



WWF-Kenya
Friedrich-Ebert-Stiftung (FES) Kenya
Natural Justice

To:

The Principal Secretary,
State Department for Environment and Climate Change,
Ministry of Environment, Climate Change and Forestry,
S.H.A Building, 12th Floor, Ragati Road,
P.O. Box 30126-00100,
Nairobi, Kenya.

Email:

psoffice@environment.go.ke
nonmarketapproachesregulations@environment.go.ke

Dear Principal Secretary,

RE: SUBMISSION OF MEMORANDUM ON THE DRAFT CLIMATE CHANGE (NON-MARKET APPROACHES) REGULATIONS 2025

On behalf of WWF-Kenya, Friedrich-Ebert-Stiftung (FES) Kenya and Natural Justice, we are pleased to submit our memorandum in response to the Public Participation and Call for Comments on the Draft Climate Change (Non-Market Approaches) Regulations 2025.

This memorandum reflects key recommendations from a multi-stakeholder consultation held on March 3rd and 4th, 2025, convened by WWF-Kenya, Friedrich-Ebert-Stiftung (FES) Kenya and Natural Justice. The convening brought together 20 participants representing civil society and environmental NGOs to critically review the regulations and provide constructive feedback.

The submission follows the prescribed format, providing key recommendations aimed at strengthening the institutional framework, governance, inclusivity and implementation mechanisms of non-market approaches (NMAs) under the Climate Change Act.

We appreciate the opportunity to contribute to this critical process and look forward to continued participation in future processes. Should there be a need for clarification, please contact us at jodongo@wwfkenya.org, vivienne.kigonde@fes.de and mercy@naturaljustice.org.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Odongo".

Jonathan Odongo
WWF-Kenya

MEMORANDUM ON CLIMATE CHANGE (NON-MARKET APPROACHES) REGULATIONS 2025

Submitted to:

The Principal Secretary,
State Department for Environment and Climate Change,
Ministry of Environment, Climate Change and Forestry.

Submitted by:

- WWF-Kenya
- Friedrich-Ebert-Stiftung (FES) Kenya
- Natural Justice

Date: March 5, 2025

GENERAL COMMENTS AND RECOMMENDATIONS

Institutional Framework

To enhance clarity and avoid overlaps, a dedicated Institutional Framework section should be included - before Part II (Submission of Non-Market Approaches) - outlining the specific roles of the Climate Change Directorate, Ad Hoc Committee and any relevant institutions. This should include a monitoring and oversight mechanism to ensure effective implementation and compliance with human rights and environmental integrity standards.

Assessment Criteria

Human Rights and Environmental Integrity (as captured in Section 4) should be explicitly included as part of the assessment criteria for reviewing Non-Market Approaches (NMAs).

Monitoring, Compliance and Oversight Mechanisms for Effective Implementation

To strengthen monitoring and compliance, a monitoring and audit body should be established or integrated into existing oversight institutions to track implementation, ensure compliance and provide annual reports on adherence to human rights and environmental integrity under Section 4.

Clarity on Scale and Scope of NMAs (Part II, Section 6(1)(d))

The regulations require demonstration of public participation during the design of NMAs, particularly when implemented on public or community land. However, there is no clarity on the scale and scope of NMAs, which is critical for understanding their potential impact at local, regional, and national levels. Providing clear definitions and scope will ensure better implementation, regulatory compliance, and community engagement.

Rearrangement of Sections

Section 6 should precede Section 4 to improve the logical flow. The structure of the regulations should be as follows:

- PART I: Preliminary
- PART II: Institutional Framework
- PART III: Submission of Non-Market Approaches
- PART IV: Implementation of Non-Market Approaches
- PART V: Reporting on Non-Market Approaches
- PART VI: Guidance on Priority Non-Market Approaches Interventions
- SCHEDULE: Priority Non-Market Approaches Interventions

Including a well-defined *Institutional Framework* and a structured approach to the *Implementation of Non-Market Approaches* will significantly enhance the Regulations by addressing the existing gap in implementation mechanisms.

Committee Representation and Role Clarification

Section 5(5): Provide clarity on the representation within the committee, ensuring inclusion of women, youth, and persons with disabilities (PWDs) to promote diversity in decision making.

Confirm whether this committee is distinct from or overlaps with the Draft Carbon Trading Regulations Committee.

Review of Roles within the Institutional Framework

Sections 6(2) and 7(2) outline the responsibilities of the Cabinet Secretary (CS) and the Directorate. These roles should be reviewed and aligned under the suggested Institutional Framework section to ensure clarity and avoid overlaps.

Incentive Framework

The regulations should establish an incentive framework to encourage participation in NMAs. This may include tax relief, financial support mechanisms, technical assistance, or capacity-building programs for stakeholders, particularly community-led initiatives.

Part in the Regulation	Section in the Draft Regulations	Current Provision in Regulations	Proposed Recommendation	Justification and Rationale
Part 1	2	“Non-market approaches” means approaches that aim at promoting mitigation and adaptation ambition, <i>enhancing public and private sector participation</i> in the implementation of nationally determined contributions; and enabling opportunities for coordination across instruments and relevant institutional arrangements.	Revise to include civil society organizations and Indigenous people and local communities while deleting the word “sector” as below: “...enhancing public, private, civil society organizations, and indigenous people and local communities’ participation...”	This is also in line with Section 3(c) of the proposed Regulations and aligns with constitutional provisions. CSOs and IPLCs play a significant role in NMAs and should be explicitly included to reflect the principles of inclusivity and equity.
Part 1	4 1 (a)	The programmes, projects or activities for facilitating non-market approaches shall be implemented in a manner that respects, promotes, and upholds human rights and fundamental freedoms guaranteed by the Constitution.	Revised to include " national values and principles of good governance " as follows: "... “The programmes, projects or activities for facilitating non-market approaches shall be implemented in a manner that respects, promotes, and upholds human rights, fundamental freedoms, <i>national</i>	Aligns with constitutional provisions on governance.

			<i>values and principles of good governance</i> guaranteed by the Constitution.	
Part I	4 2 (a)	<p>In the design and implementation of non-market approaches:</p> <p>Consideration shall be given to gender equality, the rights of marginalized communities, children, youth, persons with disabilities, or people in vulnerable situations.</p>	Add "...all groups mentioned in Article 21(3) of the Constitution"	Ensures full compliance with constitutional provisions for marginalized and vulnerable groups.
Part I	4 2 (b)	<p>In the design and implementation of non-market approaches:</p> <p>There shall be compliance with environmental requirements, including, where required undertaking strategic environmental assessments, environmental impact assessments, and audits</p>	Explicitly reference EMCA Cap 387 and Section 20 of the Climate Chang	This provides a legal basis for compliance.

Part III	7	The Directorate will develop and periodically review a template to be used for purposes of reporting under clause (2) above.	<p>Subsection (3) should precede (2) for better flow.</p> <p>The reporting template should cover status, implementation, implications, and lessons learned.</p> <p>The reporting template should be included as a schedule and subjected to public participation.</p>	Will enhance structured reporting, ensure transparency, and strengthen accountability.
Part IV	8 (1)	Any project proponent who intends to prepare submissions of non-market approaches under these regulations shall be guided by the non-exhaustive priority list of non-market interventions set out in the Schedule to these regulations.	Add ‘based on national policies and global climate agreements.’	This ensures coherence with national and international climate obligations.
Part IV	8 (2)	The Cabinet Secretary may, from time to time, modify the priority list of non-market approaches interventions in the Schedule through a legal notice.	<p>A more structured timeline (e.g., within the NDC cycle) would enhance consistency and predictability.</p> <p>To enhance inclusivity and transparency, any modifications should undergo stakeholder consultation to prevent arbitrary changes and promote participatory decision-making</p>	Ensures transparency and predictability in decision-making.

Part IV	8 (3)	The priority non-market approaches interventions may be informed by non-market mechanisms approach focus areas agreed by Parties to the Paris Agreement, and public policy priorities, including those set out in Action Plan; nationally determined contributions, policies or strategies approved for implementation by the government	<p>Replace "may be" with "shall" and specify "National Climate Change Action Plan (NCCAP)" instead of "Action Plan."</p> <p>“The priority non-market approaches interventions <i>shall</i> be informed by non-market mechanisms approach focus areas agreed by Parties to the Paris Agreement, and public policy priorities, including those set out in National Climate Change Action Plan; nationally determined contributions, policies or strategies approved for implementation by the government”</p>	Establishes clear policy alignment, ensuring NMAs are compulsory under national frameworks.
	Schedule (a) 20	Technology and innovation for climate resilience.	<p>Add Research to read:</p> <p>Research, technology and innovation for climate resilience.</p>	Acknowledges the critical role of research in climate resilience and understanding the extent of loss and damage

Endorsing Organizations and Participants

This memorandum reflects input from the following organizations and individuals who participated in reviewing the Draft Climate Change (Carbon Trading) Regulations, 2025:

Convening Organizations:

- WWF-Kenya

- Friedrich-Ebert-Stiftung (FES) Kenya
- Natural Justice

Participants

No.	Name	Organization
1.	Jonathan Odongo	WWF-Kenya
2.	Abigael Kima	Hivos
3.	Vivienne Kigundu	FES - Kenya
4.	Cynthia Muthoni	FES - Kenya
5.	Farida Namelok	YWCA - Kenya
6.	Mercyline Bosibori	VOD - Voices of Dagoreti
7.	Isaac Oindo	Evidence Action
8.	Jabes Okumu	East African Wildlife Society (EAWS)
9.	Molly Ochuka	Adaptation Consortium (ADA)
10.	Mercy Chepkemoi	Natural Justice
11.	Selvin Marete	Meraki Africa
12.	Alex Kubasu	WWF-Kenya
13.	Jamila Adan Dullo	WWF-Kenya
14.	Meshack Mboya	Katiba Institute

15.	Samuel Komu	Transparency International
16.	Stephen Kariuki	deCOALonize / MT. Kenya Network Forum
17.	Innocent Omil	Center for Climate Action
18.	Caroline Kikava	WWF-Kenya
19.	Tony Mboyo	Kenya Institute of Puppet Theatre (KIPT)
20.	Theresa Aoko	East African Wildlife Society (EAWS)