



MANAGEMENT OF TOXIC AND HAZARDOUS CHEMICALS AND MATERIALS

1) Introduction

The regulation applies to the sound management of chemicals through the application of managerial best practices to chemicals throughout their life cycle to prevent, reduce or minimize the potential for exposure of people and the environment to toxic and hazardous chemicals.

2) Objectives of the Regulations

- (a) To ensure protection of human health and environment from adverse effects of toxic and hazardous Industrial chemicals and materials.
- (b) To reduce risks posed by chemicals and provide for the sound management of chemicals;
- (c) To ensure free movement of chemical products; and
- (d) To domesticate—
 - (i) the Stockholm Convention;
 - (ii) the Rotterdam Convention;
 - (iii) the Minamata Convention; and
 - (iv) any other relevant provisions of international treaties, agreements and conventions on the management of chemicals.

3) Scope/Application

The Regulations apply to the manufacture, exportation, importation, transportation, distribution, storage, handling and disposal of toxic and hazardous industrial chemicals and materials.

These may include:

- a) Any chemical or product used or intended for use in industrial process
- b) Industrial chemicals: Sulphuric acid (making detergent), liquid Nitrogen (Freeze dying in laboratories), Ethylene (used as antifreeze), Oxygen (in welding), Chlorine (water treatment) etc.
- c) Chemicals and materials listed in the Stockholm, Rotterdam, Minamata Annexes

The Regulations do NOT apply to:

- i. Pesticides regulated under the Pest Control Products Act CAP 346.
- ii. Fertilizers regulated under the Fertilizer and Food Stuffs Act 345
- iii. Drugs (Pharmaceuticals) regulated under the Pharmacy and Poisons Act
- iv. Substances regulated under the Poisonous Substances Act CAP. 247
- v. Radioactive materials regulated under the Radiation Protection Act 243
- vi. Materials and substances regulated under the Food, Drug and Chemical Substance Act 254



4. Application for Registration

All manufacturers' exporters and importers, including distributors, and transporters are required to register their chemicals or material (products) with NEMA before any dealings.

Application for registration shall be done online on the NEMA licensing portal (<https://licensing.nema.go.ke>) accompanied by:

- a) Material Safety Data Sheet (MSDS).
- b) Risk Management Plan
- c) Emergency Response Plan (Hazardous Materials (HAZMAT) & Hazardous chemicals (HAZCHEM)

5. General Prohibitions

- a) A person shall not manufacture, import or export toxic and hazardous industrial chemicals or materials unless the chemical or material is registered.
- b) A person shall not store, distribute, transport or sell any toxic and hazardous industrial chemicals or materials without an appropriate label attached to the package or container.
- c) A person shall not store, distribute, transport or handle toxic and hazardous chemicals or materials without the requisite label or in a manner that is inconsistent with directions or limitations shown in the label.
- d) A person shall not manufacture, import or export toxic and hazardous industrial chemicals or material unless the person has a license issued by the Authority.
- e) A person shall not import or export toxic and hazardous industrial chemicals, materials or samples thereof unless the person has a permit issued by the Authority.
- f) A person shall not store, distribute and transport toxic and hazardous chemicals or materials unless accompanied by the material safety data sheet.

6. Offences and Penalties

- (1) A person who manages toxic and hazardous industrial chemicals or materials for the purposes other than those specified in a manner likely to cause adverse effects to human health and environment commits an offence.
- (2) A person who contravenes any provision of these Regulations commits an offence and shall, on conviction, be liable to the penalty set out in section 141 of the Act.
- (3) In addition to the penalty imposed under sub-regulation (2), a person shall be liable to the penalties set out under section 93 of the Act.
- (c). Licensing requirements

Before any license or permit is applied for, the toxic or hazardous chemical or material itself must be registered with NEMA.

- Any person intending to manufacture, import, export, distribute, or supply a toxic or hazardous industrial chemical or material must first apply for its registration with NEMA.
- This ensures NEMA is aware of the chemical, its properties, classification, and associated risks before it is allowed into the Kenyan economy.

7. Application Fees

ITEM	FEES (KSHS)
Registration	1,000
License to Manufacture/ Distribute/ Transport /Storage	100,000
License to Manufacture (Annual)	100,000
License to Import / Export / Transit	100,000
Permit to Import / Export / Transit	40,000
Permit to Import / Export / Transit (Per Consignment)	40,000
Application for a Permit to Use Toxic and Hazardous Chemical in Mining and Other Extractive Processes	10,000
Permit to Use Toxic and Hazardous Chemical in Mining and Other Extractive Processes	40,000
Transfer of License	100,000