REGULATORY IMPACT STATEMENT
THE EMC (ELECTRICAL AND ELECTRONIC WASTE (E-WASTE) MANAGEMENT) REGULATIONS 2025

INTRODUCTION

Kenya generates approximately 51,300-53,559 metric tonnes of e-waste annually (KNBS, 2025), driven by rapid Electric and Electronic Equipment (EEE) adoption, shorter products lifespans and imports of used equipment, with an 8-21% annually growth rate. The increase in e-waste generation has been spurred by the growth of the ICT sector over time largely driven by government policies towards e-services and incentives including tax exemption on computers as well as increased market penetration of electronics use and mobile devices in the country. Kenya like other African countries has also seen increased importation of used or near obsolete electrical and electronic equipment under the guise of donations as well as cheaper options to the much pricier new EEE. Most of the used products imported into the country have a short life span that easily find their way to the E-waste streams rapidly.

Only 5% is formally recycled while 95% is unmanaged through informal dumping, open burning or landfills, releasing hazardous substances which exacerbate environmental degradation (e.g soil and water contamination) and public health crisis. The growing e-waste poses a threat to the environment, but at the same time, provides a business opportunity to extract common, precious, and critical raw materials embedded in e-waste thereby creating revenue for some sector of the population.

A. OBJECTIVES OF THE PROPOSED REGULATIONS

The objectives of the E-waste Regulations 2025 are to;

a) Develop guidelines for electrical and electronic waste management in Kenya;

b) Prevent pollution from hazardous substances released by uncontrolled E-Waste disposal, thereby protecting ecosystems and public health.

c) Implement the 'Polluter Pays' principle by requiring producers to register, declare equipment and pay treatment fees.

d) Promote recycling and refurbishment of valuable materials in E-Waste, supporting circular economy principles and reducing reliance on new resources.

e) Create an electrical and electronic equipment registry that will enable collection of vital data for evidence-based policy making, performance monitoring and enforcement;

f) Prohibit the introduction of certain E-Waste to prevent Kenya from becoming an e waste dumping ground;

g) Align Kenya with international best practices in e waste management thus fostering international cooperation and trade in recycled materials.

h) Establish avenues for effective awareness creation and capacity building of institutions at National and County levels;

i) Critically review electrical and electronic waste management practices, identify possible hindrances to implementation and provide viable solutions; and

j) Support meetings with stakeholders and disseminate information on electrical and electronic waste.

B. EFFECTS OF THE PROPOSED REGULATIONS

The effects of the proposed Guidelines can be categorized as follows:

i. Economic Effects

a) The E-waste Regulations provide a legal backing for the few producers who

have already put structures in place for the management of their Electrical and Electrical Equipment (EEE) at their end-of-life;

b) Opportunity for producers to manage the end-of-life of their EEE on a level playing ground by ensuring all actors are involved in fulfilling obligations relating to the products they introduce;

c) Employment opportunities in the establishment and growth of recycling enterprises, collection services and other related e-waste management activities;

d) Increased revenue for monitoring of environmental pollution degradation arising from e-waste; and

e) Increase operational costs due to compliance requirements especially by manufacturers and Counties

ii. Social Effects

a) Improved public health as a result of reduced exposure to hazardous e-waste materials.

b) Promote Corporate Social Responsibility within various industries; and

c) Awareness creation on responsible e-waste practices will be heightened which will mitigate against conflicts and social unrest thereby enhancing investor climate and ease of doing business.

d) Negative impact on livelihood of informal sector waste pickers.

iii. Environmental Effects

a) Enhancing a clean and healthy environment and healthier ecosystems as a direct outcome of improved e-waste management;

b) Reduced pollution and especially decrease in soil and water contamination caused by improper e-waste disposal;

c) Increased revenue for monitoring of environmental pollution degradation arising from e-waste; and

d) Conservation of the environment and sustainable utilization of the natural

resources.

C. STATEMENT OF OTHER PRACTICABLE MEANS OF ACHIEVING THE OBJECTIVES OF THE PROPOSED GUIDELINES

i. Regulatory Options

- The Sustainable Waste Management Act (CAP 387C) and the Extended Producer Responsibility (EPR) Regulations which mandates producers to manage the entire life cycle of their products, emphasizing on waste reduction, recycling and environmentally sound disposal practices.
- The Energy Act CAP 314 has provisions regulating electrical equipment standards and encouraging sustainable practices.
- The Public Health Act, CAP 242 relating to taking lawful, necessary and reasonably practicable measures for maintaining the environment at all times in clean and sanitary condition.
- The Consumer Protection Act CAP 501 promotes accurate information, prevents deceptive practices, facilitates consumer education, establishes liability for defective products and enhances enforcement mechanisms.
- County Legislations.
- EMC (Waste Management) Regulations 2024 provide a comprehensive framework for waste management across various categories. Sets standards for handling transportation and disposal of waste
- EMC (Management of Toxic and Hazardous Chemicals and Materials) Regulations regulate the lifecycle of toxic and hazardous chemicals and materials encompassing their manufacture, import, export, transport, storage, handling and disposal.
- Adoption of Internationally recognized standards on waste management.

ii. Non-Regulatory options

a) Educational campaigns and public awareness programmes encouraging proper E- Waste disposal;

b) Enforcement by the relevant Ministries, Counties, Departments, and Agencies (MCDAs) on sectorial issues under their jurisdiction;

c) Negotiated compliance arrangements;

d) Compliance assistance Programmes and compliance promotion;

e) Voluntary Industry self -regulation practices by members of the public, owners and operators;

f) Market based incentives without regulation, tax breaks, subsidies, or carbon credits for recyclers and manufacturers without mandatory obligations

g) Public-Private Partnerships without mandatory framework

D. ASSESSMENT OF THE COSTS AND THE BENEFITS OF THE REGULATIONS

i. Cost of the Guidelines

- Capacity enhancement
- Education and awareness
- Research innovation
- Enforcement and monitoring

ii. Benefits of the Regulations

a. Economic Benefits

- Encourage uptake of innovation and technologies to address e-waste pollution;
- To ease the burden of disease arising from the impact of e-waste pollution
- Supports the government policy objectives for sustainable development.

- Job creation within the emerging e-waste management and recycling industries.

b. Social Benefits

- Enhancing positive social behavior and consideration within the community for promotion of a clean, safe, healthy and sustainable environment for all.
- Improved public health and awareness on e- waste management.
- The Regulations will elevate the standards of living of the people by prescribing measures to ensure reduction of E- Waste.

c. Environmental Benefits

- Clean and healthy environment through reduced e-waste pollution and better management of Unintentionally Produced Organic Pollutants (UPOPs).
- Fosters domestication of relevant international treaties and conventions such as the Basel Convention on transboundary movement of hazardous waste, International Electrotechnical Commission (IEC) Standards, Digital Cooperation Organization (DCO) E- Waste Management Framework; OECD Guidelines for E- Waste, Stockholm Convention on Persistent Organic Pollutants (POPs), Minamata Convention on Mercury, Bamako Convention among others.
- Puts in place preventive measures against destruction of the environment caused by e-Waste pollution and averts potential future risks to the environment.

E. REASONS WHY OTHER MEASURES ARE NOT APPROPRIATE

- The compliance status among the regulated community is wanting and hence the need for guidance on how to achieve compliance.
- Voluntary schemes are non-viable for achieving comprehensive e-waste management.

- ❖ Low self-regulation by the regulated community
- ❖ The Constitution squarely puts the mandate on the government on ensuring a clean, safe, healthy and sustainable environment to Kenyans.
- ❖ The substantive legislation (EMCA, CAP 387) provides for the development of regulations for its implementation
- ❖ The Electronic Equipment Disposal, Recycling and Reuse Bill 2025 that is pending before the Senate is inappropriate taking into account that it moves the functions bestowed upon the Authority to regulate matters relating to e-waste to the County Governments.

F. ANY OTHER MATTERS SPECIFIED BY THE REGULATIONS

Matters specified in the regulations include:

- Application of the Regulation
- Purpose of the Regulations
- Establishment of the Electrical and Electronic wastes Registry
- Functions of the Registry
- Registration of producers
- Register of Producers
- Annual Compliance certificate of producers
- Disclosure
- Producer responsibility
- Responsibility of generators
- Responsibility of refurbishers
- Responsibility of collection centers
- Responsibility of recyclers
- Transportation of E waste

G. ADEQUACY OF THE REGULATORY IMPACT ASSESSMENT- INDEPENDENT ADVICE

To undertake the regulatory impact assessment and to guide on the formulation of the Regulations, the Director General NEMA constituted a technical committee with membership drawn from officers of varied expertise within the Authority.

The Terms of Reference for the technical committee were;

- Develop Regulations for E- Waste Management;
- Ensure that all staff members are consulted and their input incorporated in the Guidelines;
- Ensure that Lead agencies are consulted and their input considered in the Regulations;
- Ensure that public participation is effected in the process of developing the Regulations;
- Coordinate the finalization and Gazettement of the Regulations'
- To undertake stakeholder consultations in the process of developing the Regulations;
- Prepare the Regulatory Impact Statement for the Regulation;
- Prepare the Draft Explanatory Memorandum
- Perform any other task related to the development of the Guidelines until finalization

In order to effectively execute the above-mentioned TORs, the technical committee has scheduled to undertake the following activities;

i. Comprehensive literature review
ii. Technical committee meetings
iii. Rigorous stakeholder consultations to be done in line with the Statutory Instrument Act, 2013
iv. Drafting sessions

This was undertaken by the Technical Committee on behalf of Director General, NEMA. Further to the working of the Technical Committee the

Authority enlisted the services of an independent consultant to prepare a detailed Regulatory Impact Assessment and which has been taken through stakeholder validation processes. The detailed RIS conducted an in-depth analysis of the foregoing issues that had been identified by the technical committee and made recommendations geared towards improving the E-Waste draft Regulations.

H CONCLUSION

The Regulations are particularly important to address the escalating e-waste crisis in Kenya which will go along way in ensuring the protection of the right to a clean and healthy environment as provided for under the Constitution.

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