Regulating Chemicals And Polymers Of Concern In Plastics - National Level Perspectives

KENYA

Webinar 4: Identifying chemicals and polymers of concern
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1. Environment Management and Coordination Act

• It’s the principle Environmental Law of Kenya.

• It’s a framework law providing for development of specific regulations, in this case:
  ✓ Toxic and Hazardous Chemicals and Materials Regulations
  ✓ Waste management regulations, and
  ✓ Plastics Bags Control and Management Regulations
2. Toxic and Hazardous Chemicals and Materials Management Regulations

It shall apply to:

✓ Toxic and Hazardous Chemicals: Industrial purposes

✓ Toxic and Hazardous Materials: e.g. Chemicals in Products / plastics

✓ Manufacture, Exportation, Importation, Storage, Distribution, Transportation, Handling, and Disposal.
2. Toxic and Hazardous Chemicals and Materials Management Regulations

It shall implement the provisions of:

✓ the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and

✓ the Stockholm Convention on Persistent Organic Pollutants
a). Classification

Chemicals and materials classified in accordance to criteria in *First Schedule* based on:

1. Physical Hazards Characteristics – (eg Explosive)
2. Health Hazards – (Toxicity to mammals)
3. Environmental Hazards / Acute Ecotoxicity
4. Carcinogenic, Mutagenic and Teratogenic Effects
5. Mixtures
b). Registration

- NEMA shall establish and maintain a REGISTER of toxic and hazardous chemicals and materials.
- No person or firm shall manufacture, import or export *unless the chemical is registered.*
c). Labelling and Packaging.

- An appropriate label must be attached on the container.
- Information to be printed in English and / or Kiswahili.
- Label information shall inform:
  - Storage, distribution, Transportation or handling.
d). Distribution, Storage, Transportation and Handling

• Licensing requirements for distributors, storage and transport.

• Transportation safety requirements: PPE, First Aid, TREM Card.

• Air transport will be based on *International Civil Aviation Organisation*.

• Inland Water and Sea transport will be based on *International Maritime Dangerous Goods Code and Agreements*.
e.) Disposal of Chemicals and Material Wastes

Plastic waste disposal applicable laws:

- Sustainable Waste Management Act.
- Extended Producer Responsibility regulations.
- Plastics Bags Control and Management Regulations.
- Gazette Notice.
3. Waste Management Regulations.

It implements:

- the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal,
- Chemicals of concern in plastics are categorized as hazardous, in the Fourth Schedule or
- Hazardous characteristics of Chemicals of concern in plastics are provided in the Fifth Schedule.

It provides for:

- the sustainable management of waste.
- *the creation of extended producer responsibility schemes.*
- a *circular economy* for the reduction of waste.
- take back schemes,
- the labelling of products that may cause pollution,
- the creation of material recovery facilities in every county, and;
- the creation of incentives to encourage recycling.
5. Extended Producer Responsibility Regulations

Every **producer**:

- shall bear EPR obligation to reduce pollution and environmental impacts of the product that they introduce in the market
- Design products and packaging materials that minimize waste, facilitate reuse, recycling, recovery and are environmentally friendly at their end of life.

It applies to **individual compliance schemes** and **producer responsibility organisations** for the products listed in the First Schedule.
5). List of products and packaging subject to EPR compliance scheme

- Composites
- Agricultural film
- Batteries
- Oils and Lubricants
- Aluminium products
- Plastic products
- Glass
- Electrical and Electronic Equipment (EEE)
- Furniture
- Paper & Carton
- Mercury Auto Switches and thermostats
- Paints
- Pharmaceuticals products including packaging
- Textiles
- Tyres
- Automobiles
- Leather
6. Plastics Bags Control and Management Regulations

- It applies to plastic bags used for packaging.
  - plastic carrier bags
  - plastic flat bags
- It prohibits manufacture, import, export, use or offer for sale plastic carrier bags / plastic flat bags.
- Plastic packaging materials shall be disposed in accordance with the Waste Management Regulations
7. The Kenya Gazette Notice

Gazette notice No. 2334 dated 28.02.2027:

- Banned the use, manufacture and importation of all plastic bags used for commercial and household packaging

- Commercial and household packaging defined as follows:
  - **Carrier bags** – bag constructed with handles, and with or without gussets.
  - **Flat bags** – bags constructed without handles, and with or without gussets.
5. Challenges

i. No specific standards for molecules or polymers in plastics.

ii. Technology for monitoring, detection and analysis.

iii. Capacity for compliance and enforcement.

iv. Non recyclable polymer types and chemical additives.

v. Most of the laws are drafts almost becoming law.
End

Thank You