**The Sustainable Waste Management (Extended Producer Responsibility) Regulations, 2024 (Legal Notice 176/2024)**

**Frequently Asked Questions (FAQ)**

1. **Interpretation (r2)**

Q1. Who is a producer?

A1. "producer" means an entity that introduces goods, products and packaging into the country using authorized means manufacturing, importing, converting, filling, refilling, repackaging or rebranding.

Q2. As for "Control audits", how does NEMA evaluate and check EPR Compliance scheme?

1. **EPR Fees (r6)**

Q1. Who is an “importer of finished products”?

A2. Importer is a person who introduces products and packaging to the Country through importation.

Import basically means the items remain in Kenya for the sales. It does not include the items to be taken out of Kenya.

Finished products are products that have completed the manufacturing process and ready to be sold or distributed to the user. They are categorized into two as below:-

Finished products for industrial use: - these are products that have completed their production process and are ready to be used by other businesses in their own manufacturing processes either as components or raw material for further production. i.e. plastic resins, industrial chemicals

Finished products for consumer market:- these are products that have been fully processed and are ready to be sold directly to consumers/end user to satisfy their needs.

Consumer is a person who purchases goods and services for personal use

Q2. How does NEMA count “per item”?

A2. To define per item, this is based on the basic packaging requirements that all products must meet when shipped. NEMA will determined in consultation with KRA and KENTRADE for seamless implementation of the same.

Q2. Does Importer need to register as producer?

A2. Yes. Importer needs to register as producers first then obtain an Extended Producer Responsibility Certificate per Consignment every time they import.

Importers of finished products for consumer market will also be required to join a collective EPR scheme or establish one where it does not exist, for the execution of their Extended Producer Responsibility obligations.

1. **Requirements for registration of PRO (r11)**

Q2. Does NEMA provide “minimum fee” for EPR Compliance scheme?

A2.Yes NEMA will show general guidance for EPR Fee calculation by using parameters set out in regulation 18 and also as per market prices of recycled products, this is to curb charging of little EPR fee that cannot provide for management of post-consumer material.

Q3. What is “set target”? Who and how it will be defined?

A3. National Target are being set by the Government and in absence of National target, the PROs will collect should be 100% of the products their members introduce to the market. Each EPR Compliance scheme has to submit progress report how their activity contributes to fulfill national target. Target should be developed based on each type of products.

Q4. Does NEMA have criteria of PRO’s registration?

A4. NEMA has a comprehensive review criteria for evaluating the applications for PROs registration.

1. **Charging and modulation of EPR fees (r18)**

Q1. Does NEMA show minimum EPR Fee or calculation methods?

A1. NEMA will show general guidance for EPR Fee calculation by using parameters. (For details, NEMA and JICA Project will discuss it)

1. **What is an EPR Scheme?**
   * An EPR scheme is an environmental management approach where a producer's responsibility extends to the post-consumer stage of a product's life cycle.

[wwfkenya.org](https://www.wwfkenya.org/faqs-on-epr-regulations-2021?utm_source=chatgpt.com)

1. **Who is considered a 'Producer' under EPR regulations?**
   * A producer is any entity that introduces goods, products, and packaging into the Kenyan market through manufacturing, importing, distributing, converting, selling, or reselling.
2. **What is a Producer Responsibility Organization (PRO)?**
   * A PRO is a membership organization established to assume the legal obligation of implementing EPR on behalf of its members in a collective compliance scheme.
3. **What is an Individual Compliance Scheme?**
   * An Individual Compliance Scheme refers to an enterprise-based execution of EPR obligations assumed by an individual producer for a specific product.
4. **How can producers ensure compliance with EPR regulations?**
   * Producers must apply for registration by NEMA.
   * join or establish a Extended Producer Responsibility Compliance Scheme registered with the National Environment Management Authority (NEMA) .
   * Within six months of the enactment of the regulations. They should obtain a Producer Responsibility Number (IPRN) and a Producer Extended Responsibility Number (PERN) from NEMA. Compliant schemes must obtain registration and annual operating licenses in subsequent years.
5. **What are the costs associated with EPR compliance?**
   * Costs cover collection, transportation, public awareness, recycling, and incineration, landfilling, auditing, and reporting. Producers should map their product value chain to ensure accurate attribution and avoid double counting of EPR fees.
6. **What happens if items are left in the environment?**
   * Producers bear the primary obligation for managing their products' end-of-life. Other entities, such as wholesalers, have secondary roles.
7. **Are there distinctions between manufacturers and brand owners regarding EPR implementation?**
   * No significant difference; both are considered producers who introduce products into the Kenyan market. Both need to account for their proportion of attribution to avoid double counting of EPR fees.
8. **If I buy T-shirts and screen print them to sell, who pays EPR fees?**
   * Producers should map the value chain for their product to ensure that EPR fees are appropriately attributed.

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