



REGULATORY IMPACT STATEMENT (RIS)

For

THE DRAFT ENERGY (COAL AND COALBED METHANE) REGULATIONS, 2025

AUGUST 2025

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1 INTRODUCTION

The Energy Act (Cap. 314) (“the Act”) pursuant to sections 116 and 208, empowers the Cabinet Secretary (CS) to make regulations for the better carrying into effect of the provisions of the Act for the use of coal and coalbed methane for energy production and its derivatives. To operationalize the Act, the CS proposes the Draft Energy (Coal and Coalbed Methane for Energy Production) Regulations 2025 (Draft Regulations). In addition, it also applies to upstream coal activities, including exploration, extraction and management of coal which relate to the Ongoing Projects listed in paragraph 5 of the Fourth Schedule of the Act. The Draft Regulations aim to establish comprehensive requirements applicable to Coal for Energy Production operations and facilities in Kenya.

1.1 Regulatory Impact Statement

Section 6 of the Statutory Instruments Act (Cap. 2A), (SIA) provides that if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument.

This Regulatory Impact Statement was prepared in accordance with the provisions of Section 7 of the Statutory Instruments Act (Cap. 2A).

2 STATEMENT OF OBJECTIVES

2.1 General Objective

The overall regulatory objective of the Draft Regulation is to establish a comprehensive legal framework for the use of coal and coalbed methane and its derivatives for energy production.

The specific objectives are to:

1. Regulate exploration, extraction, production, generation, processing, handling,

transportation, storage, exportation, importation, common user facility, value addition, and sale of coal and coal bed methane (CBM) for energy production in Kenya.

2. Streamline licensing for upstream (Exploration, extraction, production, processing, transportation, storage, exportation, importation and sale of coal bed methane gas for use in energy production) and midstream and downstream (Processing, value addition, common user facility, transportation, storage, exportation, and importation of coal for use in energy production).
3. Promote local community involvement in the use of coal and coalbed methane gas.
4. Provide for the establishment of a multi-sectoral committee to streamline governance on the use of coal and coalbed methane and its derivatives for energy production.
5. Provide a framework for the regulation of coal and coalbed methane use and the application, review, approval, and/or rejection, renewal, revocation or suspension of permits, licences and certificates.
6. Provide a framework for the design, construction, installation, operation, maintenance, inspection and decommissioning of coal and coalbed methane gas facilities.
7. Provide requirements applicable for data and statistics management and reporting.
8. Provide for the constitution and management of coal concession blocks
9. To provide for the roles and responsibilities of the Government, the Energy and Petroleum Authority (“the Authority”), Concessionaire, other licensees/permit/certificate holders, contractors, operators, local communities, and other stakeholders in the use of coal and coal bed methane gas operations;

3 STATEMENT ON THE EFFECT OF THE DRAFT REGULATIONS

The coal sector in Kenya currently lacks a robust regulatory framework that integrates local content development, environmental protection, and community participation. Existing laws, including the Mining Act (Cap. 306), Energy Act (Cap. 314), and environmental regulations, fail to adequately address:

1. Sufficient environmental protection and pollution control
2. Monitoring, supervision, and enforcement of regulations
3. Frameworks for local coal and coalbed methane gas development and production
4. Economic opportunities for Kenyan businesses
5. Stakeholder engagement and community participation
6. Equitable distribution of coal sector benefits

These Draft Regulations will promote the responsible development of Kenya's coal and coalbed methane gas resources while protecting the environment, promoting industrial development and creating local economic benefits. Moreover, the regulations provide a clear framework to attract responsible investment and ensure compliance with industry best practices.

4 ASSESSMENT OF OTHER PRACTICABLE MEANS OF ACHIEVING THE OBJECTIVES

4.1 Option 1: Maintaining the Status Quo

Status quo would mean retention of the various pieces of laws guiding coal operations in Kenya. Maintaining the status quo will result in a failure to operationalize the provisions of the Energy Act (Cap 314) requiring regulations.

Accordingly, the status quo is **NOT A DESIRABLE OPTION**, as it fails to address the

current identified gaps in coal and coalbed methane regulatory framework within the country.

4.2 Option 2: Use of Working Manuals and Guidelines

Section 2 of the Statutory Instruments Act (SIA) defines statutory instruments to include guidelines, directions, and regulations, thereby requiring such instruments to undergo comprehensive scrutiny and publication as outlined in Section 4 of the Statutory Instruments Act.

A working manual or any form of document established in the execution of the Energy Act (Cap. 314) falls within the scope of a statutory instrument and must therefore follow the progression process mandated by the SIA.

In addition, working documents are susceptible to legal challenge, as they cannot be used to create offences or penalties, which are essential for effective enforcement. Their applicability and validity may also be contested in court. This is **NOT A VIABLE OR PREFERRED OPTION** as it lacks the legal force and clarity required to support regulatory enforcement, investor certainty, and public accountability

4.3 Option 3: Developing the Draft Energy (Coal and Coalbed Methane for Energy Production) Regulations 2025

The Draft Regulations will establish a clear legal framework for the exploration, extraction, production, generation, processing, transportation, storage, exportation, importation, sale, value addition, common user facility and use of coal and coal bed methane (CBM) gas for energy production in Kenya

The Draft Regulations will fulfill Sections 116 and 208 of the Act by providing legally

enforceable, universally applicable rules for the use of coal, promoting industry best practices, and addressing regulatory gaps.

In light of the gaps identified in utilizing the other options, enacting the proposed Regulations is the **PREFERRED OPTION**.

5 COST-BENEFIT ANALYSIS

The Draft Regulations are expected to have economic, environmental and social impacts as illustrated below: -

Table 1: Economic, environmental and social impacts due to regulations

Economic Impact Assessment	
Impact/Benefit	Remarks
Economic Growth	Increased local employment, procurement and enterprise development in the coal sector. A higher retention of economic value within Kenya
Government Revenue	Potential increase in tax revenue from extraction of coalbed methane gas, coal mining and issuance of permits, certificates and licenses
Investor Confidence	Clear regulatory framework improves business predictability and attracting long-term investment
Compliance Costs	Companies may face higher short-term compliance costs
Energy security	Domestic production of coal and coalbed methane gas will reduce dependence on imported energy sources and enhance energy mix base.
Coal data and statistics	Data-driven decision making and efficient data management

Environmental Impact Assessment	
Impact/Benefit	Remarks
Environmental Impact	Mandatory Environmental and Social Impact Assessment (ESIA), emission controls, land rehabilitation and reduced ecological damage.
Responsible Practices	May lead to incentivization of adoption of carbon capture, clean coal technologies, responsible mining and extraction, pollution control and waste management.
Social Impact Assessment	
Impact/Benefit	Remarks
Skills Development	Training programs and technology transfer will build local coal technical expertise, enhancing long-term workforce capacity.
Social Equity	Promotes social inclusion in the coal value chain and enhanced local participation. Protecting community rights fosters inclusivity, accountability, and project acceptance while improving livelihoods through jobs, services, and infrastructure.

6 ADMINISTRATION AND COMPLIANCE COSTS

The Government and the Authority will incur costs for managing, monitoring, auditing, database maintenance, capacity-building initiatives and enforcement.

Additionally, there shall be the resource allocation cost element in administration of these Draft Regulations.

7 CONCLUSION

The implementation of the Draft Energy (Coal and Coalbed Methane) Regulations, 2025, will result in administrative and compliance costs for both the Government and the

Authority. These costs will arise from activities such as management, monitoring, data collection and maintenance, compliance inspections, enforcement actions, stakeholder engagement, and capacity-building initiatives.

In addition, resource allocation will be required for staff deployment, development of operational systems and tools, continuous training, and administrative support necessary to ensure effective implementation and enforcement of the regulations

8 COPY OF THE DRAFT REGULATIONS

The **Draft Energy (Coal and Coalbed Methane) Regulations, 2025** are annexed herein.