



Stocktake of Existing and Pipeline **Waste Legislation:** REPUBLIC OF MARSHALL ISLANDS



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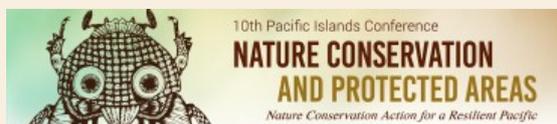
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Table of Contents

| | |
|---|----|
| About this Report | 4 |
| Legislative Summary | 6 |
| Pipeline activities | 12 |
| Stocktake of Relevant Multilateral Environmental Agreements | 13 |

List of Tables

| | |
|--|----|
| Table 1: Legislation impacting waste governance in RMI | 7 |
| Table 2: Policies and reports impacting waste governance in RMI | 9 |
| Table 3: Government departments with waste responsibilities in RMI | 11 |
| Table 4: Pipeline activities for RMI | 12 |
| Table 5: MEAs and implementing legislation | 13 |

About this Report

Introduction and Acknowledgements

1. This report was prepared by the University of Melbourne (UoM) consultancy team as part of the PacWastePlus Waste Legislative Review project. The UoM team reviewed laws on waste management in 14 Pacific region countries and Timor-Leste (the 'participating countries'). This research was commissioned by the Secretariat of the Pacific Regional Environment Programme (SPREP), with funding support from the European Union's Delegation to the Pacific.
2. The team acknowledges, with gratitude, the research assistance provided by Ms Rebekkah Markey-Towler and the extensive background legislative reviews undertaken by the MLS Academic Research Service under the stewardship of Ms Robin Gardner and with the assistance of Daniel Carlos Bennett-Spark, Ken Zhunwye Kiat and Luis Bogliolo.
3. The UoM team also gratefully acknowledges project assistance provided by Ms Astari Kusumwardini, as well as the assistance, guidance and contributions provided by the SPREP PacWastePlus team and in-country stakeholders in the participating countries, who generously shared their time and insights with the UoM team.

Methodology

4. The methodology used by the UoM team to prepare this report was primarily based on desktop research using publicly available online resources about waste management laws in the participating countries.
5. Particular databases drawn for the research included those maintained by 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.
6. 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.
7. 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 to date), as well as interviews with in-country contacts (in Vanuatu, the Solomon Islands, Federated States of Micronesia and Samoa only at the time of preparing this report). Further in-country trips and interviews are planned across the remainder of the project period.

Outline of Report

8. This report contains the UoM team's findings relating to:
 - A **stocktake of the existing legislative environment for waste management** in the participating countries, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, plastic waste, recyclables, organics, disaster waste, bulky waste and wastewater, 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 participating countries, including an assessment of their impact and approximate timeframe for development.

9. For the pipeline stocktake, the UoM team noted that additional information on pipeline legislative initiatives is likely to be gathered during later in-country visits and ongoing data collection through the survey and interviews with in-country stakeholders. The information in this report on pipeline initiatives is therefore preliminary, and any updated information will be incorporated in later deliverables for the project.
10. The following sections of the report contain the stocktakes for each participating country. Reviews for each participating country include;
 - A brief overview of the legal system and relevant sources of law;
 - A legislative summary providing details of laws, regulations, policies and government responsibilities relevant to waste management and governance; and
 - A summary of available information on pipeline legislative initiatives.
11. The final section of the report provides details of participating countries' membership and implementation of relevant multilateral environmental agreements (MEAs), focusing on the Waigani, Stockholm, Basel, Rotterdam and Minamata Conventions.

Legislative Summary

Overview of the legal system

1. The Republic of the Marshall Islands (RMI) is an independent country in free association with the United States of America (USA). RMI is an archipelago of five low coral islands, 29 atolls and 1,151 islets. Its landmass totals 113 square kilometres.
2. The Marshall Islands were formerly part of the Spanish East Indies. Spain sold some of the islands to the German Empire in 1885, and they became part of German New Guinea. In 1920, the League of Nations combined the islands with other former German territories to form the South Pacific Mandate.
3. After gaining military control of the Marshall Islands from Japan in 1944, in 1947 the USA assumed administrative control under United Nations auspices as part of the Trust Territory of the Pacific Islands.
4. The Marshall Islands signed a Compact of Free Association with the USA in 1983 and gained independence in 1986 with the Compact's entry into force. Under the Compact, the USA has responsibility for security and defence of the Marshall Islands. In 2003 the Compact was renewed for 20 years.
5. RMI is a presidential republic with the President as both Chief of State and Head of Government. The legislative branch is bicameral, comprising the Nitijela which has legislative power and the Council of Iroij, a 12-member consultative upper house of tribal leaders that reviews legislation affecting customary law or any traditional practice, and advises on customary issues. The judicial system includes both superior and subordinate courts, as well as the Traditional Rights Court that has jurisdiction regarding titles to land rights or other legal interests depending wholly or partly on customary law and traditional practices.
6. RMI has a mixed legal system of Anglo-American common law and customary law. Sources of law are the Constitution (as the supreme law), RMI legislation, existing law existing prior to the adoption of the Constitution, common law and customary law.
7. RMI Acts are treated in a similar way to US legislation i.e., they are passed as sessional / by year Acts, become Public Laws (PL), and are then inserted into the Code / Acts of Nitijela, where they are arranged within subjects ('Titles') and regularly consolidated to incorporate amendments. Online records are up-to-date and easily accessible. However, this is not the case for regulations under these laws for which there is only patchy and often out-of-date coverage online.

Legislation impacting waste governance

8. Responsibilities for waste management exist within a range of legislation and regulations, but there is no dedicated waste management legislation.
9. Some analysis of the main national waste situation has been undertaken as part of preparation of the National Waste Management Strategy 2012-2016 and Action Plan. This document can be found in Appendix B to a June 2015 PDP report for SPREP on Assessment of Status and Options for Solid Waste Management on Majuro Atoll 2015. This report describes the National Waste Management Strategy as in draft form and with cabinet for its approval.
10. The following tables provide a stocktake of the existing legislative environment for waste management in RMI located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments. We note that RMI regulations are difficult to locate and access online and further information on these will need to be sourced in hard copy during the planned in-country visit.
 - Table 1 details the legislation relevant for waste management and governance in RMI found through the UoM's stocktake research.
 - Table 2 lists the key policy instruments and reports.
 - Table 3 notes the relevant departments with waste management responsibilities.

Table 1: Legislation impacting waste governance in RMI

| Legislation | Regulations |
|---|---|
| <p><u>National Environmental Protection Act 1984 [35 MIRC Ch 1]</u></p> <p>s104 establishes the National Environmental Protection Authority (EPA).</p> <p>s121 allows the EPA to make regulations regarding (c) pollutants; (d) pesticides; and (e) discharge of hazardous waste. s123 requires regulations made under s121(2)(c) to provide a permit system for the discharge of pollutants and activities resulting in such discharge.</p> <p>Under s126, functions and duties of the EPA include (b) recommending to the President national environmental policy and criteria regarding discharge of wastes; (c) undertaking surveys and investigations as to the causes, nature, extent and prevention of pollution; and (k) establishing and maintaining liaison with international organisations</p> <p>s145 allows the EPA to take enforcement action, including cease and desist orders; imposition of civil penalties; (c) institution of civil proceedings; and (d) any other action authorised under the Chapter or any other law.</p> <p>Under s146, where (1)(a) discharge of waste is in violation of legal requirements or (b) a waste facility is approaching capacity, the Authority shall require the discharger to submit for approval by the Authority. Subsection (2) requires the Authority to issue a cease and desist order where discharge is taking place in violation of the requirements.</p> <p>s147 requires any person who discharges pollutants in violation of the Chapter or any permit, requirement or order of the EPA to clean up the pollutant and abate its effects on order of the EPA.</p> <p>s151 allows any person or body to bring an action in the High Court for declaratory or equitable relief against any person or body in order to protect the environment from pollution.</p> | <p><u>Solid Waste Regulations 1989</u></p> <p>Purposes of the regulations under r 2 include (a) the prevention of water pollution; and (b) air and land pollution. Part II (rr 6–7) outlines requirements relating to solid waste storage. Part III (rr 8–11) relates to solid waste collection safety, equipment, frequency and operations. Part IV (rr 12–17) outlines who is responsible for the management of various types of solid waste. Part V (rr 18–25) establishes a permit system for solid waste disposal facilities. Part VI (rr 26–32) establishes standards for solid waste disposal facilities. Part VII (rr 33–34) relates to standards for hazardous waste disposal. Part VIII (rr 35–37) relate to enforcement by the EPA</p> <p><u>Toilet Facilities and Sewage Disposal Regulations 1990</u></p> <p>These regulations outline general requirements of toilet and sewage systems.</p> <p><u>Pesticides and Organic Pollutants (POPS) Regulations 2004</u></p> <p>The purpose of these regulations under r 2 is to establish a system of control over the importation, distribution, sale, and use of pesticides and to ban or restrict the use of twelve POPS targeted by the Stockholm Convention.</p> <p><u>Environmental Impact Assessment Regulations 1994</u></p> <p>These regulations establish standard procedures for the preparation and evaluation of environmental impact assessments (EIAs).</p> <p><u>Sustainable Development Regulations 2006</u></p> <p>These regulations establish a regime for sustainable approval of developments. Regulation 12(a) requires any development activity with a ‘major’ designation to include an Environmental Management Plan, which may be required to consider projected generation of waste.</p> <p>Under r 26(d), prohibited development activities include any disposal or storage of solid or hazardous waste that is not in a permitted public waste disposal facility.</p> |

| | |
|---|---|
| | <p><u>Public Water Supply Regulations 1994</u></p> <p>The purpose of the regulations in r 2 include to ensure water supply is protected against contamination and pollution. Regulation 23 makes it the responsibility of water suppliers to ensure water quality, including to prevent contamination through wastewater backflow. Regulation 48 makes persons who contaminate public water supplies with toxic or poison materials, not removable by normal treatment methods, subject to both criminal prosecution and imposition of civil penalty.</p> |
| <p>Littering Act 1982 [35 MIRC Ch 2]</p> <p>s204(1) makes littering an offence liable to between \$50 and \$1,000 fine, or a maximum 6 months imprisonment, or both. s205 provides for enforcement powers.</p> | None identified. |
| <p>Office of Environmental Planning and Policy Coordination (OEPPC) Act 2003</p> <p>s403 establishes the OEPPC within the executive branch.</p> <p>Under s404, a purpose and function of the OEPPC is to act as the focal point of contact in coordination, management and implementation of all international environmental projects and programs.</p> | None identified. |
| <p>Public Health, Safety and Welfare Act 1966 [7 MIRC Ch 1] (commenced 11 May 2015)</p> <p>Part II deals with sanitation e.g. toilets and accumulation of rubbish</p> | None identified. |
| <p>Styrofoam Cups and Plates, and Plastic Products Prohibition, and Container Deposit Act 2016 [7 MIRC Ch 5]</p> <p>Legislation in s503 prohibits the import, manufacture, sale or distribution of Styrofoam cups and plates, disposable plastic cups and plates, and plastic shopping bags.</p> <p>Part III establishes a container deposit program.</p> <p>Part IV establishes a recycling fund for implementation of the Act.</p> | None identified. |
| <p>Ministry of Environment Act 2018 [35 MIRC Ch 6] (commenced 2 October 2019)</p> <p>s605 establishes the portfolio of the Minister of Environment.</p> | None identified. |

| | |
|---|------------------|
| <p>s606(2) requires the Minister to ensure domestication and implementation of all treaties, international instruments and agreements relevant to the Act to which the Republic is a signatory or may be.</p> <p>s616 establishes the National Council on the Environment, a function of which under s617(4) is to take any further action necessary to implement relevant treaties and instruments to which the Republic is or may be a member.</p> | |
| <p>Criminal Code 2011 [31 MIRC Ch 1]</p> <p>Under s252.6, altering, damaging or contaminating a water or sewer line is a petty misdemeanour, or a misdemeanour on a subsequent conviction.</p> | None identified. |
| <p>Foreign Affairs Act 2007 [43 MIRC Ch 6]</p> <p>Responsibilities of the Ministry of Foreign Affairs include:</p> <ul style="list-style-type: none"> - ensuring that the Nitijela enacts domestic legislation to give effect to international convention obligations. - ensuring the enactment of domestic legislation to give effect to international convention obligations as a function of the Minister of Foreign Affairs. - presenting an Annual Report of the Ministry to the President and Cabinet each year, which includes details of domestic enactment of international obligations. | None identified. |

Table 2: Policies and reports impacting waste governance in RMI

| Policy | Description |
|--|---|
| 2050 Climate Strategy: Lighting the Way 2018 | A key recommendation (p 8) is to reduce RMI's growing waste problem by minimising organic material in collected waste and consider possibilities to generate energy from waste. Section 2c (p 30) discusses the greenhouse emissions of the waste sector. |
| Joint National Action Plan for Climate Change Adaptation & Disaster Risk Management 2014-2018 | Poor waste management and sanitation identified as a key driver of RMI's climate vulnerability. Improvement of solid waste management a hoped result of objectives 5.1, 5.2 and 5.4. |
| Kwajalein Atoll Solid Waste Management Plan 2019-2028 and Action Plan 2019-2023 | Details current solid waste management situation and issues, strategic targets and an action plan. |
| National Environment Management Strategy 2017-2022 | Poor waste management and pollution control identified as a key environmental risk. A strategic focus area in Theme 6: Built Environment is to provide proper waste management services and proper management of hazardous waste. |

| | |
|---|--|
| National Implementation Plan for the Stockholm Convention on POPs 2008 | Submitted in fulfilment of RMI's obligations as a party to the Stockholm POPs Convention. |
| National Strategic Plan 2015–2017 | Plan relating to solid and hazardous waste management in section 3D under infrastructure development. Objectives of infrastructure development sector include to reduce solid waste generation and effectively manage solid waste, and minimise impact of persistent organic pollutants, pesticides and hazardous waste. |
| National Waste Management Strategy 2012-2016 and Action Plan | Outlines state of waste management and recommendations, including around education, policy, financing, infrastructure, capacity, minimisation, and hazardous and medical waste. An action plan is included at p 27. |
| National Water and Sanitation Policy & Action Plan 2014 | Identifies issues with solid waste at p 6. |

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

Table 3: Government departments with waste responsibilities in RMI

| Responsible government departments and other entities | Responsibilities |
|---|--|
| Environmental Protection Authority | Established by the National Environmental Protection Act 1984. Powers to make regulations regarding pollutants, pesticides and discharge of hazardous waste. Can also take enforcement action including cease and desist orders. |
| Ministry of Environment | Portfolio established by the Ministry of Environment Act 2018. Administers the National Environmental Protection Act 1984. Responsibilities for implementation of MEAs. |
| Ministry of Health Services | Jointly administers the National Environmental Protection Act 1984 with the Ministry of Environment. Also administers the Public Health, Safety and Welfare Act 1966. |
| Office of Environmental Planning and Policy Coordination (OEPPC) | Established by 2003 Act within executive branch as focal point of contact in coordination, management and implementation of all international environmental projects and programs. |
| Ministry of Foreign Affairs and Trade | Administers Foreign Affairs Act 2007. |
| Economic Policy, Planning and Statistics Office | Responsibility for National Strategic Plan 2015-2017 |

Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management in RMI, summarised in Table 4 below.
2. Limited information was available on pipeline activities through the desktop review. The UoM team hopes to obtain further information through interviews with in-country stakeholders and from data gathered in the online survey.
3. It appears that the National Waste Management Strategy for RMI remains in draft form and that there is currently no established inter-sectoral coordinating mechanism. RMI also administers waste management issues under general environmental and public health legislation and lacks specific waste management legislation. Development of the latter might assist in coordinating efforts to address solid waste management issues identified in RMI.
4. Container deposit legislation was introduced in 2016 and implementation of the container deposit scheme is an ongoing area of waste management activity in RMI. It seems that this scheme has been successful in diverting a significant volume of this waste away from landfill.
5. In the same 2016 legislation, RMI introduced controls on various forms of plastic-containing waste including a ban on plastic bags. This flows a broader trend to introduce plastic bag bans across several Pacific countries.
6. Several countries in the Pacific region, including RMI are exploring opportunities for waste-to-energy projects. For example, a December 2018 report on Navigating our Energy Future: Marshall Islands Electricity Roadmap discusses a proposal for waste-to-energy in Majuro with the [Asian Development Bank reported to be carrying out this assessment](#). For such proposals to proceed, however, there is a need for a supporting legislative framework and capacity for monitoring which is not currently in place in RMI.

Table 4: Pipeline activities for RMI

| Pipeline activities | Description | Timeframe |
|---|---|----------------|
| Finalisation of National Waste Management Strategy | Described as being in draft. | Not specified. |
| Container deposit scheme | Implementation of container deposit scheme introduced by 2016 legislation. | Ongoing. |
| Waste-to-energy supporting regulatory framework | <u>Investigation of waste-to-energy project in RMI</u> but would require regulatory and monitoring support. | Not specified. |

Stocktake of Relevant Multilateral Environmental Agreements

- The relevant multilateral environmental agreements 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).
- The Table below provides details of the membership of RMI in these MEAs. Specifically, it lists:
 - The relevant MEAs to which RMI is party and the date the MEA was in effect;
 - Details of designated national authorities (DNAs) or national focal points for these MEAs; and
 - Details of any implementing legislation or policies for the relevant MEA.

Table 5: MEAs and implementing legislation

| MEA | In effect for country | Designated National Authority or National Focal Point | Implementing legislation |
|-----------------------------|-----------------------|---|---|
| Basel Convention | 27 Apr 2003 | Ms. Moriana Philip General Manager RMI Environmental Protection Authority P.O. Box 1322 96960 Majuro, Marshall Islands Phone: +692 625 3035 / 5203 Fax: +692 625 5202 Email: morianaphillip.rmiepa@gmail.com | No specific implementing legislation but see National Report Basel Convention 2004 (submitted in 2006) and National Report Basel Convention 2014 (submitted in 2018). |
| Stockholm Convention | 19 May 2004 | Ms. Moriana Philip General Manager RMI Environmental Protection Authority P.O. Box 1322 96960 Majuro, Marshall Islands Phone: +692 625 3035 / 5203 Fax: +692 625 5202 Email: morianaphillip.rmiepa@gmail.com Minister in Assistance to the President Office of the President P.O. Box 2, 96960 Majuro Marshall Islands | Pesticides and Organic Pollutants (POPS) Regulations 2004 See also National Implementation Plan for the Stockholm Convention on POPs 2008 . |

| | | | |
|-----------------------------|-------------|--|---------------------------------------|
| | | Phone: +692 625 3213 Fax: +692 625 4021 | |
| Rotterdam Convention | 24 Feb 2004 | Ms. Moriana Philip General Manager RMI Environmental Protection Authority P.O. Box 1322 96960 Majuro, Marshall Islands Phone: +692 625 3035 / 5203 Fax: +692 625 5202 Email: morianaphillip.rmiepa@gmail.com H.E. Mr. John M. Silk Minister for Foreign Affairs Ministry of Foreign Affairs P.O. Box 1349 96960 Majuro, Marshall Islands Phone: +692 625 3685 Fax: +692 625 4979 | No specific implementing legislation. |
| Minamata Convention | 20 Apr 2019 | Not specified. | No specific implementing legislation. |
| Waigani Convention | Not party. | | |



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