



**REGULATORY IMPACT STATEMENT**  
**THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION**  
**(AIR QUALITY) REGULATIONS, 2022**

## **INTRODUCTION**

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The Air Quality Regulations are anchored in Section 78 of the Environmental Management and Co-ordination Act (EMCA) and came into effect through Legal Notice 34 of 2014. The Regulations objective is to provide for the prevention, control and abatement of air pollution to ensure clean and healthy ambient air.

Industrial growth and increase in air pollution resulting to negative impacts on public health has necessitated the need to have the Regulations reviewed to address existing gaps that have become apparent. The Authority in accordance with its mandate and as provided for under Section 78 of EMCA has proposed to undertake a review of this Regulations through a taskforce.

The taskforce shall comprise of experts with divergent background touching on air quality and they will be tasked with identifying the gaps in the Regulations, coming up with remedies for such gaps, collecting views from members of the public and preparing a draft Regulation with the proposed changes.

### **A. OBJECTIVES OF THE PROPOSED REGULATIONS**

- ❖ To provide for the prevention, control and abatement of air pollution to ensure clean and healthy ambient air.
- ❖ To promote sustainable exploitation, utilisation, management and conservation of the environment.
- ❖ Reduce environmental damage and facilitate economic development and socio economic benefits

## **B. EFFECTS OF THE PROPOSED REGULATIONS**

The effects of the proposed regulations can be categorised as follows;

### ***i. Ease of doing Business***

- ❖ It opens opportunity for economic development, job creation and sustainable development.
- ❖ Provides good investment climate
- ❖ Reduction in medical costs from URTI associated with air pollution
- ❖ Productivity index is enhanced
- ❖ Supports the government policy objectives such as the vision 2030, the big four agenda and MTP III.

### ***ii. Social Effects***

- ❖ By promoting sound environmental practices and therefore sustainable development, the potential risks are addressed thereby guarantying public health and safety, occupational safety and health and good environmental practise.
- ❖ By promoting stakeholder engagements, public participation, transparency and social acceptability (social licenses) it will mitigate against conflicts and social unrests.
- ❖ It will enhance synergy and interagency co-ordination among MCDAs in environmental management and thus avoid institutional conflict and duplication of responsibilities.

### ***iii. Environmental Effects***

- ❖ It ensures the right to a clean and healthy environment while promoting sustainable development.
- ❖ Mainstreaming climate change considerations in the industry
- ❖ Puts in place preventive measures against pollution of the environment by prescription of environmental standards, monitoring ambient air quality and averting potential harmful risks to the environment.
- ❖ Offers alternatives through consideration of international best practices and best-fit environmental technologies to promote sustainable development.

## **C. STATEMENT OF OTHER PRACTICABLE MEANS OF ACHIEVING THE OBJECTIVES OF THE PROPOSED INSTRUMENT (AIR QUALITY REGULATIONS 2022)**

### ***i. Regulatory Options***

- ❖ Licensing to support industry compliance
- ❖ Enforcement by the relevant Ministries, Counties, Departments, and Agencies (MCDAs) on sectoral issues under their jurisdiction.
- ❖ Adoption of internationally recognised standards on air quality management

### ***ii. Non Regulatory options***

- ❖ The Authority to continue to enhance education and awareness of best environmental practices.
- ❖ Negotiated compliance arrangements.
- ❖ Compliance assistance programmes.
- ❖ Compliance promotion.
- ❖ Voluntary/Self-regulation practices by members of the public, owner and operators.
- ❖ Monitoring of ambient air quality to inform on effectiveness of the existing emission standards to guide on policy direction.

## **D. ASSESSMENT OF THE COSTS AND BENEFITS OF THE AIR QUALITY REGULATIONS 2022**

### ***i. Cost of the Regulations***

- ❖ Need for increased personnel
- ❖ Laboratory and Equipment (air quality monitoring equipment, computers)
- ❖ ICT enhancement (Real time data transmission technology, Air Quality data base, servers, website, system automation and software)
- ❖ Mobility (vehicles, motorbikes and others vessels)
- ❖ Capacity enhancement
- ❖ Education and awareness
- ❖ Enforcement and monitoring

### ***ii. Benefits of the regulations***

#### ***a. Economic Benefits***

- ❖ It enhances the ease of doing business by reducing cost and increasing efficiency.
- ❖ It opens opportunity for economic development, job creation and sustainable development.
- ❖ Enhances good investor climate.
- ❖ Supports the government policy objectives

**b. Social Benefits**

- ❖ Reduction of air pollution related illnesses such as stroke, ischaemic heart disease, chronic obstructive pulmonary disease (COPD) and lung cancer.
- ❖ By promoting sound environmental practices and therefore sustainable development, the potential risks are addressed thereby guarantying public health and safety, occupational safety and health and good environmental practise.
- ❖ By promoting public participation, transparency and social acceptability (social licenses) it will mitigate against conflicts and social unrests.
- ❖ Promotes social equity in utilisation of natural resources

**c. Environmental Benefits**

- ❖ It ensures the right to a clean and healthy environment while promoting sustainable development.
- ❖ Fosters domestication of relevant International Environmental treaties, and Conventions.
- ❖ Puts in place preventive measures against destruction of the environment by air pollutants and averts potential future risks to the environment.
- ❖ Offers alternatives through consideration of international best practices geared towards promoting sustainable development.

**E. REASONS WHY OTHER MEASURES ARE NOT APPROPRIATE**

- ❖ Existing gaps and inadequacies in the current regulations
- ❖ The compliance status among the regulated community is wanting and hence the need to enhance enforcement of the prescribed regulations and standards.

- ❖ Low self-regulation by the industry
- ❖ The Constitution squarely puts the mandate to the government on ensuring a clean and healthy environment to Kenyans.
- ❖ The substantive legislation (EMCA, 1999) provides for the development of regulations for its implementation.

#### **F. ANY OTHER MATTERS SPECIFIED BY THE REGULATIONS**

- ❖ Code of practice for the designated environmental labs
- ❖ Constitution of the odour panel
- ❖ MRV Climate Change
- ❖ Dispersion modelling

#### **G. CONCLUSION**

The review of the regulations has been of high interest to all stakeholders including various industry players, Lead Agencies, development partners, citizens, professionals, academia, media and civil society. This Regulatory instrument is a critical tool for environmental management in Kenya.