehicles.

Most Pacific Island Countries administer an environmental impact assessment process and a basic permit system for waste management and other polluting activities. Therefore, BAT and BEP requirements can be put into practice if they are incorporated into permit conditions for relevant activities. Definitions:* BAT means the available techniques which are the best for preventing or minimising emissions and impacts on the environment. “Techniques” include both the technology used and the way the installation is designed, built, maintained, operated and decommissioned.
* BEP means the application of the most appropriate combination of environmental control measures and strategies.

As noted previously, open burning of waste, healthcare and quarantine waste incineration, and waste burning on dumps, are major sources of uPOPs emissions in Pacific Island CountriesThese sites are also often set alight to reduce the volume of waste and the nuisance associated with odours from decomposing waste, flies, and vermin, or to expose metal for recycling. However, there are some instances when controlled burning may be necessary (e.g. to reduce or eliminate the threat of disease and other threats to public health or the environment). | **Licence to operate a waste incineration plant*** Require a person to obtain a licence from the Department to operate a waste incineration plant. The licence is in addition to, and does not negate the need for, any approvals that may be required from planning authorities and other government agencies to establish the waste incinerator. It is the applicant’s responsibility to ensure they obtain all necessary approvals for legal operation of a waste incineration plant.
	+ A waste incineration plant means any stationary or mobile equipment dedicated to the thermal treatment of wastes. This includes incineration by oxidation of waste as well as other thermal treatment processes such as pyrolysis, gasification or plasma processes which produce substances that are then incinerated.
* The application for a licence must include the following:
	+ Details of the applicant’s experience in owning/managing/operating waste incineration plants or related facilities of a similar scale as the proposed incineration plant
	+ Information that demonstrates the applicant’s financial viability, and solvency
	+ Details of the site where the proposed incineration plant will be installed, including evidence of ownership or lease.
	+ Description of measures to meet the BAT and BEP recommended in the ‘National Best Practice Guideline and Standards on Waste Incineration’, including measures to:
		- address the occupational health and safety risks to employees and sub-contractors
		- ensure that banned wastes and materials are not incinerated
		- divert materials from incineration into existing national or local recycling programs
		- minimise the amount of non-combustible materials (e.g. metals) and hazardous wastes burned in the incinerator (e.g. metals)
		- minimise the amount and harmfulness of emissions and residues (e.g. ash) from the incineration process
		- regularly test and report on the emissions to air, water and land from the waste incineration plant
		- minimise the nuisance from operation of the incineration plant and associated operations (e.g. odours, noise, increased vehicular traffic, etc)
		- dispose of the residues of the incineration process in an environmentally safe manner
		- minimise the overall impact to the surrounding environment from operation of the incineration plant
		- manage and respond to emergencies.
	+ Any other information required by the Department.
* The Department must decide on a licence application within [x] business days; however, before this timeframe expires, the Department may, by notice to the applicant, extend the period for making a decision by a further [x] business days.
	+ In deciding the application, the Department must consider:
		- whetherthe applicant has a viable business model and expertise to operate a waste incineration plant in an environmentally safe manner in compliance with all relevant national guidelines and standards, and with international best practices in the absence of national guidelines and standards.
		- whether operation of the waste incineration plant is likely to present risks of harm to human health or the environment that are beyond the Department’s monitoring and enforcement capabilities.
* Enable the Department to set conditions on a licence for a waste incineration plant, which it deems necessary or desirable, including, but not limited to:
	+ The requirement to pay an environmental bond to ensure that enough funds are available to cover costs that may be incurred by the Department’s actions to bring an incineration plant into compliance or to rehabilitate any environmental harm caused by the plant (if the plant operator fails to take such actions)
	+ the requirement to implement specific BAT and BEP measures stipulated in the National Best Practice Guideline and Standards for Waste Incineration
	+ The requirement to comply with other national guidelines and standards
	+ A list of all types of wastes to which the licence applies, and banned wastes
	+ The limits for emissions from the incineration plant into air and water and how each limit shall be monitored and measured
	+ Waste storage and handling requirements at the incineration plant
	+ Requirements for pre-treatment of waste fed into the incineration plant
	+ Requirements for disposal of residues generated from the incineration plant
	+ Requirements for environmental monitoring and reporting
	+ Record keeping and reporting requirements (e.g. waste quantities managed, and details of clients)
* The penalty for contravening the conditions of a licence is [x] for an individual, and [y] for a corporation. [*Note: Country to specify the amount of the penalty*]

**Environmental Bond*** The Department must decide the amount of the environmental bond payable, and it must be paid into a dedicated account and quarantined from other government revenues to ensure that it is available when needed to cover the costs of corrective actions, or to refund the licence holder if for example, the waste incineration plant is safely operated and closed without environmental harm.
* The Department may make a claim against the environmental bond to recover reasonable costs or expenses of taking action to prevent or minimise environmental harm or to restore the environment.
* Before making a claim, the Department must first give the licence holder a notice of the intended action and allow at least [x] business days for the licence holder to respond.
* The Department must consider the licence holder’s response in deciding whether to make the claim and must notify the licence holder of its decision within [x] business days.
* The licensed holder may apply to the Department to reduce the amount of the environmental bond (e.g. if the waste incineration plant has been scaled down), or discharge the bond (e.g. if operations have cease and the site has been cleaned up and there is unlikely to be any environmental harm).
* The application should include a statement demonstrating the extent to which the licence conditions have been complied with. The Department may request additional information to decide the application.
* If the Department is satisfied that there is not likely to be any claim on the environmental bond, it may decide to reduce or discharge the bond. A decision must be made and notified to the licence holder within [x] business days of receiving the application or additional information if requested.

**Amendment, cancellation or suspension of a licence*** The Department may cancel, suspend, or amend a licence, by first giving the licence holder notice details of the proposed action (cancellation, suspension, or amendment), and inviting the licence holder to make a submission within [x] business days on why the proposed action should not be taken.
* In deciding on the proposed action, the Department must consider any submission made by the licence holder.
* The Department must decide on the proposed action within [x] business days of the end of the submission period and must communicate its final decision to the licence holder, in writing, with appropriate justifications.

**Amendment of a licence*** A licence holder may apply to the Department to amend their licence. The application must include the information in Section xx if different to the information provided for the original licence.
	+ *Note to drafter: ‘Section xx’ refers to the provision described earlier that contains the information required for a licence.*
* In deciding the application, the Department must consider the matters prescribed in section 12. A decision must be made and communicated to the applicant within [x] business days, however, before this timeframe expires, the Department may, by notice to the applicant, extend the period for making a decision by a further [x] business days.

**Cancelation or suspension of a licence*** The Department may cancel or suspend a licence, if the Department is satisfied that there is a sufficient ground for doing so. Grounds may include the following:
	+ The licence was granted on the basis of false or misleading information provided by the applicant
	+ A condition of the licence has not been complied with
	+ The operations violate existing laws
	+ The licence was granted on the basis of information and circumstances that have changed, such that continued operation is likely to result in unacceptable harm to public health or the environment.

**Transfer of a licence to another person*** The holder of a licence may apply to the Department, using the approved form, to transfer the licence to another person. For example, a licence may be transferred if the business is sold to another person. Information to be provided with the application include:
	+ details of the transferee, including their experience in owning/managing/operating waste incineration plants or related facilities of a similar scale as the proposed incineration plant; and information that demonstrates the transferee’s financial viability, and solvency
	+ signed consent of the proposed transferee
	+ a signed declaration by the proposed transferee stating that they are aware of their obligations under the licence, the Act, and the Regulations.
* In deciding the application, the Department must consider whether:
	+ the proposed transferee has the experience relevant to the licence being transferred
	+ the applicant has been convicted of any environmental offences in [country]
	+ the applicant is aware of his or her obligations under the licence, the Act and the Regulations.
		- *Note: Countries should replace “Act” and “Regulations” in this provision should be replaced with actual name of the relevant act and regulations.*

A decision must be made and communicated to the applicant within [x] business days, however, before this timeframe expires, the Department may, by notice to the applicant, extend the period for making a decision by a further [x] business days.**Open burning*** Ban the open burning of waste in urban areas. ‘Open burning’ means the burning of materials where smoke and other pollutants are released directly into the air.
* Ban the open burning of waste in rural areas and outer islands unless conducted under a permit issued by the Department. This does not include burning of wood and other biomass for cooking, heating, or cultural/ceremonial purposes. The penalty for contravening this provision is [x] for an individual, and [y] for a corporation. [*Note: Country to specify the amount of the penalties*]
* Enable a person to apply to the Department for a permit to burn waste in rural areas and outer islands. The permit application must be in the approved form (Appendix 1) and be accompanied by the application fee, if prescribed under a regulation.
* The Department must decide on the permit application within [x] business days of receiving a complete application and notify the applicant of its decision.
* The Department may impose conditions on the permit it deems necessary or desirable to minimise adverse impacts on public health and the environment.
* A permit may be revoked by the issuing authority or by officers acting with the authority of the departments responsible for Health, Forestry, or Fire Services.
* A permit is not required for a fire using charcoal, dry wood or other dry plant material to prepare food or beverages; or burning vegetation for fire prevention or control.
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| uPOPs emissions from waste disposal sites | Landfilling is the predominant waste disposal method in Pacific Island Countries. Landfills can be classified as open dumps, controlled dumps (both of which are the most common) and sanitary landfills:* An open dump lacks engineered features (e.g. liner) and management controls (e.g. environmental monitoring) to prevent environmental harm occurring from the deposited waste.
* A controlled dump has no functional engineered features, but typically has a few management controls in place such as directed placement of waste, and restricted public access.
* A sanitary landfill has engineered features and controls in place to prevent environmental harm occurring from the deposited waste.

There are often no restrictions on what may be disposed of in open dumps and controlled dumps, including hazardous wastes and POPs, which may accumulate and be discharged to the surrounding environment in leachate.  | * Ban the disposal of the Stockholm Convention POPs in landfills (open dump, controlled dump, and sanitary landfills) unless otherwise authorised in writing by the Department.
* Require POPs to be stored in accordance with the ‘National Technical Guidelines and Standards on Management of POPs’*.*
* Ban the setting of open fires at a ‘waste management facility’, unless done with the written authorisation of the Department. Prescribe a penalty of [x] for an individual contravening the provision, and [y] for a corporation. [*Note: Country to specify the amount of the penalties]*
	+ A waste management facility means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy, sorting, consolidation or disposal of waste
* Require all operators of landfills and waste management facilities to develop, implement and keep updated an environmental management plan for the facility. The first plan must be submitted to the Department within [x months/years] of the provision coming into force. Subsequent (updated) plans must be submitted on or before expiry of the active plan.
* Require the Department to prepare and disseminate a template for the environmental management plan when the provision comes into force.
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| uPOPs emissions from residential combustion sources | Cooking and heating with wood and other biomass is still a common practice in all Pacific Island Countries. This can cause significant emissions of uPOPs depending on the fuel used (household waste, sea salt laden driftwood and treated wood are significant sources of uPOPs) and how well the fuel combusts (combustion efficiency).The efficient combustion of clean, untreated fuels for cooking and heating (e.g. with well-designed wood stoves) is critical to reducing the formation and release of uPOPs. Strategies to minimize releases of uPOPs from cooking and heating with wood/biomass include public education, awareness and training programmes on the proper use of the cooking/heating appliances, use of appropriate fuels and the health impacts from uncontrolled residential combustion. The Stockholm Convention provides specific guidance on BAT and BEP measures to reduce uPOPs emissions.  | * Insert a provision that requires all government entities to consider and apply the National Best Practice Guidelines to Reduce POPs Emissions from Domestic Cooking and Heating where appropriate, in the design and implementation of relevant projects and programs.
* Insert a provision that bans the burning of the following materials for cooking and heating:
	+ glass, metals (such as copper, iron, chromium, and aluminium), oils, rubber, plastics, snack wrappers, aerosol cans, tyres, treated timber, chemically treated materials, electrical and electronic items, cables, wiring, batteries, household chemical containers, vinyl flooring, paint, treated timber, construction waste materials including PVC pipes and sheet rock (dry wall), hazardous waste, and industrial solid waste.
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| uPOPs emissions from motor vehicles | uPOPs emissions from motor vehicles result from the incomplete combustion of fossil fuels (gasoline, diesel, and heavy fuel oil) in engines. Newer vehicles are expected to emit fewer POPs due to increasingly stringent emission requirements in the countries of origin/manufacture. However, older vehicles currently in use may be emitting higher levels of POPs. Emissions of uPOPs can be reduced through operation of well-maintained vehicles, and use of pollution control devices, and through the implementation of sustainable recycling programs for end-of-life vehicles. In all Pacific Island Countries, the maintenance condition and road worthiness of vehicles are normally assessed annually by a national (or state) transportation agency as part of the country’s vehicle licensing and registration system. However, vehicle inspections do not normally include emissions testing. This aspect of national legislation needs to be strengthened to ensure that vehicles emitting unacceptable levels of POPs are not allowed to operate.  | **Restrictions on importation of second-hand vehicles** * Insert provisions to ban the importation of used and reconditioned: road tractors; motor vehicles for the transport of persons; motor can and other motor vehicles, principally designed for the transport of persons including station wagons and racing care: motor vehicles for the transport of goods; special purpose motor vehicles; dual-purpose motor vehicles; chassis Sited with engines; trailers and semi-trailers with or without self -loading/self-unloading devices; motor vehicle chassis; which are more than [x] years of their date of manufacture.
	+ *Note: Countries should specify the national Customs Tariff Codes corresponding to the types of vehicles to be banned.*
* Insert provisions to require the importer of a vehicle to demonstrate compliance with the following relevant standards:
	+ Imported vehicles must meet the Australian vehicle emission standards in force at the time of import, or the vehicle emission standard applicable to the vehicle in the vehicle’s country of origin – whichever is more stringent.
		- *Note to drafter: at the time of writing these instructions, the standards in force were Australian Design Rule (ADR) 79/04 for light vehicles (≤ 3.5 tonnes), and ADR 80/03 for heavy vehicles ( >3.5 tonnes)*
	+ .
* The importer must demonstrate compliance by providing the original certification documents prior to the arrival of the imports. Acceptable certifications will be the certificate or letter of compliance issued by a duly registered and authorised entity in the country of import.
* Assign responsibility for the provisions above to the Ministry responsible for transportation.

**Motor vehicle inspections*** Require that the checks in Appendix 2 be conducted under the current vehicle inspection system. These are in addition to (and not in place of) existing checks.

**End-of-life recycling fee on vehicles*** Impose an ‘end-of-life recycling fee’ (‘Recycling Fee’) on the importation of vehicles into [country]. The Recycling Fee must be paid by the importer of a vehicle into [country].

**Amount of the Recycling Fee** * The Minister must determine the amount of the Recycling Fee for different types of vehicles, and in doing so, must:
	+ consider the costs of collecting, transporting, crushing, storing and exporting end-of-life vehicles for environmentally sound recycling;
	+ consider the estimated costs of ongoing education and awareness-raising initiatives with regard to protection of the environment through recycling of end-of-life vehicles.
	+ consider any other criteria the Minister considers appropriate.
	+ consult with relevant stakeholders including vehicle importers, vehicle recycling companies, business representatives, and community representatives.
* The Minister must gazette the amount of the Recycling Fees at least [one] month before the fee commences. [*Country to amend the time period if necessary].*

**Waste Recycling Fund** * Establish a fund called the Waste Recycling Fund and require the Recycling Fee to be paid into the Fund.
	+ Insert a note (or provision) to highlight that countries may use a pre-existing waste fund such as one established for container deposit schemes, rather than establish a new fund.
* The Fund is to be managed by the Department, in accordance with the requirements of the [Department of Finance or other government body].
* Money paid into the Fund are to be used for:
	+ the collection, transportation, temporary storage, and exportation for recycling of end-of-life vehicles.
	+ ongoing initiatives to raise awareness of the need to protect the environment by collecting and recycling end-of-life vehicles.
* The Department must give an annual report to the Minister by [date] each year, covering the previous financial year and setting out:
	+ the amount of Recycling Fee paid into the Fund
	+ how money in the Fund has been spent
	+ the total number of vehicles (by type) on which the Recycling Fee was paid
	+ the total quantity of end-of-life vehicles collected
	+ the total quantity of end-of-life vehicles exported.
* The Minister must present the report to Parliament within [one] month of receiving it.
* The Minister must make the report available to the public after it has been presented to Parliament.
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| Department may request information | The persistent lack of availability of, and access to, data relating to waste management is a constant challenge in Pacific Island Countries, which hampers the development of effective policies. A general provision is needed which gives the Department broad powers to require relevant stakeholders to provide data that may be deemed necessary for the effective design or implementation of policies and projects, or to support effective compliance monitoring.  | * Insert a provision that enables the Department to request in writing, information from any person or entity that is reasonably expected to have the information.
* The request may be in the form of a notice that details the information requested; the reason for requesting the information; and the date by which the information should be provided.
* The Department may, in agreement with the person, extend the deadline for providing the information.
* The penalty for failing to comply with an information request is [x] for an individual, and [y] for a corporation. [*Note:* *Country to specify the amount of the penalties*]
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**Appendix 1: Sample Application for an Open Burning Permit**

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| --- | --- |
| Application date: |  |
| Applicant’s name:  |  |
| Phone number: |  |
| Applicant’s address: |  |
| Materials to be burned: |  |
| Location where burning will occur: |  |
| Owner or occupier of land where burning will occur: |  |
| If the applicant is not the land owner or occupier, does the applicant have the consent of the land owner or occupier? |  |
| Reason for burning: |  |
| Applicant’s signature |  | Date: |  |

|  |
| --- |
| ***For Government Use Only*** |
| Verified/inspected by: |  |
| Title: |  |
| Date verified/inspected: |  |
| Permit begins on: |  |
| Permit expires on: |  |
| Permit number: |  |
| Permit approved by: |  |
| Title: |  |
| Signature: |  | Date: |  |

**Permit for Open Burning**

**Conditions of Permit**

The following conditions must be followed:

1. The permittee must have the permit on their person and shall produce the permit for inspection when requested to do so by a forest officer, town fire warden, conservation officer, or other peace officer. The permittee shall remain with the fire at all times and before leaving the site shall completely extinguish the fire.
2. Burning may only be conducted in daylight hours (dawn to dusk). [*countries to amend hours as necessary]*
3. The burning shall be conducted as far away as practical (about 500m away?) from any public road, airport, and healthcare facilities, unless approved by the Department. Where possible, the burning should also be located downwind of these areas and downwind of residential areas.
4. This permit may be cancelled at the discretion of an authorised officer from the issuing Department, or from Government Departments responsible for Health, Forestry, or Fire Services. Completely extinguish any fire immediately if the permit is revoked.
5. Do not burn waste if there is a practical alternative method for managing or disposing of the material such as chipping or composting, recycling, or disposal in the local landfill or dumpsite.
6. **The following materials must not be burned**: Wet waste, glass, metals (such as copper, iron, chromium, and aluminium), oils, rubber, plastics, snack wrappers, aerosol cans, tyres, treated timber, chemically treated materials, electrical and electronic items, cables, wiring, batteries, household chemical containers, vinyl flooring, paint, construction waste materials such as PVC pipes and sheet rock (dry wall), hazardous waste, and industrial solid waste.
7. **Burning any of the banned materials is an offence and may result in a fine or penalty. – Frank: we need to have this inserted in the appropriate provisions above!**
8. Materials to be burnt should be dry and loose (non-compacted). Limit burning to small, well-ventilated fires that are burned in a way to prevent smouldering (thick smoke). Avoid fires in large containers. If smouldering (smoke without flame) occurs, spread the burning materials to allow a flame to develop, or extinguish the pile.
9. It is the responsibility of the permittee to monitor and keep the fire under control and to prevent it from spreading and causing damage to persons and property. The Department is not responsible for any damages caused from a fire authorised by this permit.
10. Any person tending to the fire should position themselves upwind from the fire. Where possible, protective clothing such as gloves, boots and overalls, together with smoke masks and goggles should be used.
11. After the materials are burnt, completely extinguish the fire to prevent smouldering or spreading of the fire. Ash from the extinguished fire should be disposed of in a landfill (or the local dumpsite) and must not be spread on land such as backyard gardens, farm land, or animal pastures.
12. Contact the Department of xxx at phone number xxx-xxxx to inform them that you are burning (office hours are Monday-Friday 8:00 am – 4:30 pm).

**Appendix 2: Motor vehicle emissions: Reasons for failing an inspection**

The following sets out the criteria for when the emissions or exhaust system of a motor vehicle is considered defective and must fail an inspection.

1. An emission related component originally fitted to the vehicle is altered, modified or removed so that it no longer operates as intended
2. Any component of the vehicle is adjusted so that it increases exhaust emissions including smoke
3. Replacement fuel delivery systems do not continue to comply with the emission requirements applicable at the time of the vehicle’s manufacture
4. Any original emission related component is not properly located, connected, damaged, deteriorated or altered in any way to reduce effectiveness (e.g. a catalytic converter is not fitted where one was originally provided or has been bypassed).
5. An exhaust system does not discharge in accordance with prescribed standards.
6. The exhaust outlet on a motor vehicle, other than a bus or goods carrying vehicle with a gross vehicle mass less than 12 tonnes, does not extend:
	* beyond the rear-most seating position; and
	* at least 40mm past the outermost joint of the floor pan that is not continuously welded or permanently sealed, or
	* where the body of the vehicle is permanently enclosed and not fitted with a vertical exhaust system, to the edge of the vehicle.
7. A vertical exhaust does not extend at least 150mm above the cab of the vehicle
8. The outlet on a vertical exhaust does not discharge the exhaust flow straight up:
	* at an angle above the horizontal; and
	* towards the rear, or right, of the vehicle
9. Exhaust components are not securely mounted with adequate clearance between other parts of the vehicle and the road
10. The exhaust system is fitted with a device designed to bypass noise and/or gaseous emission control devices which would render the system non-compliant with the vehicle emissions standards in force.
11. Any exhaust component fouls any part of the steering, suspension, brake or fuel system
12. For a bus, flammable material is located within 100mm of the exhaust without shielding
13. There are leaks or excessive noise from the exhaust system and joints during operation (excluding manufacturer’s drain holes in mufflers).
14. The engine emits sparks, flames, excessive gases, oil or fuel residue.
15. When operating, an engine of a motor vehicle manufactured after 1930 emits visible emissions for a period of 10 seconds or more. *This does not apply to emissions that are visible only because of heat or condensation of water vapour*.
16. For petrol engines fitted with positive crankcase ventilation, crankcase gases escape into the atmosphere.
17. A vehicle operating on Liquid Petroleum Gas (LPG) or Compressed Natural Gas (CNG) and petrol does not have the emission control equipment fitted to enable compliance with emission levels when operating on petrol.