



NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

TALKING POINTS BY THE DIRECTOR GENERAL NEMA DURING VIRTUAL MEETING WITH PRODUCERS ON EPR IMPLEMENTATION HELD ON 23RD AUGUST 2023

Distinguished producers

Ladies and Gentlemen

1. I feel privileged to preside over this meeting attended by the producers to brainstorm on implementation of Section 13 of the Sustainable Waste Management Act on Extended Producer Responsibility.
2. At the onset, I wish to thank KEPSA, KAM and KNCCI for partnering with us and mobilizing producers to participate in this meeting.
3. According to the Sustainable Waste Management Policy 2021, every Kenyan generates about 0.5 kgs of waste every day amounting to 25,000 tonnes per day for a population of 50 million Kenyans. This waste by composition is 60% organic, 30% recyclables and 10% others.
4. Earlier approaches in waste management in Kenya promoted a linear model of take, make dispose which led to littering, illegal dumpsites, wastage of resources and emission of GHGs.
5. The Ministry of Environment and Forestry spearheaded the development of the Sustainable Waste Management (SWM) Policy (2021) and SWM Act 2022 which became operational on 23rd July 2023 to transition waste management to the circular model.
6. As you are aware, on 7th August 2019, the Ministerial Stakeholders Forum (MSF) held between the Ministry of Environment of Forestry and private sector through the Kenya Private Sector Alliance (KEPSA) reached an agreement that the Ministry should spearhead development of mandatory extended producer responsibility (EPR) regulations. This resolution was further amplified by the Kenya Plastic Action plan launched in December 2019 by KAM where producers within the plastics sector committed to take responsibility for their products and waste but required a regulatory framework that mandates every producer and importer to be part of the EPR scheme.

7. Section 13 of the SWM Act 2022 directs all producers to implement mandatory EPR obligations to prevent pollution from their products or by waste arising therefrom. Further, the Ministry has developed the Extended Producer Responsibility Regulations (2023) which will be enacted soon.
8. EPR is a policy approach based on the Polluter-Pays Principle in which producers are given significant responsibility – financial, organizational and/or physical – for the product design, collection, treatment and disposal of the waste from the products they introduce in the market.
9. During development of the EPR regulations, we held many meetings with producers to explain how we conceptualized the EPR concept and its implementation. This extensive public and stakeholder consultations helped us to finalize the EPR regulations.
10. It is expected the learning attained by the producers during the consultative meetings held during preparation of EPR regulations was useful in designing your roadmap towards compliance to Section 13 of the SWM Act 2022.
11. NEMA is coming to you now to demand accountability on levels of compliance to Section 13 of the SWM Act 2022. It is important to note that the basic unit space area of accountability in waste management is the county level since this is a devolved function especially for non-hazardous waste. Producers are hence expected to have a cordial working relationship with counties in terms of development of workplans and progress reports.
12. This meeting is designed to share with you the parameters that will inform development of your compliance report to NEMA. Our technical team will take you through these parameters and any questions will be clarified.
13. Let me quickly clarify that the reporting parameters were extracted from the draft EPR regulations, implying that you will not be subjected to new parameters when the regulations are enacted.
14. However it is notable that a few areas mainly upstream and midstream interventions have been left out in this reporting exercise and will await for enactment of the regulations and these include registration of producers by NEMA; investment in product life cycle assessments including eco-designs; investment in research and development; development of markets for secondary raw materials; and appropriate technologies.
15. Allow me also to clarify that the EPR is a two edged sword and Kenya has set in motion a process whereby all producers have been given an opportunity to demonstrate that they trade in products that do not degrade the environment. In the unlikely event that the product continues to cause pollution, this will trigger the need for NEMA and the producers to engage in a discussion with an intention to ban that product or packaging. Therefore, EPR requires you to rethink about the products you introduce into the Kenyan market to ensure they are safe.

16. It is expected that you will finalize development of your report within the shortest time possible, possibly two months, to enable our officers proceed with inspections and enforcement to ensure weeding out of the joyriders.
17. As I conclude, let me clarify that NEMA appreciates the cooperation we have enjoyed from all producers during the entire journey of development of the EPR tools. We are ready to continue working with the producers to ensure smooth transition towards strengthened EPR schemes.
18. I also wish to thank all our partners including KEPSA, KAM, KNCCI, Danish Embassy, Netherlands Embassy and WWF among others for teaming up with us.
19. We wish to continue with this cooperation till Kenya delivers to her citizens a clean and healthy environment.