KENYA EPR
SETUP AND
LEGISLATIVE
PROCESSES
SUPPORTING EPR

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OVERVIEW

To enhance the circular economy, Kenya has launched several strategies, policies, and legislation including the Green Economy Strategy and Implementation Plan (GESIP) of 2018, the Environmental Management and Coordination Act 1999, revised 2015), the Sustainable waste Management Policy 2021, Sustainable waste Management Act 2022. In addition, Kenya banned the production and use of polythene bags (2017) and the use of single-use plastics in protected areas (2019).

Sustainable Waste Management Act 2022 section 13 is the foundation of EPR in Kenya and states as follows:-

1. Every producer shall bear extended producer responsibility obligations to reduce pollution and environmental impacts of the products they introduce into the Kenyan market and waste arising therefrom.

2. Every producer shall fulfill their extended producer responsibility obligations individually or collectively in a compliance scheme.

3. The Cabinet Secretary shall, within two years of the coming into operation of this Act make regulations on extended producer responsibility.

As a result of the provision in SWM 2022 section 13, the EPR Regulations 2023 were developed, now undergoing final drafting by Attorney General.

Kenya is developing a dummy Sustainable Waste Management Bill for Counties, to hasten the transition to a circular economy at the grassroots level. Public consultation meetings on the dummy bill will be done soon.

Kenya also developing EPR Guidelines for the 5 categories of PROs established by the draft EPR Regulations 2023 to help private sector players to establish EPR schemes for their products and packaging.
# PRODUCTS SUBJECT TO EPR

## Five categories of PROs

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<tr>
<td>Items: plastics, papers and its corrugates, aluminium, composite, glass, cardboard and carton.</td>
<td>Items: Industrial chemicals, oil and lubricants, pharmaceuticals, agrochemicals, veterinary, cosmetics, paints and solvents, treated wood and agricultural films</td>
<td>Items: Electrical and Electronic Equipment, Mercury Auto Switches, thermostats, Battery and Accumulators</td>
<td>Items: motor vehicles, automobiles, aircrafts, locomotives</td>
<td>Items: Plastics, glass, paper, cardboard, Furniture (except wooden, metallic), Rubber and Tyres, textiles, leather, artificial hair, diapers, sanitary towels.</td>
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**Number of PROs:** Multiple but deal with all materials per category
<table>
<thead>
<tr>
<th>Design Element</th>
<th>Description</th>
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<tr>
<td>Product Definition</td>
<td>The products to be covered by the EPR are clearly defined</td>
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<tr>
<td>Producer definition and registration</td>
<td>NEMA to register all producers and PROs and subject them to similar obligations</td>
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<tr>
<td>Individual vs collective schemes</td>
<td>Schemes can be individual Producer responsibility of collective producer responsibility. There may be one single collective scheme or competing schemes</td>
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<tr>
<td>Type of Producer Responsibility</td>
<td>PROs have full financial and organizational responsibility. PROs collect money from producers and can enter into direct contracts with waste service providers</td>
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<td>Setting targets and responsibilities</td>
<td>NEMA to set targets in consultation with the National Waste Management Council to be published by the Ministry of Environment. The targets are to be cognizant of technical and economic feasibility, the geographic and demographic characteristics etc</td>
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<tr>
<td>Setting fees and cost coverage</td>
<td>PROs to set fees to cover costs of waste management for their products, including separate collection, transport, disposal, administrative, and communication cost. Fees comprise of registration, annual subscription and modulated EPR fees.</td>
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<tr>
<td>Information Provision</td>
<td>Information to be provided by the County government and PROs to consumers and stakeholders to support the functioning of the EPR scheme. Annual AGMs to be the core decision-making organ for the PRO</td>
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<tr>
<td>Transparency Monitoring and enforcement</td>
<td>NEMA to monitor PROs; annual reporting is the basis for licensing; Free riders and other offenders to be persecuted</td>
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**EPR GOVERNANCE IN KENYA**

**POLICY**
- Ministry to Develop policies and legislation
- Waste Management Council
- NEMA to register Producers and PRO; License MRFs, Recycling plants and landfill

**PLANNING**
- Producer
  - Finance Obligations Data
  - Secondary raw material
- Consumer

**IMPLEMENTATION AT COUNTY LEVEL**
- Waste collection and transportation
- Waste Picker Associations
- Material Recovery Facility
  - Contract & Subsidies
  - Data
- Recycling plant
  - Data
- County EPR workplan
- Subsidy
- County Planning Council

**County government**
- Data
  - EPR plan
  - Reports
- NEMA
  - EPR plan
  - Reports
- External Auditor
  - Data
  - EPR plan
  - Reports
- Register and submit data
  - Data
  - EPR plan
  - Reports
  - County Planning Council
WAY FORWARD

Engagement with various stakeholders to complete EPR related legislation (Parliament, counties, public, professionals)

Public awareness and participation

Target setting by NEMA
Model SWM bill for counties 2023

EPR guidelines 2023

EPR Regulations 2023

Stakeholder engagement reports

Target setting by NEMA and Waste Management Council to approve the target and MoECF to publish the target
OUTCOME

OPERATIONAL EPR SCHEMES

ENHANCE RECOVERY OF RESOURCES BY THE EPR SCHEMES
MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

COUNCIL OF GOVERNORS

PARLIAMENT

MINISTRY OF INVESTMENT, TRADE, AND INDUSTRIALIZATION

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

PRIVATE SECTOR
### TIMELINES

#### EPR Guidelines
- **Draft 1** – March 2023
- **Stakeholder consultations** – April 2023
- **National Validation** – May 2023

#### EPR Regulations
- **Finalization of drafting the EPR Regulations** – March 2023
- **Engagement with delegated committee of parliament** – March 2023
- **Signature by cabinet secretary** – April 2023

#### Draft dummy bill for counties 2023
- **Engagement of senior managers from counties** – March 2023
- **Public participation** – May 2023
- **National validation** – June 2023
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