

KENYA RELEASES THE DRAFT CARBON REGISTRY REGULATIONS, 2025 UNDER THE CLIMATE CHANGE ACT 2016

BACKGROUND

The Ministry of Environment, Climate Change and Forestry has issued the Draft Climate Change (Carbon Registry) Regulations, 2025 pursuant to the Climate Change Act as amended in 2023.

These regulations aim to operationalize a national carbon registry and other related sector registries and to provide for access to information of carbon projects in order to enhance public confidence and market integrity. The regulations address essential aspects of carbon credit issuance, tracking, transfer, retirement, and corresponding adjustments to prevent double counting. The government has opened a public consultation window to allow stakeholder engagement and public participation.

KEY REGULATORY FEATURES

1. Establishment of a National Carbon Registry

A secure electronic system will record, track and manage information on Internationally Transferred Mitigation Outcomes(ITMO), covering both voluntary and compliance markets.

2. Alignment with Article 6 of the Paris Agreement

This registry will ensure that only emissions reductions beyond Kenya's NDC qualify for ITMO issuance, with corresponding adjustments to sustain environmental integrity.

3. Designated Authority and Governance Structure

The Regulations provide that NEMA,which is the Designated National Authority will maintain the registry and serve as the National Registrar. NEMA will oversee the establishment and operations of the National Carbon Registry and sector registrars across agriculture, energy, forestry and land use, industrial processes and product use, transport and waste sectors.

4. Registry Content

The registry will capture:

- Account types, holder names and addresses, KYC data and account status
- Project details, including methodology, status, unique credit Ids, issuance counts
- Ownership history, usage/retirement deadlines
- Transaction records
- Market classification and retirement logs

5. Anti Money Laundering and Due Diligence

NEMA must implement KYC/UBO verification, sanctions screening, and transaction-level due diligence to prevent misuse of carbon trading.

6. Suspension of accounts

Accounts may be suspended if fraudulent activity is detected or if an account remains inactive for over 12 months subject to procedural requirements such as notification to the account holder.
period exceeding 12 months.

7. Penalties

Violations of the regulations can result in a fine of up to Kshs. 100,000, or six months' imprisonment, or both.

IMPLICATIONS FOR PROJECT PROPONENTS, TRADERS AND REGULATORS

1. Project proponents must ensure projects are registered with NEMA and comply with clear issuance/retirement procedures.
2. Traders will benefit from improved transparency and assurance of integrity through registry data and Article 6 of the Paris Agreement compliance structures.
3. Regulatory bodies gain tools to prevent double counting, oversee registry operations, and manage compliance across the carbon credits markets.

CONCLUSION

The Draft Carbon Registry Regulations mark a pivotal step in setting up Kenya's carbon market. By ensuring transparency, and strengthening market integrity, Kenya is positioning itself as a credible player in global carbon finance. Stakeholders are encouraged to participate in the consultation process and shape the final regulatory landscape.

HOW WE CAN HELP

The Sustainability, Climate Change and ESG Practice Group at **CM Advocates LLP** stands ready to guide your company through every phase of your carbon project. The team is comprised of lawyers with diverse experience in laws affecting various industrial sectors. We'll help you interpret obligations under the various regulations and prepare compliance strategies.

We are equipped to ensure a well-rounded evaluation of a company's social, governance and environmental impact, fostering responsible and ethical conduct in alignment with established global standards and frameworks. Our team offers Sustainability, Climate Change and ESG related workshops empowering your team to navigate evolving regulatory demands.

Should you have any questions on this or any other matter, please do not hesitate to contact **Emily Gitau** on ***egitau@cmadvocates.com***

Contact Person & Contributor



Emily Gitau
Associate Advocate
egitau@cmadvocates.com

www.cmadvocates.com

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