

SUMMARY OF NAIROBI REGION STAKEHOLDER VALIDATION FORUM ON THE DRAFT ENVIRONMENTAL (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2017 HELD ON 27TH MARCH 2018 AT PANARI HOTEL IN NAIROBI COUNTY.

SUMMARY OF THE COMMENTS OF THE NAIROBI REGION DRAFT EIA REGULATIONS (Kiambu, Machakos, Kajiado, Makueni, Narok)						
Regulations		Institution	Issue	Comments	Deliberation by Task Force	Way Forward
1	Section 7 2 nd schedule 3 rd schedule	Dr. Martin Oulu - UoN	Legal status of EIK Should all experts be members of EIK?	EIK currently registered under the Societies' Act Currently EIK is the only recognized professional body by NEMA. The regulations	To continue reference to the environment professional body in the regulations To add a line on membership in form 3, first schedule	

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				including the first schedule do not provide for proof of membership before issuance of license to practice.		
			2 nd Schedule- does not list high risk projects	Reference was made to 2 nd schedule of EMCA which was amended by Legal Notice 150 which categorizes projects into low, medium	He was referring to regulations as opposed to the Act. The difference was explained to him.	No further action.

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			Climate policy integration- NEMA to give guidance on how it can be done in MDAs,	and high risk. Note that the 2 nd schedule of the regulation is on the criteria for registration of experts.	Climate change Act has been mainstreamed in the EIA licensing conditions	
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			<p>capacity building on Climate Change issues to be done</p> <p>SEA has not been captured in EMCA Cap 387</p> <p>Penalties for non-compliance</p>	<p>SEA has been captured in section 42, EMCA Cap 387</p>	<p>EMCA provides general penalties for non-compliance</p>	
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			with the requirement to undertake SEA not clear			
2	Section 34 and 35 Section 49 (2), 36(6), 26, 13(2)	Grace Maina – NEMA Machakos	Difference between annual and initial audit Will PPPs/Projects subjected to SEA, EA & EIA receive a license at the end of the process?	Initial for projects that have been licensed- the 1 st audit after licensing Annual every year thereafter SEA –approval letter EIA - license EA-compliance letter	No action Amend section 13(2) to read “shall”	
3	Section 13(1)	Valentine	Clarity on	The section	We suggest	

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	Section 10(3), 19(1b)	Cheruiyot/A gnes Okelo – Safaricom Limited	21day- working days or calendar days? 14 days’ notice for public consultation is too long and should be left open	refers to 30 days This is applicable to EIA project and EIA Study reports There was a	to review and consider working days for all sections referring to timelines. We suggest to reduce this to “at least 7 days” No action	
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			The status of EIA fees	directive to scrap EIA fees.		
4	Third Schedule Second Schedule	Ronald Kimutai - EIK	Criteria for selection of the experts' advisory committee? Criteria for upgrading from associate to lead expert?	Subsection 14(2) outlines the composition of the committee members. The second schedule outlines the criteria for associate and lead expert	Consider the number of EIA reports done by EIA expert prior to upgrading	
5	Section 22 and 12(1)	Titus Simiyu – NEMA Machakos	Lead agencies not responding to NEMA request for	This affects NEMA's ability to make decisions	We suggest Director General to engage	

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			comments	made with additional information from lead agencies.	CEOs of various lead agencies.	
	Section 19(1)		Process of undertaking public consultations by experts poor	Regulations have captured the process and code of conduct expected to address this.	These regulations have provided for five hard copies in addition to soft copies. If there is need the authority can ask for more.	
	Section 11		No. of project	There have efforts to harmonize the number of		

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			reports to be submitted – storage	copies to five for project reports and ten for study reports.		
6	Section 27(1) Section 34	John Aywa - KU	2 nd Schedule contents List of all projects in the regulation- low medium and high risk Monitoring reports bi-annually Frequency of self audits	Refer to 1 above This is critical in the first phase of construction. As per risk level-low - 3 yrs. medium - 2 yrs. High - 1 yr.	No action No action	

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7	N/A	Jackson Ingolo – National Oil	Should air quality analysis be done at depots or petrol stations?	At stations - for generators	This is covered under the air quality regulations	
8		Dr. James Raude - JKUAT	How sure is NEMA that a report is submitted by a particular expert	The online submission system at NEMA H/Q notifies the expert when a project is submitted using his credentials.	Expand this system to counties.	
			Why scrap EIA fees?	Refer to (3) above	This should be a function of EIK.	

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			<p>introduction of modest fees suggested</p> <p>Continuous professional development for experts Public consultations to be done through provincial administration</p>		<p>It is not a requirement by law but important facilitative office.</p>	
9	Section 12	Mary Kamau – Kiambu County	Lead agencies' capacity to review EIA is limited		Efforts by all agencies to build capacity	

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					have to be continuously made and government putting more resources especially at county level.	
10		Gabriel Wetangula – Geothermal Development Company	How can NEMA assist experts capture best international practices in the Impact assessment reports?	EIK to take up the issue including with IAIA and other means	These regulations have also incorporated best international practices. NEMA in conjunction with designated institutions to develop	

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					curriculum and encourage continuous training	
1 1		Mwongera Murungi - NHC	The stipulated timelines for processing EIAs are never complied with	90 days – NEMA takes too long to respond to proponents thus delaying project implementation	The resources are scarce hence at times occasioning delays. The experts should provide working contacts for ease of communication from the Authority on the status of	

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					the project.	
1 2	Section 10(2)	Davis Kilonzo – China Communicati on Construction Company	Public consultations are too many hence occasioning high Cost, security concerns, low population density/ lack of quorums. Do low risk projects require elaborate consultations / meetings? How do you tell	The public consultation is key to success projects. The reviewer can determine the adequacy of public consultation depending on the nature of the project. Public consultations should be done as provided for in section 10(2)		

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			if consultations are adequate?			
1 3		Daniel Mututho – NEMA Kajiado	Challenges for NEMA locating projects on the ground	Experts should include in their reports project location preferably using site maps	This should be included as best practice	
1 4	First and Second Schedule	Albanus Mutwiwa – JKUAT/EIK	Quality of training, upgrade and categorization of EIA Experts	Those teaching in the accredited environmental assessment training institutions should be practicing experts. For those	For those teaching there is need to amend form 6 (First Schedule) to reflect this. There is need	

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				<p>experts upgrading from associate to lead to show the reports they have carried out, not just the number of years in experience</p> <p>Categorize experts in terms of field of expertise</p>	<p>to amend form 1 (First Schedule) to capture this.</p> <p>There is need to incorporate this in form 2 (First Schedule) to capture this.</p>	
15	Section 11	Florence Mwikali – NEMA Kajiado	Forged project reports presented to the Authority	Experts to include an original copy of report that		

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				has been signed by the expert and proponent as opposed to using scanned signatures.		
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