

SUMMARY OF THE COMMENTS ON THE DRAFT ENVIRONMENTAL (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2017

SUMMARY OF THE COMMENTS OF THE DRAFT EIA REGULATIONS					
Regulations		Institution	Comments	Deliberation by Task Force	Way Forward
1	SECTION 5(2)	OCEANIC N. SAKWA	Needs to be made clear especially the criteria that would be used to determine whether a project is large scale. It is also not a mandatory requirement since not all the PPPs submitted to NEMA would undergo the SEA process.	Comments considered and incorporated.	Section 5 amended.
2	UNDER THE SCHEDULE S		There should be a separate application to practice as a SEA practitioner. There is need to define Integrated Environment Assessment as used in the application form in the 1 <sup>st</sup> schedule.	SEA, EIA and audit are referred to in Regulation 7. They are inter-linked through interdisciplinary experience.	Comment not adopted.
3	FORM 20		Should read Notice to the Public to Submit Comments on the Draft Strategic Environment Assessment.	Comment incorporated.	Correction effected.
4	FORM 24E		Register of SEA Reports should be changed to Register of PPPs submitted to undergo the SEA process. The columns should have Name of PPP owner and not the Name of the proponent.	It is not the end product that is registered but what is received.  Column P corrected.	Title of form retained.  Column corrected.
5	FORM 24I		The columns should have Name of PPP owner and not the Name of the proponent.	Comments adopted.	Corrected.
6	SECTION 8(3)		Should be register of environmental experts and not expects	Comments adopted.	Corrected.
7	SECTION 2	KWALE COUNTY NATURAL RESOURCE	Analysis - Capture health and safety issues.  Definition of "Environmental	Environment captures safety & health i.e. working environment.  Not adopted	Definition borrowed from EMCA.  Definition borrowed

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		<b>S NETWORK</b>	<p>Management” is not sufficient - Awareness to be included as part of the definition.</p> <p>Definition of “Environmentally Sensitive Area” only includes historical values. It also just recognizes environmental impacts that are human induced only. - Should also include cultural and scientific values, and recognize environmental impacts that are because of natural occurrences.</p> <p>Guidelines, use of the same word to describe itself - Remove the words “guidelines describing the”</p>	<p>Adopted</p> <p>Adopted.</p>	<p>from EMCA.</p> <p>Corrected.</p> <p>Word replaced with “procedures”.</p>
8	SECTION 4, (1) (a)		<p>Significant negative environmental impact - Quantify “significant”</p>	<p>Comment adopted.</p>	<p>Word removed.</p>
9	2 <sup>ND</sup> AND 3 <sup>RD</sup> SCHEDULE		<p>The diploma requirements are restricted to environmental sciences holders only unlike the degree and masters holders - Diploma holders should not be restricted to environmental science only but in relevant fields and have undergone EIA training.</p> <p>Those that have prerequisite degree should only be associate expert unless</p>	<p>Considered and incorporated.</p> <p>Training is captured and 8 years’</p>	<p>Corrected.</p> <p>Comment not</p>

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			they have undergone training.	experience required.	adopted
10	2, 1 <sup>ST</sup> SCHEDULE E FORM 1		County level of government should be included.  Referees should be included while filing the form to register as an EIA expert for legal purposes. For a company to be registered it should only offer environmental services or related services.  Those legible should have registered offices	Credentials should be attached. Amended to include physical address.  There are minimum requirements for applications which includes a CV which has referees The criterion is set out in the 2 <sup>nd</sup> Schedule.  Adopted	Physical address included.  Not adopted  Not adopted.  Physical address captured
11	SECTION 10		1(a).The clause only includes the nature aspect of a project - <b>Should include type.</b>  1(b)Limited to only stating the location of a project site - <b>To include landmarks</b>  1(e)Material - To include <b>the quantity certified by a quantity surveyor</b>  1(j) Relocation and resettlement - Should include compensation and disturbance allowance and possible capacity building of affected parties.  1(l) environmental management plan - to include a social management plan.	"Nature" and "Type" is the same thing.  Physical area captures landmark.  Not necessary.  Plan includes compensation, where applicable. Not directly within mandate of NEMA.  EMP also covers social aspects of the project.	Not adopted.  Not adopted.  Not adopted.  Not adopted.  Not adopted.

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			<p>2 Public participation - At least 3 meetings</p> <p>3 Awareness of the planned meeting - Reminders prior to the meeting, through chiefs, media</p> <p>4 Expert - A clause on lead expert to be included</p>	<p>Meetings require notices. E.I.A. is a time bound process. Considered resources and this will make it too costly for proponent (ease of doing business).</p> <p>Clause included in provisions for registration of expert.</p>	<p>Not adopted.</p> <p>Not adopted.</p>
12	SECTION 12		Number of copies - The number should be at least 7	Where additional copies are required they can be requested for on need basis.	Not adopted.
13	SECTION 13		Sharing of copies to relevant agencies - A copy should also be shared to the area chief	A copy is given to CEC who can send it to the relevant sub-county region. Also considered space availability at the chief's office to store these documents.	Not adopted.
14	SECTION 14		<p>1. Commencing of project - The timing should also be communicated to the affected Party.</p> <p>2. Issuance of Certificate - Social aspect should be included before issuing a licence.</p>	<p>The communication comes in form of a board that is put up for the project.</p> <p>License has conditions which addresses social aspects.</p>	<p>Not adopted.</p> <p>Not adopted.</p>
15	SECTION 20		<p>1b. One week notice is short - Two week time notice will be adequate</p> <p>1d. Locations of publicity not enough, not just the vicinity - Could include such places like County Headquarters, major towns.</p>	<p>Considered and incorporated.</p> <p>Strategic public places included which can include county headquarters.</p>	<p>Adopted.</p> <p>Corrected.</p>
16	SECTION 25		Public hearing after written comments made optional - Replace "May" with	Public hearings are based on comments received for the project as it is not	Not adopted.

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		<p>“Shall”</p> <p>Posters and notices to be placed in the vicinity of affected people – Include other areas.</p> <p>7. To include a copy of the report of views to not only the Director General but also the public for accountability. - Include and the general public</p>	<p>practical to hold a public hearing for each and every project.</p> <p>Strategic places included.</p> <p>There is a provision for request for information. Any person can request for the report and is entitled to be supplied.</p>	<p>Corrected.</p> <p>Not adopted.</p>
17	SECTION 32	<p>(2) Authorized environmental auditor or environmental inspector. - Qualifications of the Environmental auditors and inspectors must be spelt out i.e. refer to the Act needs to be included.</p> <p>(5) Classification of the Projects - The years need to be reduced to at least 3 years Rethink some of the low risk projects. e.g. community water projects including boreholes, water pans, sand dams and sub-surface dams; dispensaries, health centers and clinics.</p> <p>(6) Audit Report - There is need to get views from the actual neighboring community regarding the project.</p> <p>Location is Missing - Should start with the physical location of the project.</p>	<p>Replaced environmental auditor with environmental assessment experts.</p> <p>Proviso addresses the short period on need basis.</p> <p>Public consultations included.</p> <p>Physical location included.</p>	<p>Corrected.</p> <p>Not adopted.</p> <p>Adopted.</p> <p>Adopted.</p>

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18	SECTION 35 (2)		<p>The issue of social concern missing - The social concerns also need to be examined.</p> <p>Location of the project - Location needs to be included.</p>	<p>EMP includes social concerns.</p> <p>Part of the project description.</p>	<p>Not adopted.</p> <p>Not adopted.</p>
19	SECTION 36		<p>Contact details not sufficient - include, County, Physical address and coordinates if possible.</p> <p>Nuclear aspect is critical and has not been included. - Since it is an emerging issue, it needs to be included.</p> <p>Disposal of e- waste e.g. laptops, cassettes, batteries. - This aspect needs to be taken into account.</p> <p>The aspect of the local communities - Neighboring communities needs to be taken into account.</p> <p>14 days are they working days? - The word calendar needs to be included to read 14 calendar days.</p> <p>45 days of compliance- If the issues touches than human safety, the period given is so long such that lives of people will be at stake.- This is a lot- Should be 30 days</p>	<p>Audit is done after EIA therefore it is not necessary.</p> <p>Every project is unique and may not be applicable to all projects.</p> <p>(c) addresses waste which includes e-waste.</p> <p>Included in (f)</p> <p>Calendar days as per the general interpretation statute.</p> <p>There are other mechanisms available for addressing emergencies such as stop orders, closure orders and restoration orders.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p>
20	FORM 18		<p>There are cases whereby during the</p>	<p>Not applicable. If there are pending</p>	<p>Not adopted.</p>

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			<p>issuance of the Certificate there are some pending issues.- Need for a section for remarks by the Authority</p> <p>Use of the term facility here and in several other places -This needs definition or appropriate term sought to represent all situations, for instance, - locality.</p>	<p>issues the certificate will be used.</p> <p>Amended to “proponent”.</p>	<p>Adopted.</p>
21	SECTION 38 (2)		<p>How do you determine that the person refuses to answer questions asked by the inspector or whether the inspector is the problem? This leaves a loop hole - Allow the proponent other avenue to explain him/ herself in a written form in case the inspector is the problem.</p>	<p>This can be handled administratively and within the legal mechanism.</p>	<p>Not adopted.</p>
22	SECTION 39		<p>Consulting the lead agencies. But what is role of the County Environment Committee? - County Environment Committee Should be consulted as well.</p>	<p>County Government included.</p>	<p>Adopted.</p>
23	SECTION 40		<p>Address not sufficient - The location should be added as well.</p> <p>Mentioning of the transport vessel was not complete. - If they decide to list then all transport vessels should be included or rather than use a general term.</p>	<p>Physical and postal address included.</p> <p>Borrowed from section 117 of the Act which is wide enough.</p>	<p>Adopted.</p> <p>Not adopted.</p>
24	SECTION 41		<p>2(i) “Obviate” - Too ambiguous</p> <p>2(j) Mentions only the environment aspect</p>	<p>Changed to “hinder”.</p> <p>Environment captures social, economic</p>	<p>Adopted.</p>

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		<p>on providing alternative options - Should include economic and social</p> <p>2(k) Environmental principles - All environmental principle should be included</p> <p>2(m) Regulations and laws - Only mentions the national and international laws, it should also include the county regulations and laws.</p> <p>2.(l) The context - It is not easily understandable -simplify.</p> <p>2(n) Public participation - It should be a must not an option.</p>	<p>and environmental aspects.</p> <p>“Such as” is giving examples meaning the list is not exhaustive and include other principles not captured.</p> <p>County government laws are derived from policies and national laws.</p> <p>Amended by rewording the clause.</p> <p>It is not optional.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Corrected.</p> <p>Not adopted.</p>
25	SECTION 43	<p>4(f) Sectorial study - Should also include technological study of an area.</p> <p>4 Scoping - Should provide details on the project site and duration.</p> <p>4(g) Identification of issues - Should include both issues (less and more).</p> <p>4(h) Climate change relevance - Should also include the impacts.</p>	<p>Technological included.</p> <p>Level, tier and boundaries included. Timelines set in regulation 42.</p> <p>(f) has captured significant issues.</p> <p>Impacts included.</p> <p>A communication plan includes a</p>	<p>Adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Adopted.</p> <p>Not adopted.</p>



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			4(j) Communication plan - A clear mention on the effective feedback mechanisms.  4(n) Alternative issue "reasonable" - To be replaced with either suitable or relevant	feedback mechanism. Engagement of stakeholders is evidence of feedback.  Considered. Adopted "best".	Corrected.
26	SECTION 44		Commencing of report writing - A time frame should be provided	It is at the discretion of the PPP owner.	Not adopted.
27	SECTION 46		Invitation of comments - The public should also give their comments.	Captured under regulation 46(3).	Not adopted.
28	SECTION 51		Typo "...the public in <b>the</b> ....." - Delete the word <b>the</b>	Corrected.	Adopted.
29	FORM 5		There is some missing information in the form - Add columns on: <ul style="list-style-type: none"> <li>• License Number</li> <li>• Area of expertise e.g. Plant ecology, hydrology</li> </ul>	License number included.  Captured in academic qualifications.	Adopted.
30	FORM 23B		Clauses for soliciting information are missing - Provide for the content/details of the form	Done	Adopted.
31	FORM 17 7 <sup>th</sup> Line/Sentence  Signature		Typo... " <b>L.R. No. locality and County</b> " - Edit to reflect the bold and underlined  Typo at signature "..... Director-General, National Environmental Management Authority" - Edit to be Director-General, National Environment Management Authority.	Amended.  Amended.	Adopted.  Adopted.
32	SECTION 2	<b>NATIONAL ENVIRON</b>	Insufficient definition of " <i>Analysis</i> "- The definition should include social aspects.	Definition lifted word for word from EMCA	Not adopted.

		<p><b>MENT CIVIL SOCIETY ALLIANCE OF KENYA</b></p>	<p>Insufficient definition of “<i>Economic analysis</i>” “The definition should factor in externalities from the project such as the health impacts suffered after decommissioning.</p> <p>Inclusion of a definition of <i>environmental issues</i> - The definition should include negative and positive impacts, additionally should include natural occurrences such as floods, disease outbreak and volcanoes.</p> <p>Insufficient definition of “<i>Environmental management</i>” - The definition should include preservation especially with regards to cultural sites, to monuments and others.</p> <p>Inclusion of a definition of <i>Environmental Evaluation</i> - as it is used in the Act and regulations.</p> <p>Clarification of terms in definition of “<i>Environmentally sensitive areas</i>” - The definition should include a classification of <i>fragile</i>.</p> <p>Further the definition should not be</p>	<p>This is a cost benefit analysis so the proposal is inapplicable.</p> <p>Not necessary. It only appears once and is captured in definition of environment.</p> <p>Definition lifted from the EMCA</p> <p>Word not appearing in the document.</p> <p>Fragile ecosystem is common notoriety.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Amended.</p>
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		<p>limited to human induced activities but also include processes such as climate change.</p> <p>Inclusion of terms in the definition of <i>“Strategic Environment Plan”</i> - There ought to be a provision by the County and National governments in their budgets for SEA</p> <p>Reference to EMCA in the definition of <i>“Technical Advisory Committee”</i> - The definition should state that the committee is established under section 61 of EMCA.</p>	<p>Amended to capture natural occurrence. It is not possible to dictate financing through the regulation.</p> <p>There is reference to the Act</p>	<p>Not adopted.</p> <p>Not adopted</p>
33	SECTION 4	<p>Inclusion of a definition of <i>“Significant Environmental Impact”</i> - There should be a definition of significant environmental impacts. This definition should have a benchmark for the magnitude of the project, whether reversible or not, population to be affected and the geographical area. It should cater for the social, cultural, economic and political (policy angle) impact.</p> <p>Clarification of the Role of other licensing Authorities - NEMA should work with other agencies for instance the National Land Commission (NLC), Water Resource</p>	<p>No reference of significance is made in section 4. It does not meet the threshold to be defined and is left to assessment during EIA process.</p> <p>Addressed in regulation 13 (1) (b) - relevant lead agencies.</p>	<p>Not adopted.</p> <p>Not adopted.</p>

			<p>Management Authority (WRMA) and the Ministry of Agriculture, when it comes to issuance of title deeds on riparian reserves. Inclusion a regulation on the consideration and inclusion of indigenous and traditional knowledge in environmental decision making - In line with Article 11 on Culture and Article 69 (1) (c ) on obligations in respect to the environment. Propose that before an EIA is approved NEMA and other licensing authorities should consider the indigenous knowledge and customs with regards to interacting with the environment.</p> <p>This has worked well in ensuring conservation of the Kaya forests and conservation of the Loita forest.</p>	<p>Indigenous communities included in Regulation 26 (3) (b).</p>	<p>Adopted</p>
34	SECTION 6		<p>Technical Advisory Committee (TAC) should be mandatorily constituted for:</p> <ul style="list-style-type: none"> <li>- SEA</li> <li>- EIA: for projects of large magnitude and complexity e.g. infrastructural developments.</li> </ul> <p>The expertise of the TAC should be clarified- the qualifications including years of experience to be defined further in the guidelines.</p>	<ol style="list-style-type: none"> <li>1. It will be an unnecessary cost.</li> <li>2. Only formed when there is a knowledge gap in the Authority and lead factors</li> <li>3. It takes long and causes a delay in the approval of reports (ease of doing business)</li> </ol>	<p>Not adopted</p>

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35	SECTION 15		<p><i>Arrangement of section - Part (c ) the desktop review should come before consultation</i></p> <p>Reg. 15 (3) should be rearranged with part (c) coming as part (a).</p>	Corrected (c) is made (a)	Adopted
36	SECTION 17		<p><i>Sector specific integrated EIA guidelines - The regulation should provide for all lead agencies in this case ministries to develop sector specific guidelines within 6 months of enactment of the regulations.</i></p>	Already ongoing e.g. Tourism, quarries, petroleum have already been done.	Not adopted.
37	SECTION 18		<p>Definite period for the authority to prescribe guidelines for experts - The regulation should stipulate a specific time period - propose every 24 months.</p>	Code of practice is already contained in the 3 <sup>rd</sup> schedule.	Not Adopted
38	SECTION 20		<p>The statement does not promote public participation as enshrined in the constitution - Regulation 20 (1) (a) should read: <i>the public meetings shall be conducted at a venue convenient and accessible to all people who are likely to be affected by the project"</i></p>	Amended to include venue convenient and accessible.	Adopted.
39	Third Schedule		<p><i>Establishment of a professional body - Within EMCA there should be established a professional body for EIA experts, this will enable the Third Schedule to the regulation be operationalized.</i></p> <p>Currently part (13) (2) (k) of the Third Schedule is unclear on which professional body is referred to.</p>	<p>This requires amendment of EMCA.</p> <p>It is the professional body that a member is part of e.g. LSK for lawyers. The provision is clear.</p>	Not adopted.

		<p><i>Withdrawal of Instructions</i> - The section should include a 7 day notice period on the part of the proponent as it only provides for the EIA expert.</p> <p>14- Environmental Experts Advisory Committee - Inclusion of a representative of an Environmental CSO. The chairperson should be independent and either come from the CSO, professional body or private sector. (3) should be from NEMA.</p>	<p>Proposal included.</p> <p>There is no body for CSOs and therefore nomination of a member may create conflict. It is a challenge for and outsider to chair the committee because of mandate, legality and logistics.</p> <p>Director General considers appropriateness.</p>	<p>Adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p>
40	SECTION 21	<p><i>Inclusion of new sub-sections in Regulation 21-</i> baseline information should be provided for the socio-economic and environmental baseline information (this should be a standalone sub-section).</p> <p>Also economic and social analysis of the project</p> <p><i>Contents of the Integrated EIA</i> - propose inclusion of a section where the proponent illustrates how stakeholders were involved in information gathering and development</p>	<p>Amended as proposed.</p> <p>(k) includes social and economic analysis.</p> <p>Amended as 21 (1) (b).</p>	<p>Adopted.</p> <p>Not Adopted.</p> <p>Adopted.</p>

			of the Integrated EIA.		
41	SECTION 25		<i>Inclusion of a regulation on the General Format of the Public Hearing - To have preliminaries, presentation of reports and have summary discussions in a non-judicial and conducted in an informal and in a non-adversarial format.</i>	Regulation 25 (6) deals with this. Also amended to include Regulation 25 (7).	Adopted.
42	SECTION 10(1)		Harmonization of regulations with the Second Schedule of the Act, to indicate which projects are low risks, medium risk and high risk. These are not outlined in the EMCA (Amendment) Act, 2015.	This is recognized in Legal Notice No. 150/2016. Categorization is clear.	Not adopted.
43	SCOPING OF PROPOSED PROJETS FOR INTEGRATE	<b>PETROLEUM INSTITUTE OF EAST AFRICA</b>	The Second Schedule of the EMCA Act, 2015 has not listed or defined the high risk projects. We propose that the provisions relating to the level of risk in the regulations should be harmonized with the EMCA (Amendment) Act, 2015 in	This is recognized in Legal Notice No. 150/2016. Categorization is clear.	Not adopted.

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	D EIA		regards to levels of risk.		
44		<b>WETLANDS INTERNATIONAL</b>	These Regulations repeal the Environmental (Impact Assessment And Audit) Regulations, 2003. This is not necessary because the current EIA/EA Regulations need only minor amendments to conform to the Environmental Management and Coordination (Amendment) Act, 2015 and the Constitution of Kenya 210, particularly on devolution.	It is a repeal because there are other emerging concepts that are to be introduced such as climate change and SEA.	Not Adopted
45	TITLE OF THE REGULATIONS		The title of the Regulations is not consistent with EMCA that they operationalize. It should therefore be revised to read <b>The Environmental Management and Co-Ordination (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2017</b> . This is also to be consistent with other Regulations under EMCA.	Amended as proposed.	Adopted.
46	PART III		Under <b>Application</b> , Part III of EMCA establishes an institutional framework for the implementation of the Act. These Regulations therefore don not specifically apply to Part III	Not necessary for the Act and Regulations to follow same parts in order.	Not Applicable.



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47	Regulation 11		Regulation 11 "An application for an environmental impact assessment licence shall be in Form 9 as set out in the First Schedule to these Regulations and the applicant shall submit the application to the Authority or the Authority's appointed agent in the County where the project is to be undertaken. Regulation 12 "A proponent shall submit at least five (5) copies of the project report to the Authority or the Authority's appointed agent in the prescribed form"	Amended by removing agent in count.	Adopted.
48	13(2)		Insert the word "days" .....in Sub-regulation 13(2) "On receipt .....f twenty one (21) <b>days</b> from the date .....	Amended.	Adopted.
49	SUB-REGULATION 4		Sub-regulation (4) "A scoping report should also entail <b>policy, legal and regulatory framework</b> in addition to environmental, social, cultural and economic aspects of the proposed project". This is because sub-regulation 15(3) provides for the procedure for carrying out the scoping study to entail among others reviewing relevant documents such as laws, regulations, guidelines, standards, policies, plans or programs.	Amended as proposed as Regulation 54 (d).	Adopted.
50	SUB-REGULATION 17(2)		The purpose of Integrated Environmental Impact Assessment is to consider multi-sectoral impacts and therefore there is	Once sector- specific guidelines are done by relevant lead agencies and adopted, compilation can be done to	

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			need to only have one holistic/integrated Guidelines developed by the Authority such as the National Guidelines for Strategic Environmental Assessments in Kenya, 2011.	have national guidelines	
51	SUB-REGULATION 21(2)		Preparation of a non-technical summary is not necessary. The Integrated Environmental Impact Assessment report should provide enough detailed information for decision-making by the Authority.	Non-technical is to guide the local community and other stakeholders to participate in the process. This does not replace the technical one but is key in public participation.	Not adopted.
52	SUB-REGULATION 26(4)		A copy of the Record of Decision of the Authority should be made available for inspection not only at the Authority's offices but also the relevant NEMA County offices where the proposed project is to be implemented.	Administratively this is done and is considered part of Authority's offices. It is also available in the Authority's website.	Noted but not adopted.
53	REGULATION 32		Under Regulation 31, it is not clear which licence the Regulations provide for the Authority to issue. Sub-regulation 31(1) provides for the Authority issuing an <b>Environmental Impact Assessment licence</b> while under sub-regulation 31(2) (d) on the conditions for revocation, suspension or cancellation refers to the licence as an <b>Integrated Environmental Impact Assessment licence</b>	Amended and harmonized to read as E.I.A. License.	Adopted.
54	39(2)		It is not clear on the parameters and indicators and who will develop them.	Amended to indicate parameters. Indicators will be from EMP and	Adopted.

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				Controlled Audit Action Plans.	
55	41(2)(d)& (e)		Rephrase: (d) recognize and evaluate regional environmental impacts of multi-sectoral developments in a region over a specified time <b>and the broader geographical scales (ecosystems and landscapes, e.g. river basins);</b> and (e) replace <b>“guide”</b> with <b>screen investment Plans or Programmes involving multiple sub-projects or sector Policies.</b> Also add <b>(p) “promote community self-management, boosting empowerment and creating local ownership to put communities in the driving seat of development;”</b>	Amended.  Guide is more inclusive and broader. Process of SEA is participatory but amended to include ownership by stakeholders and communities.	Adopted.  Not Adopted.  Amended.
56	REGULATION 2	<b>NATURAL JUSTICE</b>	A clause is added to define the following term: <u>“Environmental impact assessment license mean an environmental impact assessment license granted under Regulation 11 and 26 of these regulation;”</u>  Amend the following: <i>“Environmental monitoring means the continuous or periodic determination of actual or potential effects of any activity or phenomenon on the environment whether short-term or long-term;</i>  Definition of Natural Resources to	Not necessary. Properly captured in regulation.  Similar to what is in the regulations.	Not Adopted.  Not Adopted.

			<p>reflect what is in the EMCA, Act.</p> <p>Project Definition - be edited as follows:</p> <p><i>“Project means any project, activity or undertaking, <u>including those arising from policies, plans and programmes</u>, which may have an impact on the environment;”</i></p> <p>Definitions of Policy, Plan and Programme be added in order to clarify the differences between these and projects. Taken each definition from the SEA Guidelines.</p> <p><i>“Technical Advisory Committee means the Technical Advisory Committee on environmental impact assessment established <u>under Section 61 of the Act</u></i></p>	<p>To harmonize with the Act.</p> <p>Adopted. To include why this is different from EMCA in technical reports.</p> <p>To get definitions in the SEA guidelines.</p> <p>Amended.</p>	<p>Adopted.</p> <p>Adopted.</p> <p>Adopted.</p> <p>Adopted.</p>
57	REGULATI ON 4		<p>To be amended as follows:-</p> <p><i>The proponent shall not implement a project likely to have a negative environmental impact; or for which an environmental impact assessment is required under the Act or these</i></p>	<p>Amended as proposed.</p>	<p>Adopted.</p>

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			<i>Regulations; unless an integrated environmental impact assessment has been concluded and <b><u>an environmental impact license granted</u></b> in accordance with these Regulations."</i>		
58	REGULATION 5		<p>Sub-regulations 5(1) and 5(2) be interchanged so that the requirement for approval is introduced at first instance.</p> <p>5(1) refers to "SEA". This should be amended to "Strategic Environmental Assessment."</p>	This section was amended.	adopted
59	REGULATION 6		<p>Regulations to clarify when a Technical Advisory Committee is to be constituted.</p> <p>Suggest that TACs are formed in most high-risk projects.</p> <p>Around the world, TACs have emerged to protect public interest in areas of potential conflict.</p> <p>A TAC brings together a unique knowledge and skills in order to more effectively guide decision-making.</p> <p>Regulation 6(2) should provide further clarification as to whom "multi-disciplinary specialists" include. Such</p>	<p>TAC is required when there is knowledge gap in the Authority or Lead Agencies.</p> <p>Already implied in (2) Multi - Disciplinary specialists.</p>	Not adopted.

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			specialists not be limited to the sciences but also those who understand social impacts, such as those working with communities or even community representatives themselves.		
60	REGISTRATION OF EXPERTS REGULATION 9		Does not have a mechanism for public comment on accreditation of institutions. Applications for accreditation (Regulation 9(1) or renewal (Regulation 9(5)), be advertised for public comment or feedback. This would allow the public to assist NEMA in highlighting areas of positivity or concern with the institutions standards of training.	<p>Changed accreditation to designation so that accreditation is done by relevant agencies.</p> <p>Provision on cancellation of designation addresses this.</p> <p>Advertisement will be costly</p>	<p>Amended.</p> <p>Not adopted</p> <p>Not adopted</p>
61	SECOND SCHEDULE -		Part F - Vetting - public be given an opportunity to comment prior to registration. This period would enable the Registration Panel consider information based on experience of past IEIA's. Given that experts can have such a profound impact on people's lives through their recommendations in IEIA's, it is consistent with the	<p>Not practicable and disciplinary procedures are set through the Advisory Environment Committee and code of conduct.</p> <p>Any person aggrieved by conduct of an expert has a redress mechanism.</p>	Not Adopted.

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			principle of public participation, that the public is given an opportunity to share their experience of the experts work.		
62	THIRD SCHEDULE		13(m) be widened to include “projects” and committing exploitative actions for the gain of others also. 14(2), there is no representative with expertise in social impacts on the Committee. Membership be extended to a representative of civil society, including community based organizations.	Amended to capture PPP owner.  There is no body for CSOs and therefore nomination of a member may create conflict.	Amended.  Not Amended.
63	SECTION 16		Section 16(1) is incomplete. The process of complaint be clearly outlined in the section, including reasons for any action taken.	Amended to include missing words.	Adopted.
64	REGULATION 10 PREPARATION OF A PROJECT REPORT		10(1)(m): Clarify what is intended by a “climate change vulnerability assessment” as this has not been defined in the Regulations. Additional sub-regulation be added 10(1) to ensure provision of information on all potential and final partners in the case of the project being sub-contracted or implemented through a public private partnership, including the nature of the partnership and its status. There is no reason why	These are conventional e.g. National Climate Change Act Plan and UNFCCC. Climate change is an emerging issue and EIA is being streamlined to capture significant emerging issues.  Addressed under Regulation 51 and 52.  EIA captures issues of environment conservation and Private Public Partnerships are addressed under separate registration.	Not Adopted.

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			<p>such information should be kept from the public. Provision of such information would also be consistent with the Access to Information Act.</p> <p>10 (3): Omit directions on notification processes. We therefore suggest that directions be given as to how notification takes place.</p>	Amended to bring clarity	Adopted.
65	REGULATION 13		<p>The nature of the project or activity, low risk or medium risk, should not preclude the proponent or the Authority from facilitating adequate and effective public participation. Regulation 10, the public are not given an opportunity to comment on the Project Report. This is entirely insufficient when considering some of the projects that fall within the low and medium risk range. Though the Regulations do provide for at least one meeting with the public in preparation of the project report, this would not provide all relevant information on the final project plan to affected people as project plans do change post public comment. Provision for public comments on final project reports be included in 13(1).</p>	<p>Because of the low risk nature of projects at least 1 meeting is sufficient. That is why there are classification of projects.</p>	Not Adopted.



			<p>13(1): a time-frame of 14 days for comments is inadequate to allow comments to be made on project reports. To ensure that comments are as helpful as possible to the decision-making process, a period of not less than 30 days should be instituted. Participation in environmental decision-making must be real and not illusionary.</p>	<p>The time lines are in line with ease of doing business and a policy is in place to have resources to ensure the shortened time of processing does not affect quality. MDA's have established environmental desks of review of reports to ensure timely review as indicated.</p>	<p>Not Adopted.</p>
66	REGULATION 14		<p>14 (1): Decision to be communicated to proponent within 30 days of submission of report. Such a short time-frame places great time-pressures on the Authority. As proposed, the Authority is required to send the report to relevant institutions and agencies in the country, consider and assess all relevant, including technical information, and make a determination. Such a time-frame does increase risk of errors in decision-making. Suggest 90 days.</p> <p>14(3) be edited to read:</p> <p><i>"(3) If the Authority finds that the project will have significant irreversible impacts</i></p>	<p>E.I.A. is a time bound process and should facilitate ease of doing business</p> <p>The conditions for rejection will not be changed by an upgrade to full study e.g. when significant impact is irreversible.</p>	<p>Not adopted.</p>

			<p><i>on the environment, or there is non-conformity with existing planning framework, or considering the precautionary principle, the Authority shall require any proponent of a project to :</i></p> <ul style="list-style-type: none"> <li><i>-Carry out at his own expense further evaluation and submit additional information; or</i></li> <li><i>-Carryout an Environmental Impact Assessment Study according to Part IV of these regulations</i></li> <li><i>-To ensure that the information provided is as accurate and exhaustive as possible, and the Authority may, after being satisfied as to the adequacy of the evaluation of study, issue an environmental impact assessment license on such terms and conditions as shall be appropriate and necessary to facilitate sustainable development"</i></li> </ul>	<p>Non-conformity with planning framework.</p> <p>Consider precautionary principle.</p> <p>If other additional information is required this is part of the process before the license is issued and can be done administratively.</p>	
67	REGULATION 15		<p>15(3): Fails to outline the correct order in which actions should be undertaken. be edited to read as follows:</p> <p><u><i>"In carrying out the scoping study, the proponent shall;</i></u></p> <ul style="list-style-type: none"> <li><i>a) Consult and inform the affected public about the proposed project;</i></li> <li><i>b) Consult and gather the views and concerns of key stakeholders about the proposed project;</i></li> </ul>	<p>Adopted and amended.</p> <p>Rearranged to start with review of legal provisions before consultations.</p>	Partly adopted.

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			<p>c) <i>Review relevant documents such as laws, regulations, guidelines, standards, policies, plans and programs.</i></p> <p>15(4): Be edited to also include: <u>“the objectives of the project”</u>.</p>	Included in 16 (4) (a)	Adopted.
68	REGULATION 17		<p>Guidelines on IEIAs would provide proponents, EIA experts and the public greater clarity on good process in IEIAs. Formation and use of guidelines be obligatory and would therefore amend the wording of Regulation 17(1).</p>	Amended as proposed.	Adopted.
69	REGULATION 19		<p>19. Additional clause be inserted before the current clause (a) that reads as follows:  <i>“Provide the socio-economic and environmental baseline characteristics of the area likely to be affected by the project.”</i></p>	Amended as proposed	Adopted.
70	REGULATION 20		<p>The section on public participation in the draft Regulation is considerably weaker than the current Regulation. Sustainable development in the extractives and infrastructure sector aim at reducing social conflict over development and its impact on communities. Extractives / infrastructure projects and social</p>	Amended to remove scoping study and have an element of public participation in scoping under Regulation 15 (3).	Adopted.

			<p>conflict are closely associated. Stakeholder participation is one of the ways in which conflict can be minimized. This involves, adequate provision for meaningful consultation with affected communities, and requires that those parties being consulted are provided with all of the information that they need in order to be able to participate meaningfully in the decision-making processes.</p> <p>20(1): It is unclear whether a difference is made between public meetings held during the scoping study and the IEIA study. Therefore, there is a danger that a project proponent may hold all meetings during the scoping phase only. This could prejudice the public as the proponent is likely to have more information on the project post the completion of the scoping study.</p>		
71	REGULATION 21		<p>The following points be added to 21(1):</p> <p>a) Information on all potential and final partners in the case of the project being sub-contracted or implemented through a public private partnership, including the nature of the partnership and its status.</p>	<p>As addressed in previous comments. See above.</p>	<p>Not adopted.</p>

		<p>b) <i>baseline information of the environment, socio-economic and environment, and any other relevant information related to the project area</i> be included in the</p> <p>The requirement to include an economic and social analysis of the project is now removed and grouped under draft regulation 21(1)(i). This is potentially problematic as the regulation appears to view the economic and social analysis through an environmental impacts lens only. It is an important consideration for the Authority if the project provides economic benefit to the country.</p> <p>There is no specific sub-regulation on reporting the IEIA public participation. Such a section would clearly set out the meetings held and with whom. 21(2) be amended to also include a provision requiring proponent to provide an overview of the project.</p>	<p>Amended as proposed.</p> <p>This is dealt with at the feasibility study before the project undergoes E.I.A. and this is outside the mandate of the Authority. Not all projects have an economic perspective and can have other considerations e.g. security, social etc.</p> <p>Captured under 20 (1) and also included as 21 (1) (k).</p> <p>Amended as proposed.</p>	<p>Adopted.</p> <p>Not adopted.</p> <p>Adopted</p>
72	REGULATI ON 24	Note Kenya's language diversity and illiteracy problems. Further, experience shows us that in the absence of an express provision for oral submissions	<p>Addressed by 24 (2) (a) and (b)</p> <p>Oral comments included.</p>	Partly adopted.

		<p>and comments in this regulation, the right to fair administrative action will not be realized. Again, this exposes decisions to appeal or review on administrative grounds.</p> <p>Regulation does not expressly provide the minimum timeline requirement for submitting comments. Hence read together with section 59 of the Act, the Authority's discretion to determine the period for submitting comments is unreasonable. As a consequence, interested and affected parties are likely not to be afforded adequate opportunity to consider and comment on complex, detailed applications. This violation of the right of interested and affected parties to fair administrative action is a basis for a decision to be appealed or reviewed.</p> <p>The methods of notice are such that those affected by projects rarely see the notices, rendering the usual 30-day period for submission of comments and objections even more unfeasible.</p> <p>24 be edited to read as follows:</p>	<p>Period incorporated in Section 24 (3) (e)</p> <p>There is a provision for extension of the period between 30-60 days and also 24 (2) (b) introduces other modes of publication (radio).</p> <p>Amended as proposed.</p>	<p>Adopted.</p> <p>Adopted.</p>
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		<p>“24(1) The Authority shall, within 14 days of receiving the Integrated Environmental Impact Assessment study report, invite the public to make <u>oral and written comments on the report.</u></p> <p><u>Where a comment under sub-regulation (1) is made orally, the Authority shall cause the comment or submissions to be recorded in writing”</u></p> <p>24(2)(a): Whilst it is very important to include “at least two newspapers circulating in the area or the proposed areas of the project”, it remains important to retain a paper of nationwide circulation. This would also assist the public, outside of direct the geographical area of the project, to also provide comments, if needs be.</p> <p>Regulation 24 has an additional clause inserted to read as follows:  <u>“24(2)(c) The Authority shall ensure that its website contains the study report and non-technical summary of the report referred to in regulation”</u></p>	<p>Amended as proposed.</p> <p>This is aligned to Section 59 (1) of the Act and can remain as administrative.</p> <p>Amended an inserted as 24 (4)</p>	<p>Adopted.</p> <p>Adopted.</p>
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			<p>Regulation 24(3): to realize the right to information, this draft regulation does not take the necessary steps to provide details and sufficient particulars, which facilitate easy access to the Integrated Environmental Impact Assessment study report. The authors have often had difficulties accessing EIAs without a Project Number. The Project Number assigned by the Authority be included in sub-regulation 24(3).</p> <p>Regulation 24(3)(e): Section 59(d) of EMCA specifies that a time-period not exceeding 60 days be given for public comments. However, we have often experienced that 30 days are given for comments on EIAs, which are often long and technical. A minimum period of 45 days be given for comments on IEIAs. This would allow affected groups and supporting organizations more time to understand and comment on IEIAs, which in the end is of benefit to the Authority.</p>	<p>Inserted as 24 (5) (b)</p> <p>Section 24 (3) (e) amended by setting minimum and maximum.</p>	<p>Partly adopted.</p>
73	REGULATI ON 25 - PUBLIC		<p>25(1) is edited to read as follows: <i>Upon receipt of written comments as specified by section 59 and 60 of the Act,</i></p>	<p>Not every project will require a public hearing. This can be impracticable.</p>	<p>Not adopted.</p>



	HEARING		<p><i>the Authority <del>may</del> shall hold a public hearing.</i></p> <p>25(2): There be further direction as to who would be suitably qualified to preside over a hearing. For instance, it would be critical that this person not be biased towards a particular course or outcome and be perceived by attendees as neutral. Those with political positions should be avoided. Further, the individual should have the requisite experience in presiding over public meetings.</p> <p>25(3): The purpose of a public hearing is to provide a democratic space within which the opinion of the public, regarding a proposed project and its implication is voiced out. To achieve the intended purpose of a public hearing, adequate publicity ought to be given to a public hearing before it is held otherwise concerned persons would not be able to participate. The seven-day period provided for publicizing the hearing is inadequate and be edited as follows:  <i>"The date, time and venue of the public</i></p>	<p>This is covered under sub-regulation (6) and (7).</p> <p>Process is time bound as set in Section 59 and 60 of the Act.                  The 21 days would cause delays. This also comes after public participation.</p>	<p>Considered.</p> <p>Not adopted.</p>
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		<p><i>hearing shall be publicized at least <u>Twenty One (21) days</u> prior to the meeting."</i></p> <p>25(3)(a) be amended to include "one daily newspaper of national circulation <b>and one of local circulation</b>"</p> <p>25 (5), (6) and (7): Adequate information is the cornerstone of effective and meaningful participation. It serves no one to have the project proponent present and respond to the issues arising, if the project-affected persons are not fully aware of the project. The public or the project-affected persons ought to approach the meeting from a knowledgeable standpoint. Therefore:-</p> <ol style="list-style-type: none"> <li>1. The Authority shall make available the executive summary of the IEIA to affected persons at least thirty (30) days prior to the public hearing;</li> <li>2. The project proponent must set out the project components, IEIA findings, including impacts and proposed mitigation measures.</li> <li>3. A peer review panel, which is pre-appointed in conjunction with the</li> </ol>	<p>Dealt with as above.</p> <p>A soft copy is available and can be provided on request or photocopying at the cost of the person requesting. This is done administratively.</p> <p>These are part of the EIA Study report.</p> <p>Not practical in terms of cost and time, also not necessary.</p>	<p>Not Adopted.</p>
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			<p>Authority, provide an overview of the IEIA to the hearing attendees. Such a body would provide a more neutral point of view on the proposed project based on the information provided, knowledge of the project and expertise.</p> <p>4. A public hearing should at all times be free, fair and transparent. The information noted in the report submitted to the Director General should be a reflection of the discussions at the public hearing. Minutes of the hearing be read out to and agreed by participants of the meeting on the day of the hearing. The entire public hearing should also be video recorded and the same made available to the Authority as well as the public upon request.</p>	Addressed by Regulation 25 (7).	
74	REGULATION 26		26(1): a time-frame of 3 months between receiving the IEIA study report and making a decision may not be sufficient, particularly when the public is given up to 60 days to provide comments, a public hearing is held and a Technical Advisory Committee formed. We suggest that	The timeline is set by EMCA.	Not adopted.

		<p>the Authority be provided at least 4 months to make its decision.</p> <p>26(2): We suggest that in addition to availing the record of decision to the proponent and making a copy available for inspection at the Authority’s office, the Authority must further be obliged to keep the interested and affected parties informed and updated about the outcome of any administrative action in line with Article 47(2) and Section 5 of the Fair Administrative Action Act.</p> <p>26(2) be edited as follows:</p> <p><i>“(1) The Authority shall give its Decision on an Integrated Environmental Impact Assessment study report within three (3) months of receiving the study report.</i></p> <p><i><u>(a) be in writing, giving reasons for the decisions</u></i></p> <p><i><u>(b) specify the internal mechanisms available to the person directly or indirectly affected by the decision to appeal;</u></i></p> <p><i><u>(c) specify the manner and period within which such appeal shall be lodged.</u></i></p> <p>26(3): Minutes of the public hearing,</p>	<p>Captured under 26 (4).</p> <p>Captured under section 55 (1) and (2).</p>	
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			<p>and comments expressed therein, also be included and considered by the Authority. This would be in addition to the report provided by the presiding official.</p> <p>26(3)(d) <i>the report of the presiding official and the minutes of the public hearing specified under regulation 25....</i></p> <p>26(4) be edited to read as follows:</p> <p><u>“(4)The record of decision shall, within fourteen (14) days from the date of the decision, be:</u></p> <p>a) <u>be availed to the proponent by the Authority;</u></p> <p>b) <u>published in the Gazette; and a copy shall be made available for inspection at the Authority’s offices immediately.”</u></p>	<p>Captured under 55 (2).</p> <p>Included in 26 (3) (d)</p> <p>Amended to include minutes.</p> <p>Not practicable because of the Number of EIA’s processed on a daily basis and</p>	<p>Adopted.</p> <p>Not adopted.</p>
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				the cost implication to proponents.	
75	REGULATION 27- ENVIRONMENTAL IMPACT ASSESSMENT LICENCE		<p>The template for the EIA license in Form 10 should be revised to ensure that commitments identified in the EIA report and accompanying mitigation plans are binding and enforceable. This will foster greater accountability on the part of project proponents and NEMA during the project implementation process.</p> <p>At a minimum, Form 10 should include a set of standard terms and conditions that apply to all projects. For example, in Tanzania, environmental authorities are required to include a set of general terms and conditions in each environmental certificate. The terms and conditions, among other things, specify how long the certificate is valid, direct the project proponent to strictly comply with mitigation and monitoring measures identified in the EIA report, and require the project proponent to abide by all laws that apply to the project. Additional conditions may be added on a project-by-project basis. Kenya</p>	There is a provision for condition and each project has different condition depending on the nature.	

		<p>also follow this same approach.</p> <p>Terms and conditions attached to a license conditions are often broad, difficult to implement and monitor. It would be helpful for the Authority to increase public participation in this process also by allowing a short-period (e.g. 15 days) in which the public can comment on the license conditions. This would assist the Authority to ensure that the public has a greater understanding of license conditions and is able to provide additional support to the Authority in monitoring and compliance. Regulation 27 is edited to read as follows:</p> <p><i>“Where the Authority approves the Integrated Environmental Impact Assessment Study Report under regulation 26, it shall issue an Environmental Impact Assessment license in form 10 set out in the first schedule to these regulations on such terms and conditions as it may deem necessary. <u>Provided that the Authority shall, before approvals:</u></i></p> <p>a) <u>Publicize the draft terms and conditions for review and comments by</u></p>		
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			<p><i>the affected people and others;</i></p> <p>b) <i>Receive and review comments from affected persons as to the adequacy of the safeguards."</i></p>	<p>Not necessary. Public participation is inclusive and NEMA is given clear mandate to exercise and make decisions based on comments and expertise provided and there is also a process for appeal for any person dissatisfied with the process or conditions given. This would amount into taking over the licensing power given to NEMA by law.</p>	<p>Not adopted.</p>
76	REGULATION 28 - VARIATION OF LICENCE		<p>NEMA has a broad authority to modify the terms and conditions without additional environmental impact review or public participation. With such permissive standards, project proponents will be encouraged to seek NEMA's approval to eliminate certain environmental or community safeguards once a project has been approved. Be amended to include a more objective threshold that clearly indicates when additional environmental review and public participation is necessary to obtain a variance.</p> <p>e.g. South Africa's Regulations require a more extensive review of variation requests:</p>		



		<p><i>“where such change will result in an increased level or nature of impact where such level or nature of impact was not-</i></p> <p><i>(a) assessed and included in the initial application for environmental authorization;</i></p> <p><i>(b) taken into consideration in the initial environmental authorization; and the change does not, on its own, constitute a listed or specified activity.”</i></p> <p>Kenya could incorporate a similar approach in its EIA regulations.</p> <p>28(3) should be revised to require a fresh EIA study report if the proposed variance may result in a significant impact to the environment. In instances where it may not be evident whether a proposed variance will increase the nature or level of impact, the regulations could include an option directing project proponents to submit an abridged EIA report similar to the “project report” outlined in Section 10, which would also be subject to public review and comment. Minor variances, without public participation, could be granted to correct licensing errors.</p>	<p>Section 28 (4) amended.</p> <p>Transition is also subject to appeal.</p>	<p>Adopted.</p>
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			Form 13 be modified to require NEMA to include an explanation of reasoning for granting or denying a variance.	Addressed in Form 12.	
77	REGULATION 29 - TRANSFER OF LICENCE		It is not satisfactory for a change transfer to be made without the possibility of public notice and comment. Projects may be approved based on the experience and history of the project proponent. This information may also be used to assure affected groups of mitigation measures. Therefore, a transfer could have significant impacts and might require feedback. The Regulation include a requirement for public notification and comment	There is no change on license conditions and terms. It is just a change of ownership. Notification would hold no value.	Not adopted.
78	REGULATION 32 - ENVIRONMENTAL AUDIT STUDY		32 (2): Any guidelines must be binding and ideally incorporated into these Regulations. There should be clarity as to when the guidelines will be developed. Recommend that guidelines incorporate involvement of those residing close to the project in monitoring.  32 (3): The possibility for self-audits	This is captured under 36 (2) (k).  The audit is done by a licensed expert and there is a code of practice to regulate their conduct.	

		<p>should be removed from the Regulation, given the incredibly high risk of bias. All audits should be carried out by independent, qualified and authorized environmental auditors.</p> <p>32 (5): Shorter time-frames be given for the audits - for example 3 years for low risk and every 2 years for medium risk. This would ensure that appropriate levels of oversight are maintained.</p> <p>The Regulation provides no information on a protocol for monitoring the compliance of license conditions. At least 6 monthly compliance reports are completed and reviewed by the Authority. A panel of individuals, including project proponent, NEMA representative (or other environmental expert) and affected community member, could be formed twice a year to monitor each project.</p> <p>32 (6) (f): be edited to read as follows:  <i>"Compliance of the proponent with</i></p>	<p>The review of self-audit is done by an external party (NEMA) and therefore there is control.</p> <p>Self -regulation is given room.</p> <p>Amended to          3 years for low risk,          2 years for medium risk,          1 year high risk.</p> <p>Included as clause 28.</p> <p>Included as clause 36 (6) (h).</p>	<p>Adopted.</p>
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			<i>existing national environmental regulations and standards prescribed by the Authority and other relevant international standards <u>and the project's environmental management plan</u></i>		
79	REGULATION 33 - CONTROL AUDITING		33 (1): Non-compliance with license conditions leads to significant impacts the public closest to the project. Such a wide discretion given to the Authority does not provide any certainty to the public that compliance will be monitored. Compliance reporting every 6 months, at least is recommended.	A control audit is on a need basis on high risk projects and it is not practical to do a control audit for every project.	Not adopted.
80	REGULATION 34 -		Does not provide a timeline for this type of audit. The discretion granted to the project proponent is prone to abuse. 34(b)(iv) be edited to read as follows: <i>"(iv) <u>preparing and submitting the self-audit reports to the Authority annually or as may be prescribed.</u>"</i>	Contradicts with clause 35 (2).	Not adopted.
81	REGULATION 35 - CONDUCTING OF ENVIRONMENTAL AUDITS		The function of an initial environmental audit, for projects, which commenced prior to EMCA, includes the provision of baseline information as well as preparation of an environmental management plan. Recommend that this function be standardized across the draft		

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			<p>regulation to ensure uniformity with Regulation 32(4)(a)(i).</p> <p>Given that environmental management plans were not developed by projects which commenced prior to EMCA, recommend amendments to sub-regulation 35(2):</p> <p><i>“(d) assess the level of compliance by the proponent with all relevant national and international laws on matters of the environment”</i></p> <p><i>“(m) <u>prepare an environmental management plan, which shall be used as a criteria for subsequent audits.</u>”</i></p>	<p>Issue of ongoing project and initial audit removed.</p>	
82	REGULATION 36		<p>Regulation 36 (4): Persons or groups affected by the project be provided the audit report or at the very least be notified and provided an opportunity to copy the document.</p>	<p>Can be assessed on request as per regulation 51</p>	<p>Not adopted.</p>
83	REGULATION 39		<p>Regulation 39(1): fails to encourage public participation in the protection, management and conservation of the environment. Be edited to read:</p> <p><i>“(1) The Authority shall in consultation with lead agencies and <u>affected people</u>”</i></p>	<p>The complaints can be addressed by institutions therein.</p>	<p>Not adopted.</p>

84	REGULATION 41 - STRATEGIC ENVIRONMENTAL ASSESSMENT		<p>Should address the sequencing of Strategic Environmental Assessments (SEAs) and Integrated Environmental Impact Assessments (IEIA) when an IEIA is required for a development that is a component of a policy, programme or plan that should be subject to SESEA for the broader programme should be completed before an individual development that is part of that program is studied under an IEIA.</p> <p>Regulation 41(2)(i) appears to suggest that tiering is possible with SEAs and IEIAs as well. The language be strengthened to make it explicit that tiering is allowed.</p> <p>If a specific development requires an IEIA and is part of a broad programme that should have been subjected to SEA, but the SEA has not been done, then the components of an SEA that are not part of a regular IEIA should be required as part of the IEIA. For example, when looking at the cumulative impacts or analyzing the economic impact - the entire</p>	<p>This is captured under 41 (2) (m) and (n)</p> <p>No suggestion on any wording to make it clear.</p>	<p>Not adopted.</p>
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			programme should be studied, not just the individual component.		
85	REGULATION 47		47(5) be edited to read as follows: <i>“Upon verification of the revised Strategic Environmental Assessment report by the Authority, the Policy, Plan and Programme owner in consultation with the Authority shall hold validation workshops to engage the stakeholders and the public in reviewing and validating the revised Strategic Environmental Assessment report.”</i>	Amended to include possibility of more than one workshop.	Adopted.
86	CITATIONS	<b>JOHN DOMINIC</b>	<p>a) Accredited training institution... define.</p> <p>b) Alternatives could also mean materials (e.g. plastic alternatives)</p> <p>c) Analysis could also mean a document (e.g. to assess if it meets requirements)</p> <p>d) Authority's appointed agent.. define</p> <p>e) Climate change vulnerability assessment, adaptation and mitigation actions... define actions taken and look at how to generate carbon credits....</p> <p>f) County Integrated Development Plans (CIDP) which need to undergo a SEA... define</p>	<p>Changed to designated. Does not need definition.</p> <p>The list is not exhaustive but the ones given are just examples from the wording</p> <p>Definition of analysis is borrowed from EMCA.</p> <p>Removed agent.</p> <p>Dealt with previously</p> <p>Not in the Act. County is one of the MDA's to undertake SEA.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Partly amended.</p> <p>Not adopted.</p> <p>Not adopted.</p>

		<p>g) Environment, perhaps also mention mineral, as land may not be that encompassing.</p> <p>h) Environmental audit study should also perhaps mention compliance to environmental standards.</p> <p>i) Economic analysis should mention the green economy and the value chain of the products. Include definitions mentioning economic instruments as both incentives and disincentives to ensure compliance to IWRMP, ICZMP, EMPs, EIAs and SEAs, both fees, fines, benefit sharing and reward for sustainable behavior (e.g. return for recycling refund schemes) and bonds for rehabilitation securities.</p> <p>j) Facility... define</p> <p>k) Project may need a qualifier to include any development, area, business, or process, working enterprise, system or industrial establishment and its related value chain, looking at the circular economy and upstream, in situ and downstream green economy of the project (e.g. plastic wastes discarded by the end product such as bottle, wrappers, containers and their disposal, return or recycling? Elaborate</p>	<p>From EMCA.</p> <p>From EMCA.</p> <p>This has been addressed by cost benefit analysis.</p> <p>Not substantive enough to warrant definition.</p> <p>This concern is captured in the regulation.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p>
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			<p>EIA is a mandatory component of the project cycle.</p> <p>l) county governments, specify whom governor, CEC or MDAs?</p> <p>m) County Environmental Action Plans (EAP), part of the CIDP that needs to undergo SEA and is the Environmental Management Plan of a Counties implementation of EMCA.... define</p> <p>n) Ecological footprint .. define and take a life cycle or circular approach (as in SSC) and also look at the EIA of value chain for waste products along the market line to consumer (e.g. plastic wrapping, packaging and bottles, etc) for a recovery/recycling plan.</p> <p>o) Environmental Management Plan can also refer to the management of a sensitive or conservation area, hillside or water body... would that class as a project?</p> <p>p) Monitoring can also mean measuring the impacts of a project or area management plan?</p> <p>q) Monitoring report elaborate how differs from audit report or inspection?</p> <p>r) Environmentally sensitive area could also be social, cultural or religious significance.</p>	<p>We identify institutions not titles.</p> <p>SEA is for plans, programme and policy. There is a process of assessing.</p> <p>Not referred to in the Regulations.</p> <p>EMP is not a project but guides implementation of a project.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p>
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		<p>s) Integrated Environment Impact Assessment Study should this not also include “social impact” = ESIA? And clarify between Environment Impact Assessment Study (check if Reg. 19) and Integrated Environment Impact Assessment Study (Reg. 15)</p> <p>t) Integrated Environmental Impact Assessment guidelines by lead agencies need elaboration/listing .. define content?</p>	<p>Captured in the regulation.</p> <p>Provisions in the regulations are distinguished.</p> <p>Captured.</p> <p>Harmonized.</p> <p>Sector based guidelines captured in the Act.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Partly adopted.</p> <p>Not adopted.</p>
87	SECTION 4	<p>(1). Should refer projects and activities”</p> <p>(3). Submit the application to the relevant County Directors of Environment needs a</p>	<p>Activity is a component of a project.</p> <p>Institution roles defined in the Regulations.</p>	<p>Not adopted.</p>

			qualifier, “to do what”?. Perhaps a section on institutional roles would be useful... i.e. of NEMA, MDAs, CDE, County Governments, etc roles in EIA and SEA qualified	Lead agencies give sectoral concerns based on mandate given by law.	
88	SECTION 5		(1) Reference is to a SEA, whereas by definition SEA are undertaken for policy, plans and program, and EIAs for projects.	The section deals with SEA not EIA.	Not adopted.
89	SECTION 10		(1) Number 1 and 2 not explicit in EMCA 2015 schedule 2.  10(1)(b) and 15-21: The physical impact area should also include analysis of the whole ecological footprint including the wastes/impacts along the product value chain (discarded plastic wrapper/plastic bottles/containers, etc.), i.e. upstream, <i>insitu</i> and downstream consequences...? And how to generate carbon credits?  10(1)(c) and 15-21: Apply ISO 14000, project <b>design</b> , construction, operation and decommissioning phase (to account for exploration phase in minerals and hydrocarbons, etc)  10(1)(e) and 15-12: Materials to be used, including volumes of natural resources to be displaced or consumed, or affected by	Legal Notice 160/2015.  These concerns are addressed in the provisions.  Details captured in the EIA project report.  Details to be in the EIA study or project reports not regulations	Addressed in the legal notice.  Not adopted.  Not adopted.  Not adopted.

		<p>the ecological footprint, etc</p> <p>10(1)(e) and 15-21: Waste to be generated by the project, including after project life (e.g. mine dumps, e-waste, etc.) and their rehabilitation plans, and “one-off” value chain waste by-products (such as plastic wrapping, bottles, containers, etc.) and the take back or recycling schemes put in place.</p> <p>10(1)(n) budget to include funding set aside for EMP, including economic instruments such as bonds to cover rehabilitation after project, or insurance against accidents, or funding of take back, recycling or reward for return scheme.</p> <p>10(2) &amp; 15-21: Social, economic and environmental impacts and benefits, or benefit sharing plans. Carbon credits</p> <p>What of a risk assessment - no project vs. project?</p>	<p>We are dealing with total costs and there is another regulation proposed to deal with deposit bonds.</p> <p>As above.</p> <p>Addressed.</p> <p>Dealt with in the regulations. Details analyzed in the report. Considered during analysis of alternatives.</p>	<p>Not adopted.</p> <p>Not adopted.</p> <p>Not adopted.</p>
90	SECTION 12	<p>Authorities appointed agent needs elaboration who this could be and roles</p>	<p>Dealt with.</p>	

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91	SECTION 13		(1) relevant lead agencies perhaps qualify at what level... minister, director?	Institutions which have their governance structure.	Not adopted.
92	SECTION 14		(3) non-conformity also with existing laws?	Accepted and amended.	Adopted.
93	SECTION 15		Is there a difference between the terms <b>Integrated</b> Environmental Impact Assessment and Environmental Impact Assessment? Clarify as this is not spelt out in EMCA 58? But is used only in the text as Integrated EIA and EA Guidelines? Perhaps list, or specify who should develop and within what time frame after issuance.	Draft harmonized.	
94	SECTION 17 (1& 2)		Integrated Environmental Impact Assessment guidelines need elaboration as Article 58 includes integration of EIA with EA...(e.g.) Should we list specific key priority sectors as mandatory? What contents, is there a time frame after regulations are published to deliver guidelines? 19 and highlight risks.... And contain protocols for incident management in case of hazardous elements? Plus insurance bond	As above.  Handled when inspectors are done. Draft deposit bond regulation pending.	

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95	SECTION 19		Scale of the impacts to also include ecological footprint and along the value chain, the discards, notably plastic containers, bottles, etc. (As above) and how to generate carbon credits, renewables, etc.	Addressed.	
96	SECTION 20		1(a) project area, should also include along the value chain, to take care of discards like plastics, recycling etc.	Details not necessary in regulations.	Not Adopted.
97	SECTION 21		Management of hazardous substances, and activities, safe storage mechanism, with rapid response plans and protocols or spills or explosions elaborated and insurance compensation cover and rehabilitation bonds. Is it country, or county or both?	Giving details to contents of 21 (o) and (p)	
98	SECTION 24		Notice to the public should also include impacted community (i.e. negative and positive) and effect on natural resources, scope of benefit sharing, etc.	For EIA it is interested in mitigating negative impacts and enhancing positive impacts. Public is directed where to get the report to read through for more details.	Not adopted.
99	SECTION 32		32(2) Environmental audit guidelines, perhaps elaborate content and time frame to deliver.... Use checklist approach as in AFDB. 32(5) Low risk 5 years, medium risk projects every three (3) years... why less than low risk? A typo!. NB my copy EMCA 2 Schedule does not separate 3	32 (6) addresses it.  Addressed. This is targeting in compliance management so that more resources can be put in high risk.	



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			37.the word “not” is missing: ...has <b>not</b> complied with the environmental management plan ....	Done.	
103	SECTION 38		Environment inspector... add environment	Done	Added
104	SECTION 39		(b)immediate and long term effect on the environment, and its ecological footprint in totality, including throughout the value chain (e.g. disposable items like plastic containers/wrappers) applying ISO 14000 standards from start to end of project, for recovery, recycling, take back schemes, etc. and economic instruments like bonds for rehabilitation or incident management, or accident insurance, etc. 39(2) using parameters and indicators developed.... Perhaps list, or specify who should develop and within what time frame after issuance etc.	Details dependent on nature of the project therefore cannot be in the project.  Done. Section amended	Not adopted.  Adopted.
105	SECTION 40		Mention monitoring report...All reports could perhaps be best in a template form added as a Schedule? Include value chain and eco-footprint considerations elaborated above?	There is a format available for reporting under 40 (1)  Monitoring included.	Adopted.
106	SECTION 41		Take cross-boundary considerations into account, whether between countries, counties or water catchments, and include IWRM and ICZM plans?	Included in Regulation 41 (2) (d).	



			<p>41(2)(h) ensure the cumulative, indirect or secondary impacts. Include eco-footprint and value chain, looking at downstream consequences and inter-county and cross-sectoral impacts, etc.</p> <p>41(3) Elaborate content and issues with a time frame after issuance of the regulations.</p> <p>43(4) The effects of the Policy, Plan and Programme on the environment should consider the ecological foot print and value chain impacts as well.</p>	<p>These are details depending on the PPP but all impacts are considered.</p> <p>Guidelines are already in place and gives room for review of guidelines.</p> <p>These are details to be captured in the report.</p>	<p>Not adopted.</p> <p>Not adopted.</p>
107	SECTION 44		<p>SEA report could be templated as a form.</p> <p>44(2)(j) Summary of the potential significant impacts - add: and ecological footprint along the value chain, climate change, carbon credits, etc.</p> <p>44(3)(d) Review of all development plans... this seems very broad and excessive, should it not refer to "all related development plans".</p>	<p>Contents of SEA provided and there is a template form for submission.</p> <p>Change addressed in regulation 44 (2) (g)</p> <p>Amended by adding relevant.</p>	<p>Adopted.</p>
108	SECTION 45		<p>(3) Alternatives to Policy, Plan or Programme should also look at actions to reduce the ecological footprint and along the value chain... taking into consideration risks and protocols for incident</p>	<p>These details are depending on nature of PPP.</p>	<p>Not adopted.</p>

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			management too.		
109	SECTION 46		(3) The published notice refers to the proposed Policy, Plan or Programme, however should it not publish the SEA for public comment, not the Policy, Plan or Program alone?	Amended to draft SEA report.	Adopted.
110	SECTION 49		(6) Include also elements of how policy contributes to green economy and green growth and risks of incidents, discards down the value chain, etc.	Details of briefing note depend on nature of PPP	Adopted.
111	SECTION 50		(1&3) The monitoring and evaluation should this not be of the SEA of the Policy, Plan or Programme.	Monitoring is for PPP	Not adopted.
112	FORMS		Form 1(11a) Give structure of table.  Form 7&8 incomplete.  Form 19 how or where are prescribed fees listed.  Form 22A ENVIRONMENTAL misspelt.  Form 23B incomplete.	Does not restrict us to a table.  Work in progress.  Explain why we are retaining the fees. Awaiting amendment of Act as the regulations is a subsidiary legislation. Done.  Work in progress.	Corrected.
113	Regulation 32(5) (ii)	<b>JON ZOLLO NJUMWA</b>	Environmental Audit for medium risk projects should be done annually not after three years.	Changed to 2 years.	
114		<b>HASSAN JUMA</b>	Regulations are baseless.		
115	Regulation 2	<b>KEPSA</b>	“precautionary principle” is the principle	Refer to the definition as provided	Addressed



116	Regulation 4(2)		<p>this provision they will regularize their operations and continue path of compliance.</p> <p>4(2) No licensing authority under any law in force in Kenya shall issue a licence for any project for which an environmental impact assessment is required under the Act unless the applicant produces to the licensing authority a licence of environmental impact assessment issued by the Authority under these Regulations.</p> <p>In fact, Nema itself is violating this provision by asking proponent to submit County Government approved building plans. After such building plan approval, County government does not care about EIA license.</p> <p>This can be amended as</p> <p><i>4(2) No licensing or approving authority under any law in force in Kenya shall issue a licence or grant approval of any kind for any project for which an environmental impact assessment is required under the Act unless the applicant produces to the licensing or approving authority a license of environmental impact assessment issued by the Authority under these Regulations.</i></p>	Adopted and amended Regulation 4(2)	Adopted
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117	Regulation 4		(2) Every application for licence or approval of any project or operation activity under a project or entity required by any other law, regulation or by-law under National Government or County Government for which an environmental impact assessment is required under the Act shall mention Environment Impact license number or Environment Compliance Certificate number as appropriate on the application document.	<del>Not considered in the Regulation but can be administratively undertaken</del>	Addressed
118	Regulation 5		<b>Strategic Environment Assessment</b>  5. (1) Every ministry, county, department, agency, institution, or private entity in Kenya shall submit a Policy, Plan or Programme brief to the Authority.  Private entity is not covered under EMCA 57A (2).  (2) <i>For the avoidance of doubt, the plans, programmes and policies are those</i>  <i>that are –</i>	Provided for under Regulation 5. Current practice even private entities undertake SEA	Addressed

		<p><i>(a) subject to preparation or adoption by an authority at regional, national county or local level, or which are prepared by an authority for adoption through a legislative procedure by Parliament, Government or if regional, by agreements between the governments or regional authorities, as the case may be;</i></p> <p><i>(b) determined by the Authority as likely to have significant effects on the environment.</i></p> <p>All over the world Strategic Environment Assessment are limited to public sector which is well defined in EMCA.</p> <p>Remove reference to private entity. If it is required absolutely the add as private entity who perform public functions</p> <p>We need a well-defined index to assess if there is any negative impacts on environment of a project. Mere subjective assessment may not be helpful.</p> <p>Plans which deal with national defense or civil emergencies and financial and budgetary plans, should be out the scope of SEA.</p>		
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119	Regulation 5		<p>(5) An environmental assessment expert registered as such under these Regulations may be de-registered by the Authority <b>after following due and fair processes for such action if</b> the expert contravenes any of provisions of the code of practice issued by the Authority set out in the Third Schedule to these Regulations</p> <p>(6) Notwithstanding the provisions of this regulation, the environmental assessment expert shall observe the multi-disciplinarily aspect of the Strategic Environmental Assessment studies, integrated Environmental Impact Assessment studies and environmental audits.</p> <p><b>Define - multi-disciplinarily aspect</b></p>	<p>Addressed in the Code of Practice</p> <p>The term is a general term well understood by the experts in the EIA field</p>	<p>Addressed</p> <p>Addressed</p>
120	Regulation 9		<p>9. (5) Once an institution is designated under sub-regulation (3), it shall be required to apply for renewal every two (2) years or the timelines provided for renewal by the accrediting institutions.</p> <p>(6) The Authority shall consider the application under sub-regulation</p>		

			<p>(5) and if satisfied that the institution has maintained the standards for training, shall issue a renewal of designation set out in Form 8 of the First Schedule of these Regulations</p> <p>Both above provisions increase the cost of doing business. Authority recognized credibility of Accrediting Institution (meaning agree with them for entity's training capability) in (5). Then why should the Authority reassess the entity before renewal? (While accrediting agency has renewed accreditation). <b>Delete the (6) and renew the licensee based on (5).</b></p> <p>However, there is need for clarity on the fact that which EMCA section gives power to Authority for (5) and (6).</p>	<p>regulation 9(6) is necessary as it provides information to the Authority to expeditiously renew the designation</p> <p>Adopted and amended but details on how to calculate the project cost is administrative and formula well known to the Quantity Surveyors</p>	<p>Addressed</p>
121	PART II		<p>PART III - THE PROJECT REPORT</p> <p>Preparation of a project report under</p> <p>(m) integration of climate change vulnerability assessment, <b>relevant adaptation and mitigation actions;</b></p> <p>(n) the project <del>budget</del> cost - for land and</p>		<p>Adopted</p>



		<p>building; ( nontangible cost like architectural cost, consultants etc should be excluded as these have no impact on the environment)</p> <p>(q) list of key documents as per schedule...</p> <p>(3) A project proponent shall send a meeting notice, through posters, invitation letters to affected and interest groups, letters through the local public administration officials or any other relevant channels, <del>to all the affected parties and communities</del> at least fourteen (14) days before the meeting informing them of the date, time, venue and purpose of the meeting. A copy of the meeting notice shall be attached to the project report.</p> <p>It is NOT possible to reach all affected</p>	<p>Adopted</p>	<p>Addressed</p>
122	Regulation 11	<p>parties. Remove this.</p> <p>11. An application for an environmental impact assessment license shall be in Form 9 as set out in the First Schedule to these Regulations and the applicant shall submit the application together with at least five (5) copies of the project report to the Authority</p>	<p>The proposal is not adopted. EIA license is valid for 24 months and extension after that period is provided for under variation</p>	<p>Addressed</p>

123	Regulation 12		<p>11(1) Impact Assessment License will be renewable every three years till First Environment Audit report is submitted. There will be no fee for such renewal. In renewal process, Authority will give consideration to compliance of regulation 27(1)</p> <p>12. (1) Where the project report conforms to the requirements of Regulation 10, the Authority shall within five (5) days upon receipt of the project report, submit a copy of the project report to -</p> <p>(a) The County Governments within the area the proposed project is to be situated;</p> <p>(b) each of the relevant lead agencies;</p> <p>(c) the relevant County Environment Committee; and</p> <p>(d) where more than one County is involved, to the relevant County Environment Committees, for their written comments which shall be submitted to the Authority within fourteen (14) days from the date of receipt of the project report from</p>	<p>Not adopted. Submission of reports is based on the legal mandate and the role of EIK is well defined under the</p>	
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			<p>the Authority</p> <p><b>Introduce</b></p> <p><b>(2) The Authority shall cause to submit such report to a Professional Body associated with Environment Experts recognized by the Authority.</b></p> <p>This will provide opportunity for self-regulating the profession of Environment Expert and also may improve in quality of reports.</p> <p>12 (2) On receipt of the comments referred to in sub-regulation (1) or where no comments have been received by the end of the period of twenty one (21) days from the <b>first date</b> of receipt of the project report by the Authority, the Authority shall proceed to determine the project report. Suggests addition of word "first date"</p>	<p>Environmental Expert advisory committee.</p> <p>Not adopted as statement in the Regulation is clear</p> <p>Already addressed and captured under Regulation 15</p>	<p>Addressed</p> <p>Addressed</p>
124	Regulation 17		<p>17. (1) A proponent shall, upon approval of the scoping report and the Terms of Reference, constitute a competent team of registered environmental assessment experts authorized so to do in accordance with section 58 (5) of the Act and these Regulations to undertake the Integrated</p>		<p>Addressed</p>

			Environmental Impact Assessment study		
			There is no provision that Scoping study report is required to be submitted to Authority. No time frame is prescribed for accepting and processing scoping study report and terms of References thus leading to uncertain responses from the Authority. This may delay the project and cost may incur to proponent.		
125	Regulation 24		24(4) The public hearing shall be conducted at a venue convenient and accessible to people who are <b>more likely</b> to be affected by the project and preferably <b>much closer</b> to it.	Not adopted  Considered but period adopted is 3 months	Addressed
126	Regulation 30		<del>30(2) The holder of the license shall notify the Authority of the intention to surrender the license under sub- regulation (1) at least <del>six (6) months</del> 30 days before the surrender by submitting a notification in Form 16 set out in the First Schedule to these Regulations together with the prescribed fees.</del>  Period of six month is long. Surrender of license comes under abnormal conditions and no one can predict that.	Adopted	Addressed

127			<p><b>Introduce following new regulation</b></p> <p>30A (1) Any application on Variation of license, Surrender of license or Transfer of license will be concluded within 30 days from the date of application.</p> <p>32. (1) An environmental audit study shall be undertaken <del>on development activities</del> for operating facilities or entities which are likely to have significant adverse</p>	Adopted	Addressed
128	Regulation 32		<p>environmental impacts and all projects for which an Environmental Impact Assessment license has been issued by the Authority</p> <p>Development activities are covered under EIA. EA is just to give time snapshot of the existing project.</p> <p>32 (3) An environmental audit study shall, unless it is a self-auditing study under regulation 34, be conducted by a qualified and authorized</p>	Already addressed by recognizing control audit and environmental audit study	Addressed
129			<p>Environmental Assessment Expert or environmental inspector</p> <p>This in contradiction to</p>		Addressed

			<p><i>EMCA 68. Environmental audit</i></p> <p><i>(1) The Authority or its designated agents shall be responsible for carrying out environmental audit of all activities that are likely to have significant effect on the environment</i></p> <p>It does not say that authorized Environment Assessment Expert shall undertake Environment Audit. Unless Experts are designated agents of the Authority. Clarification is required.</p>		
130			<p>32 (5) The operator under sub-regulation (1) shall undertake an environmental audit study as follows:-</p> <p>(i) for projects listed in number 1 of the Second Schedule to the Act, being low risk projects every three (3) years;</p> <p>(ii) for projects listed in number 2 of the Second Schedule to the Act, being medium risk projects every two (2) years;</p> <p>(iii) for projects listed as high risk projects under the Second Schedule</p>	Refer to Legal Notice No. 150 of 2016	

			<p>to the Act every twelve (12) months;</p> <p>There is no such classification - risk based - under second schedule of the ACT (EMCA 2016 Revised) - copy obtained from Laws of Kenya website. There is no latest copy of EMCA on website of NEMA.</p> <p>Clarification on above is required.</p> <p>32 (5) (f) public consultations on project environmental and social impacts;</p> <p>This should be removed. This has not helped over many years. Affected persons have opportunities to raise issues through Public Complaint Committee and Authority directly. Most of environment violation issues have arisen out of complaints from public through Public Avenue and never through content in Audit report.</p> <p>Further provision of 32(5) (g) describes existence of environmental awareness and sensitization measures which may help reduce the public issue.</p>	<p>Addressed</p> <p>Already Addressed</p>	<p>Addressed</p>
			<p>34. In executing a project after the Integrated Environmental Impact</p>		

131	Regulation 34		<p>Assessment study report has been approved by the Authority, the proponent shall take all practical measures to ensure the implementation of the Environmental Management Plan by:</p> <p>(i) carrying out a self-auditing study, this study being equivalent to Environment Audit study prescribed in regulations 32.</p>		Addressed
132	Regulation 37		<p>37(2) The proponent must comply with the terms of the enforcement actions in sub-regulation (1) above within a period of ninety (90) days from the date of the receipt by the proponent of the improvement notice or such other period as may be decided by the Authority.</p> <p>There is need for encouraging pro-activeness in compliance by Authority for above regulation Hence <b>Add new</b> regulation as</p>		
133			<p>37(2)(1) Authority while issuing improvement notice and subsequent enforcement action shall consider</p> <p>(a) The extent of compliance of previous Environment Management Plan</p> <p>(b) Degree ( significance,</p>	<p>Not adopted. Already in the inspection manual and applied prior to issuance of post audit orders.</p>	



			<p>magnitude and frequency) of negative impacts on environment due to uncompleted actions of previous environment management plan</p> <p>(c) Readiness of proponent for Voluntary Environment Management Plan</p>	<p>The use of the word within addresses issue raised</p>	<p>Addressed</p>
			<p>37 (3) The Authority shall upon inspection and determination that the proponent has acted in Environmental Compliance within <del>thirty (30) days</del> fifteen (15) from the date of inspection.</p> <p>If we look at time line of issuing of Environment Compliance Certificate for submitting Environment Audit, it is clear that Authority has left 21 days to issue certificate. So why such certificate should take 30 days. Since everything is in order, it should take 15 days.</p> <p>Proponent needs opportunity to appeal against Authority's decision.</p>	<p>The right of appeal is provided for under Reg 55(d)</p>	<p>Addressed</p> <p>Addressed</p>
			<p>38. (1) An environment inspector may, at all reasonable times, enter on any land,</p>		

134	Regulation 38		<p>premises or facility of a project for the purposes of inspection, to examine records and to make enquiries on the project.</p> <p>Introduce</p> <p>38(2) While an inspector undertakes any action for purposes of monitoring the effects of any activities carried on the land or premises on the environment, he shall follow a laid down guidelines by Authority on such inspections and monitoring by observing following</p> <p>(a) The extent of compliance of previous Environment Management Plan</p> <p>(b) Degree (significance, magnitude and frequency) of negative impacts of an event on environment due to uncompleted actions of previous environment management plan</p> <p>(c) Readiness of proponent for introducing Voluntary Environment Management Plan</p>	<p>Not adopted. Already in the inspection manual.</p>	<p>Addressed</p>
			<p>Introduce new Part</p>		

135		<p>PART VI A VOLUNTARY ENVIRONMENT MANAGEMENT</p> <p>“voluntary environmental management” means the principle of encouraging voluntary compliance in conserving the environment and which is a cost-effective and efficient method of attaining compliance with environmental regulations and of encouraging innovative conservation practices.</p> <p>This definition exists in EMCA.</p> <p>Following should be regulations for above provision of definition</p> <p>40A (1) Non state Actors will develop Voluntary Environment Management Program with objectives of increase in environmental awareness, reductions in government’s environmental administrative, monitoring and enforcement costs, environmental effectiveness, economic efficiency and encouragement of innovation.</p> <p>(2) Authority shall publish economic instrument including fiscal and innovation incentives within six month from effective date of these regulations</p>	<p>Not adopted. It should be catered for under Economic Instruments</p>	<p>Addressed</p>
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SUMMARY OF THE COMMENTS ON THE DRAFT ENVIRONMENTAL (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2017

			<p>(3) Authority will cause to establish National Center of Environmental Economics</p> <p>46(5) The public may submit their comments to the Authority within forty five (45) days from the date of the last publication of the notice inviting comments</p> <p>Why EIA public comments have 60 days window which is far less strategic?</p>	<p>Issue addressed under 23(4) which has given a time frame (a period not exceeding 60 day)</p> <p>Adopted</p>	<p>Addressed</p>
			<p>55(2) A person aggrieved by a decision or order of the Tribunal, may within thirty (30) days of such a decision or order, appeal against such decision or order to the <del>High Court</del>. Land and Environment Court</p>		<p>Addressed</p>
136			<p>Schedule 1, Form 1</p> <p>APPLICATION FOR REGISTRATION AS AN ENVIRONMENTAL ASSESSMENT EXPERT</p> <p>A10: List of professionals, their academic/professional qualifications and their nationalities (where applicable</p> <p>A11 : Membership of a professional body</p>		

<p>137</p> <p>138</p>			<p>FORM 23A  ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, CAP 387  APPLICATION FOR ACCESS TO INFORMATION  PART B: INFORMATION DETAILS  B I: TYPE OF INFORMATION REQUIRED  (tick as appropriate):</p> <ul style="list-style-type: none"> <li>o Environmental Impact Assessment Project Report.</li> <li>o Integrated Environmental Impact Assessment Study Report.</li> <li>o Any other information related to these regulations</li> </ul> <p>Add following</p> <ul style="list-style-type: none"> <li>• Investigation reports by the Authority relevant to these regulations</li> <li>• Records of complaints maintained by National Environment Department (EMCA section 32) relevant to these regulations.</li> </ul>	<p>Not adopted. Provided for under the phrase “any other”</p>	
			<p>SECOND SCHEDULE  CRITERIA FOR REGISTRATION OF ENVIRONMENTAL ASSESSMENT EXPERTS  Current criteria are discriminatory because as you graduate to each academic level,</p>	<p>Issue already addressed</p>	<p>Addressed</p>

139			<p>you are required to have less years of experience. There cannot be comparison between just academic qualifications and practical experience. Current trend is not to emphasize on academic qualification but on doing things practically.                  Revise qualification as</p> <p>A Lead Expert must have attained the following qualifications</p> <p>A Bachelor Degree or equivalent in any relevant field as set out in Section D plus training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F with practical experience of 3 years including</p> <ul style="list-style-type: none"> <li>a. Undertaking of 3 Environment Impact assessment study under guidance of Lead expert</li> <li>b. undertaking of 5 Environment Audit under guidance of L</li> </ul>		Addressed
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140		<b>Ronald Kimtai (EIK)</b>	<p>Transition from Associate to Lead;- There is need to establish a MINIMUM number of EIA/EA's submitted by Associate expert of course under the guidance of Lead Expert per year which will help the reviewer to determine eligibility and capability of the Associate Expert to transit to Lead level.</p> <p>2. Signing of EIA reports;- This should not only be limited to Lead, Associate Expert and the Proponent. But, be made mandatory to all other professionals whom might have taken part in the EIA/EA process. This can be sociologists, engineers, economists etc. This is to ensure</p>	<p>Addressed</p> <p>Addressed</p>	

			<p>holistic approach of undertaking EIA's.</p> <p>3. Submission of EIA reports;- Valid EIK membership certificates to be used just in case the EIA licenses have not yet been processed. Currently, the licenses are taking more than one and half months while the regulations talks about 2 weeks. This will reduce inconveniences experienced by experts especially in Kajiado offices.</p> <p>4. Continuous training of registered experts;- The general conditions number (4) of practicing license stipulates that every EIA expert has to attend at least two relevant seminars organized by the authority for the purposes of improving the professional expertise of its members. NEMA should fully donate this powers to EIK and recognize experts only recommended by EIK upon undertaking this training's for consideration to be licensed.</p>	<p>Issue dealt with administratively during NEMA/EIK meeting</p> <p>Issue addressed</p>	
141		<p><b>JEPHITAH MAKOYO MAROMA</b></p> <p><b>ASSOCIAT E EXPERT</b></p>	<p><b>Issues of concern are:</b></p> <p>1. The year of an associate expert becoming lead expert should be reduced to 5 years. In this case, the years to be counted is those he/she has actually practiced where annual subscription and projects one involved in are the major</p>	<p>Issue addressed</p>	



			<p>evaluator in qualifying for Lead among other factors.</p> <p>2. The duration for the expiry of the practicing license should be harmonized in the sense that it will expire after regardless when you were issued. For instance, if you are issued with the license 24<sup>th</sup> April 2018 should expire 24<sup>th</sup> April 2019. Should amend form 4.</p>	<p>The spirit is to have a license for a calendar year</p>	
142	Record of Decision on Strategic Environmental Assessment study	<b>OCEANIC SAKWA - NEMA</b>	<p>SEA is a tool that is used for improving PPP decision making process and development outcomes.</p> <p>Noting that the process is rigorous from the screening to the scoping and the draft SEA, how then can we purport to reject the SEA at the final stage?</p> <p>The issue of rejecting the SEA at this stage should not arise since the Authority has guided the PPP owner through the screening, scoping and draft SEA stages. If any inadequacies are encountered, they should be addressed at the various stages before arriving at the final stage.</p>	<p>The Regulation amended to replace rejection with a Notice of Deficiency</p>	<p>Addressed</p>

			43(5) Also talks about the adequacy of the scoping report and requesting for additional information, so the issue of rejection should not arise	Addressed	
143	Part VI Strategic Environmental Assessment	<b>Netherlands Commission for Environmental Assessment</b>	<p>Part VI on SEA, I have noticed that the SEA model that is known as the parallel or separated SEA model has been chosen over the partially integrated SEA model.</p> <p>Have you considered to apply the partially integrated SEA model?</p> <p>In general, evaluations of SEA effectiveness show that the partially integrated SEA model is more influential than the parallel SEA model but also slightly more difficult to organize because close cooperation is required between the team working on the policies, plans or programmes and the team working on the SEA.</p> <p>In the regulation one can also choose the parallel or separated SEA model as a starting point or minimum ambition</p>	For discussion by SEA Champions	

			and in an additional SEA manual, an explanation could be given as to why the regulation does not hinder the application of the partially integrated SEA model. The SEA manual might even provide guidance to encourage 'owners' to apply the partially integrated SEA model.	For discussion by SEA Champions	
144			2. There is no requirement for the owner of the policy, plan or programme to publicly justify how the recommendations have influenced the policy, plan or programme. I would recommend including such a provision.	For discussion by SEA Champions	
145			3. The position/mandate of NEMA in the phase of scoping and reviewing is unusual and deviates from what we see in the majority of LMCs as well as in the Netherlands. In the majority of the LMCs the environmental authority only has an advisory role and not an approval role. The reasons for this is that the line ministries in most countries are more powerful than the	For discussion by SEA Champions	



			accept an approval role of the environment authority.		
146	Regulation 41(2)		5.Art 41 (2) There is no clear distinction made between the objective(s) of SEA and how to achieve the objective(s).	For discussion by SEA Champions	
147	Regulation 42(2)		6.Art 42 (2) This article does not include the screening criteria. It is recommended to include the screening criteria.	For discussion by SEA Champions	
148	Regulation 41(2)(b)		7.Art. 41 (2) (b) at an early time ... If I have noticed correctly this is the only reference to/guarantee that the SEA will start timely. A timely start is an essential condition for an SEA to have influence on the PPP. Possibly another provision could be included to secure timely start of the SEA. Does a PPP start with a starting document?	For discussion by SEA Champions	
149	Regulation 41(2)(j)		8.Art. 41 (2) (j) provides information to decision makers by evaluating alternative options that meet proposal objectives based on the best practicable	For discussion by SEA Champions	

150	Regulation 41(2)(m)		<p>environmental options:</p> <p>Do you mean best practicable or best feasible?</p> <p>9.Art. 41 (2) (m) ... complies with related legislative obligations. This is very good and in accordance with international good practice and known as a consistency analysis.</p>	For discussion by SEA Champions	
151	Regulation 41(2)(o)		<p>10.Art. 41 (2) (o) provide a publicly available and accountable decision-making framework. In my view one can refer to the ToR for the SEA because the Tor will be publicly available and will be used as a reference framework during the review of the SEA.</p>	For discussion by SEA Champions	
152	Regulation 43(3)		<p>11.Art. 43 (3) Approval of the scoping report by the Authority. Why approval and why not providing advice? See my comment under number 3.</p>	For discussion by SEA Champions	
153	Regulation 43(4)		<p>12.Art 43 (4) It is very common that in a scoping report the strategic decisions that will be taken in the PPP are identified. So, it is recommended to</p>	For discussion by SEA Champions	
	Regulation 43(4)(a)				

154			<p>include a provision to identify the strategic decisions.</p> <p>13.Art. 43 (4) (a) ... level or tier at which .....You mean the level of integration?</p> <p>14.It is recommended that the scoping report includes a tiring timeline and explanation of the interaction the PPP and the SEA. The explanation would include the following aspects'. How are the development of the PPP and the SEA linked;</p> <p style="padding-left: 40px;">b.During which moments in the development of the PPP it can benefit from the SEA.</p> <p>Usually four phases or moments in the development of the plan are distinguished:</p> <ol style="list-style-type: none"> <li>1.Setting of the objectives</li> <li>2.Problem- and opportunity analysis</li> <li>3.Development of alternatives</li> <li>4.Comparative assessment of the impacts of the</li> </ol>	For discussion by SEA Champions	
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			<p>alternatives</p> <p>As mentioned previously, I observed that NEMA prefers to apply the parallel or separated SEA model. However, I still recommend including a provision of the timing of the presentation and review of the draft SEA report. It is common practice that the draft</p> <p>4 SEA report is published together with the draft policy, plan or programme. The ad-vantage is that there is a greater chance</p>	For discussion by SEA Champions	
155	Regulation 43(4)(e)		<p>that the recommendations made in the draft SEA report will be incorporated in the final policy, plan or programme.</p> <p>15. Art. 43 (4) (e) .... Environment and human wellbeing... In the regulation a wide scope of SEA is taken, which means that the effects on the environment and human wellbeing need to be assessed! However, what do you mean by “human wellbeing”, as this term is not defined and</p>	For discussion by SEA Champions	
	Regulation 44(2)(g)		<p>included in the list of definitions. Do you include social effects, health effects, socio-economic effects.....? The scope of issues that need to be as-sessed in SEA needs to be very clear.</p>		



156			16. Art. 44 (2) (g) integration of climate change vulnerability assessment, What in your opinion is a climate change	For discussion by SEA Champions	
157	Regulation 44(3)(b)		vulnerability assessment? I would suggest that including the following sentence is sufficient: when climate change is affecting the PPP or vice versa, climate change issues need to be incorporated in the SEA.  17. Art. 44 (3) (b) collection of baseline data including data on ecological processes and services, resilience and vulnerability of these processes and their significance to human well-being; ... This is part of the situational analysis and it is recommended that it should also include an analysis of	For discussion by SEA Champions	
158	Regulation 44(3)(e)		environmental problems and underlying causes as well as an opportunity analysis where relevant for the plan, policy or programme.  18. Art 44 (3) (e) Part: 4 an identification of alternatives that may include but not be limited to: ..... A list of possible alternatives is identified but it is suggested to provide a more extensive list of possible alternatives such as site selection alternatives, alternatives in timing, ...		

159		<p><b>National Environmental Complaints Committee</b></p>	<p>The National Environmental Complaints Committee (NECC) is established under Sections 31 to 36 of the Environmental Management and Co-ordination Act, 1999 (No. 5 of 2015) with the mandate to investigate allegations or complaints regarding the condition of the environment in Kenya, or on its own motion, suspected cases of environmental degradation.</p> <p>Article 10(2) (a) of the Constitution emphasizes the need for public participation as one of the national values and principles of governance. Nonetheless, Article 35 Constitution stipulates that the government is obliged to increase public awareness and foster healthy debate of any proposed infrastructure project. The EIA process faces problems that must be solved if EIAs are to serve any function in promoting sustainable development. In EIA work, it is common to use ‘mitigation’ to describe one or more of the following:          Dropping environmentally damaging elements of a proposed project          Minimizing adverse effects by scaling down or</p>	<p>Comments well noted</p>	

			<p>redesigning a project Repairing, rehabilitating, or restoring those parts of the environment that are adversely affected by a project Creating or acquiring environments similar to those adversely affected by an action.</p>		
	<p>Joyce Imende - NEMA head of Experts registration and Licensing section</p>	<p>The purpose of this guideline is to provide an outline on the requirements, conditions and procedure for registration and licensing of Environmental Assessment Experts as provided for in Section .....EMCA CAP 387 and EIA/EA Regulations.                  Definition / Interpretation of Terms                  1. Associate                  2. Expert                  3. Lead                  4. Practical Experience                  It the guideline will address the following categories-                  1. Part A - Associate Expert                  2. Part B - Lead Expert                  3. Part C - Firm of Experts                  A person or firm wishing to apply for registration as an Environmental Assessment Expert or Firm of Experts for carrying out Strategic Environmental Assessment studies, integrated Environmental Impact Assessment studies and environmental audits shall be required to meet the qualification criteria and undergo the vetting process set out in the Second Schedule to the Regulations</p>			

		<b>PART A. Registration for Associate Experts</b> A person desirous to be registered as an Associate Expert must fulfill the following qualifications		
		a. A bachelor's degree Environmental Studies, Biological Sciences Chemistry, Engineering(specification), Geography, Earth Sciences, Biophysical Sciences, Natural Sciences, Environmental Law or a diploma in environmental science studies or any other field approved by the Authority on the 81 recommendation of a Professional Body or the Environmental Expert Advisory Committee	Addressed	
		b. Training in Environmental Impact Assessment & Audit from a recognized institution. c. Must be Kenyan citizen or permanent resident of Kenya	Addressed	
		d. Must be Kenyan citizen or permanent resident of Kenya		
		<b>Procedure for Registration as an Environmental Assessment Expert</b> <ul style="list-style-type: none"> <li>• Application for registration as an Environmental Assessment Expert shall be made online through address <a href="http://www.nema.go.ke">www.nema.go.ke</a> licensing portal as per attached procedure in Appendix</li> <li>• Form 1 shall be submitted together with: -</li> </ul>	Administrative procedure	

		<ul style="list-style-type: none"> <li>a) Certified copy of Degree/Diploma/Certificate (where applicable)</li> <li>b) Curriculum Vitae</li> <li>c) Copy of National Identity Card for Kenyans, Alien card/work permit for permanent residence</li> <li>d) Certified copy of certificate of membership of professional body for non-citizen</li> <li>e) Certificate of Incorporation /Registration</li> <li>f) KRA PIN Certificate</li> <li>g) CR 12</li> </ul> <ul style="list-style-type: none"> <li>• If the application is incomplete or does not satisfy the registration requirements, a notification shall be issued to the applicant for rectification</li> <li>• Upon application, the Expert shall be invited in person for an interview and screening by the Registration Panel.</li> <li>• Complete application shall be decided by the registration panel within 30 days from the date of receipt of such an application</li> <li>• Successful applicant will be given a registration number. A certificate of registration in Form 2 as in Appendix .... hereof shall be issued to successful applicant.</li> </ul>		
		<p><b>Procedure for Application for Annual Practising License</b>          Application for Annual Practising License shall be made online under the licensing portal on NEMA Website using the online registration guideline as per attached in Appendix ... Application for annual Practising License</p>	<p>Captured under SOP</p>	

		<p>shall be opened between 1<sup>st</sup> December to 1<sup>st</sup> March of the following year.                  Form 3 shall be submitted supported with: -                  a) A scanned copy of the registration certificate for a new applicant                  b) A scanned copy of previous practicing license for existing experts                  c) Proof of validity of membership to EIK                  If the application is incomplete, a notification shall be sent to the applicant’s email address for rectification                  Where the Authority approves an application submitted under sub-regulation (1), it shall issue an annual environmental assessment practicing license in Form 4 set out in the First Schedule to the Regulations within fourteen (14) days from the date of application</p>	<p>Captured under regulation 8(2)</p>	
		<p><b>Procedure for Upgrade to Lead Expert</b>                  A registered associate expert may be considered for upgrading to a Lead Expert status when they submit their application in the prescribed manner,                  a) <b>Qualifications and official documents:</b> Copies of qualifications and academic records submitted with the first application are not required - only certified copies of qualifications obtained after registration as an Associate expert will be considered                  b) <b>Mentor’s recommendation:</b> A recommendation by the mentor whom the associate was attached to either Lead Expert or Firm must be included with the application documents. This report should indicate time, period of mentorship, experience, skills and qualifications the applicant’s attained during the mentorship period.                  c) <b>Certificate:</b> The certificate issued to an Associate</p>	<p>Part of Standard Operating Procedures</p>	

		<p>Expert remains the property of the Authority and must be returned/ surrendered after registration as a Lead Expert.</p>		
		<p><b>Associate Expert Mentorship Programme</b></p> <ul style="list-style-type: none"> <li>a) A registered Associate Expert shall be required to identify a mentor who will ensure that the experience gained by him or her is appropriate in the strategic impact assessment, integrated environmental impact assessment or environmental audit.</li> <li>b) The mentor must be a Practising Lead Expert or a Firm of Experts</li> <li>c) The associate expert shall ensure their knowledge is continuously upgraded to meet the objectives of Continuous Professional Development (CPD).</li> <li>d) Communication, managerial and professional skills are developed to comply with their increasing responsibilities and emerging issues within the environmental sector.</li> <li>e) Their conduct enhances the profession;</li> <li>f) The code of conduct is followed and adhered to</li> <li>g) An associate expert shall ensure that their work is supervised with a competent Lead expert.</li> <li>h) The mentor is responsible to ensure that the associate expert gains relevant and appropriate work experience, skills, and knowledge</li> <li>i) Every associate expert shall be required to submit to the authority a mentor(s) progress</li> </ul>	<p>Part of Standard Operating Procedures NEMA to discuss with EIK</p>	

		<p>report/ recommendation during annual practicing license renewal. The mentor(s) report shall entail work experience, skills and knowledge gained during the review year.</p>		
		<p><b>PART B. Lead Expert Requirements of a Lead Expert</b>  A person to be considered as a Lead Expert desirous to be a Registered must fulfill the following qualifications</p> <ol style="list-style-type: none"> <li>a. Doctorate Degree or equivalent in any relevant field as set out in Section D of the regulations</li> <li>b. Training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F, of the regulations</li> <li>c. Three (3) years practical experience in <ol style="list-style-type: none"> <li>i. Environmental assessment related activities</li> <li>ii. Work experience,</li> <li>iii. Consultancy,</li> <li>iv. Training/Lecturer/ Tutor and</li> <li>v. Research (Publications)</li> </ol> </li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>a. A Master's Degree or equivalent in any relevant field as set out in Section D</li> <li>b. Training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F, of the regulations</li> <li>c. Five (5) years practical experience in <ol style="list-style-type: none"> <li>i. Environmental assessment related</li> </ol> </li> </ol>	<p>Already addressed</p>	



		<ul style="list-style-type: none"> <li>activities</li> <li>ii. Work experience,</li> <li>iii. Consultancy,</li> <li>iv. Training/Lecturer/ Tutor and</li> <li>v. Research (Publications)</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>a. A Bachelor’s Degree or equivalent in any relevant field as set out in Section D</li> <li>b. Training in strategic impact assessment, integrated environmental impact assessment or environmental audit from an accredited institution in accordance with requirements set out in Section E and F, of the regulations</li> <li>c. Eight (8) years practical experience in environmental assessment related activities             <ul style="list-style-type: none"> <li>i. Environmental assessment related activities</li> <li>ii. Work experience,</li> <li>iii. Consultancy,</li> <li>iv. Training/Lecturer/ Tutor and</li> <li>v. Research (Publications).</li> </ul> </li> </ul>		
		<p><b>C. Firm of Experts</b></p> <p>Requirement for Registration of a Firm must meet the following conditions:</p> <ul style="list-style-type: none"> <li>a. Must be registered in Kenya to offer environmental assessment expertise.</li> <li>b. Must submit to the Authority a firm profile indicating capacity of its directors, partners and associates to undertake environmental assessment and audit studies.             <ul style="list-style-type: none"> <li>a. At least one director in the body corporate shall be practising full time in</li> </ul> </li> </ul>		

		<p>the firm as Lead Expert and at least the other director/partner as an Associate expert</p> <p>b. The director practicing full time in the firm must be a registered Lead Expert with a minimum of 5 years' of practical work experience as a Lead Expert</p> <p>c. The director practicing full time in one firm cannot be practicing full time in another firm of experts,</p> <p>c. Foreign firms must demonstrate the contribution of local expertise.</p>		
		<p><b>Surrender of registration certificate</b> Any person whose registration has been cancelled or and invalidated as per the terms of this regulations/ guidelines or code of conduct shall return/surrender his or her registration certificate to the Authority.</p>	Administrative function	
		<p><b>Validity of an Environmental Expert Registration</b></p> <p>1. The Authority may cancel the registration of a registered person if he or she breaches the Code of Conduct</p> <p>2. An Environmental Expert Registration shall cease to be valid upon lapse of 3 consecutive years of non practising and shall be struck off the register of experts. A deregistered environmental expert can apply for re-registration following the due process of registration</p>	Addressed under regulation 7	

		<p><b>ONLINE APPLICATION PROCEDURE</b></p> <ol style="list-style-type: none"> <li>1. Click on 'Licensing Portal' under quick links.</li> <li>2. For new users, on the top right side, click on 'Click to Register (New Applicants Only)'</li> <li>3. You will be required to enter 'Personal Details' and 'Create Account' details.</li> </ol> <p><b>Note:</b> Please ensure that the Username is different from both First and Last Name.</p> <ol style="list-style-type: none"> <li>4. Kindly enter the text for security and authenticity purposes.</li> <li>5. Click on 'Submit' to continue or 'Cancel' to close the form.</li> <li>6. You will receive a notification saying that you have been registered successfully.</li> </ol> <p><b>Note:</b> Please wait for about 10 minutes for authorization of your username (This will be done only during working days and hours i.e. Monday - Friday (8:00am - 5:00pm)). Do not try to register afresh before this time has elapsed or outside of the working hours. Contact ICT section at 6005522 ext. 126/163 for further queries.</p> <p><b>NOTE:</b> After you have logged into your account, choose the "Expert registration application" for registration or "Expert license application" for license renewal.</p>	<p>SOP</p> <p>To pick up with ICT</p>	
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