REGULATORY IMPACT STATEMENT (RIS)

THE PROPOSED PETROLEUM (MARINE REFUELLING) REGULATIONS, 2025

MAY, 2025

Acronyms

BMU	Beach Management Unit
CBA	Cost Benefit Analysis
COFEK	Consumer Federation of Kenya
COG	Council of Governors
DOSHS	Directorate of Occupational Safety and Health Services
EPRA	Energy and Petroleum Regulatory Authority
KCGS	Kenya Coast Guard Service
KEBS	Kenya Bureau of Standards
KEFRI	Kenya Forestry Research Institute
KeFS	Kenya Fisheries Service
KENAPEDE	Kenya National Petroleum Dealers Association
KFS	Kenya Forest Service
KIPEDA	Kenya Independent Petroleum Distributors Association
KMA	Kenya Maritime Authority
KMFRI	Kenya Marine and Fisheries Research Institute
KPA	Kenya Ports Authority
KPC	Kenya Pipeline Company
KPI	Key Performance Indicator
KRC	Kenya Railways Corporation
KRA	Kenya Revenue Authority
KWS	Kenya Wildlife Service
OMCs	Oil Marketing Companies
NEMA	National Environment Management Authority
NGAO	National Government Administration Officers
NGO	Non-Governmental Organization
PIEA	Petroleum Institute of East Africa
POAK	Petroleum Outlets Association of Kenya
RIS	Regulatory Impact Statement
TC	Technical Committee
WRA	Water Resources Authority

1. Introduction

This Regulatory Impact Statement (RIS) for the proposed *Petroleum (Marine Refuelling) Regulations, 2025* is prepared in accordance with Sections 6 and 7 (1) and (2) of the *Statutory Instruments Act, 2013 (No. 23 of 2013)*. Section 6 requires the regulation- making authority to prepare a RIS indicating the costs and benefits of the proposed regulations to the public and stakeholders. Sections 7(1) and (2) outline the required contents of a RIS as discussed hereunder.

Section 101 of the Act gives EPRA the mandate to recommend regulations to the Cabinet Secretary for Energy and Petroleum on matters related to the petroleum sector. In

particular, the aforementioned regulations as required in sub-sections (i) and (j) may provide *for environmental, health and safety standards associated with the handling, storage and use of petroleum* and *determination of the places at which, and the conditions on and subject to which, petroleum may be imported, offloaded, landed, stored, loaded or transhipped*.

Following a preliminary assessment of refuelling practices for small marine vessels powered by outboard engines, EPRA has identified significant safety hazards to operators and passengers, alongside an increased risk of marine pollution. In response, EPRA proposes the development of regulations to establish a framework governing the trade, storage, and dispensing of marine fuels for small boats. These regulations aim to preserve the marine environment and protect consumers and third parties from safety risks.

The regulations are anchored on Section 101 of the Petroleum Act, 2019, which empowers the Energy and Petroleum Regulatory Authority (EPRA) to recommend regulations governing the handling, storage, and distribution of petroleum. These regulations specifically address marine refuelling operations to enhance safety, environmental protection, and industry compliance.

2. A Statement of the Objectives and Reasons for the Proposed Regulations

The primary objective of the *Petroleum (Marine Outboard Engine Refuelling) Regulations, 2025* is to operationalize Section 101(i), 101(j) and Section 101(m) of the *Petroleum Act, 2019* by:

1. Establishing a licensing framework for marine fuel vendors and refuelling vessels;
2. Enhancing environmental, health, and safety (EHS) standards in marine fuel handling;
3. Regulating the locations and infrastructure for marine fuel storage and dispensing;
4. Preventing fuel spills and contamination in marine ecosystems;

5. Promoting fair competition by implementing clear licensing and operational standards; and
6. Aligning marine refuelling operations with existing laws, including the *Kenya Maritime Authority Act, 2006* and the *Environmental Management and Coordination Act, 1999*.

3. Statement on the Effect of the Proposed Regulations

The proposed regulations will have a significant positive impact on the petroleum and marine sectors by improving safety, promoting regulatory compliance and reducing environmental risks. These effects are categorized as follows:

3.1. Effect on the general public

The implementation of these regulations will significantly improve public safety by ensuring that marine refuelling is conducted in designated, controlled areas with adherence to strict safety measures. This will help prevent marine pollution, fire hazards, and fuel adulteration, protecting boat operators, passengers, and local communities. Additionally, clear guidelines on fuel quality will reduce engine failures and operational risks for small-scale fishers and transporters.

3.2. Effect on the private sector

For marine fuel vendors and boat operators, the regulations provide a structured licensing framework, ensuring fair market competition while enhancing consumer confidence through better services and transparent prices along the supply chain. However, compliance with new safety and environmental requirements may impose initial financial costs on fuel vendors, particularly small-scale operators. In the long term, these regulations will create a structured business environment that supports sustainable marine refuelling operations, foster long-term stability and reduce liability risks for businesses.

The Regulations will ensure protection of the interests of both the consumers and investors as stipulated in the *Energy Act 2019* and *Petroleum Act 2019*.

3.3. Effect on fundamental rights and freedoms

The Bill of Rights enumerates the fundamental rights and freedoms accorded to every Kenyan. The implementation of these regulations will not infringe on any fundamental rights and freedoms. Instead, they align with Article 42 of the Constitution of Kenya, which guarantees every person the right to a clean and safe environment. The regulations also support Kenya's commitment to sustainable

petroleum resource management as provided for under the Petroleum Act, 2019 and the Environmental Management and Coordination Act, 1999. The regulations will ensure an effective licensing regime that takes into consideration technical, health, safety, environmental and social aspects.

4. Statement on Regulatory and Non-Regulatory Options

4.1. Option 1: Maintaining the Status Quo

The absence of regulations will lead to continued unsafe refuelling practices, which pose serious fire hazards, fuel adulteration risks, and marine pollution threats. The lack of licensing oversight will allow unregulated operators to continue unsafe dispensing practices, increasing risks to consumers, marine biodiversity, and local economies dependent on fishing and transport.

This option is **NOT PREFERRED** as it fails to address the the identified risks and the urgent need for structured marine refuelling regulations.

Accordingly, the *status quo* is **NOT A DESIRABLE OPTION**.

4.2. Option 2: Passing the Regulations

The proposed regulations align with the **Petroleum Act, 2019** and the adoption of the proposed regulations will introduce clear licensing, operational, and environmental standards. This will ensure safe refuelling practices, prevent marine contamination, and protect local communities. The integration of **spill prevention measures** will enhance Kenya's commitment to protecting marine ecosystems. Additionally, standardized pricing structures will eliminate unfair fuel pricing disparities faced by island communities.

This is the **PREFERRED OPTION** as it ensures safe, sustainable, and well-regulated operations by addressing the requirements listed in the *Petroleum Act 2019*.

4.3. Option 3: Other practical options

The following alternative options were considered:

4.3.1. Alternatives to regulation

Non-intervention: The Government can allow the operators to continue with uncontrolled marine refuelling practices. This will cause serious safety risks to operators and the public as well as environment pollution that will lead to environmental degradation. Uncontrolled marine refuelling practices may further lead to product contamination.

Incentives-Based Approach: The Government may choose various forms of incentives to encourage compliance. However, this model may require significant public resources and has limited enforcement capabilities. Furthermore, this approach may be prone to abuse.

4.3.2. Alternative models of regulation

(i) ***Self-regulation:*** Industry players and stakeholders may be empowered to make their own decisions, set standards and adopt voluntary safety and environmental standards without the intervention of the Government. However, enforcement would be weak, leading to inconsistent compliance.

(ii) ***Co-regulation:*** The Government may set the standard and leaves enforcement of the regulations to the industry players or a professional organization accredited by the Government. While this is viable, this model requires strong enforcement frameworks that may not be immediately implementable considering this model lacks enforcement capacity in remote areas

On their own, the non-regulatory options would be less effective, difficult to enforce or result in an increased cost to the Government (particularly costs associated with more intensive monitoring of compliance with the Act).

This is **NOT A PREFERRED** option for the reasons mentioned above.

5. Stakeholder Consultations

5.1. Predrafting Stakeholder Engagement

The development of these regulations included consultations with various government agencies, private sector stakeholders, environmental groups, and community organizations to ensure the proposed framework addresses practical industry challenges.

Category	Stakeholders Consulted	Engagement Method

Government Entities	NGAO, County Governments, KEFRI, KMFRI	Consultative meetings, workshops, inter-agency discussions direct submissions, direct submissions
Industry Players	Marine fuel vendors, boat operators,	Field assessments
Civil Society & Community Groups	Fishermen associations, environmental NGOs, consumer rights organizations, BMUs	Field assessments, stakeholder forums, direct submissions
Regulatory & Enforcement Bodies	EPRA, KMA, KRC, KRA, KPA, NEMA, KEBS, DOSHS, KWS, WRA, KCGS, KeFS	Consultative meetings, workshops, inter-agency discussions direct submissions, direct submissions

The engagement process included site visits to Lamu, Lake Victoria, Lake Turkana, and Lake Naivasha, where key challenges such as fuel quality, pricing disparities, unsafe refuelling practices, environmental risks, and lack of formal licensing frameworks were identified. Stakeholders expressed concerns over poorly regulated fuel dispensing stations, frequent spillage incidents, and lack of enforcement capacity in remote marine areas.

Based on the consultations, stakeholders strongly recommended:

(i) Strict licensing and operational guidelines to curb illegal and unsafe refuelling practices.

(ii) Training programs for marine fuel vendors on safe handling, spill prevention, and regulatory compliance.

(iii) Enhanced enforcement mechanisms, including random inspections and penalties for non-compliant operators.

(iv) Environmental monitoring programs to track marine pollution levels and ensure sustainable fuel dispensing practices.

The insights gathered from these engagements directly informed the structure and provisions of the proposed regulations, ensuring they address real-world challenges while promoting sustainable marine fuel management practices.

5.2. Stakeholder Mapping and Stratification

The following were identified as the key action plan partners or sponsors:

i. The Kenya Maritime Authority (KMA);
ii. The Kenya Ports Authority (KPA);
iii. The Water Resources Authority (WRA);
iv. The National Environment and Coordination Management Authority (NEMA);
v. Kenya Coast Guard Service (KCGS);
vi. Kenya Forest Services (KFS);
vii. Kenya Wildlife Services (KWS);
viii. Kenya Railway Corporation (KRC);
ix. Kenya Marine and Fisheries Research Institute (KMFRI);
x. Kenya Revenue Authority (KRA); and
xi. Departments of County Governments where these water bodies touch.
xii. Oil Marketing Companies (OMCs)
xiii. Petroleum Institute of East Africa (PIEA)

xiv. Kenya Independent Petroleum Distributors Association (KIPEDA)

xv. KIPEDA Sacco Limited

xvi. Kenya National Petroleum Dealers Association (KENAPEDE)

xvii. Consumer Federation of Kenya (COFEK)

Stratification of identified stakeholders according to their needs are as listed in Table 1.

Table 1: Stakeholder stratification and needs

No.	Stakeholder name/ group	Stakeholder type	Needs/ Concerns	Desired role	Engagement strategy
1	Petroleum Institute of East Africa (PIEA)	Petroleum lobby group	• Protection of investor information • Requirements to obtain a construction • Permit application fees permit • Licensing fees	Investor representation	Exploratory meeting and to be invited in the stakeholder forums
2	Kenya Pipeline Company (KPC)	Government	• Requirements to obtain a construction permit • Protection of information of design proposals and feasibility studies • Permit application fees	Licensee, Storage and Pipeline Logistics operator.	Exploratory meeting and to be invited in the stakeholder forums
3	Office of the Attorney General	Government	Consistency with the constitution and other statutes	Oversight role	Co-opted in the review exercise
4	County Governments/ Council of Governors	Devolved Government Units	• Physical Planning in relation to construction of facilities • Safety aspects in construction of facilities	Administrative roles	Exploratory meeting and to be invited in the stakeholder forums
5	Kenya Law Reform Commission	Government	Consistency with the constitution and other statutes	Oversight role	Co-opted in the review exercise
6	Consumer Federation of Kenya (COFEK)	Civil society/ consumer protection	Consumer protection	Consumer representation	Invite them during public stakeholders' consultative forums

No.	Stakeholder name/ group	Stakeholder type	Needs/ Concerns	Desired role	Engagement strategy
7	Petroleum storage facility owners	Industry players	• Protection of investor information • Requirements to obtain a construction permit • Permit application fees	Investor/Licensee	To be invited in the stakeholder forums
8	Directorate of Occupational Safety and Health Services (DOSHS)	Government	Safety in construction of facilities	Oversight role	Exploratory meeting and to be invited in the stakeholder forums
9	Kenya Independent Petroleum Distributors Association (KIPEDA)	Petroleum lobby group	• Protection of investor information • Requirements to obtain a construction permit.	Investor representation	To be invited in the stakeholder forums
10	Petroleum Outlets Association of Kenya (POAK)	Petroleum lobby group	• Requirements for a construction permit • Fines and penalties to be commensurate to the offences committed • Permit application fees	Investor representation	To be invited in the stakeholder forums
11	National Environmental Management Authority (NEMA)	Government	Environmental preservation in evaluating proposals for proposed projects	Lead agency on environmental issues	Exploratory meeting and to be invited in the stakeholder forums
12	Kenya Bureau of Standards (KEBS)	Government	Adherence to standards in construction of petroleum facilities	Lead agency on formulation of standards for the Petroleum sector	Exploratory meeting and to be invited in the stakeholder forums

EPRA shared the draft regulations with key stakeholders on the key recommendations prior to approval by the Board. These comments were discussed extensively in subsequent Technical Committee (TC) meetings.

EPRA intends to hold a public stakeholder workshop at various locations in the country namely: Nairobi, Mombasa, Kisumu, Lodwar and Naivasha within fourty (40) days after the draft regulations were published in the Kenya Gazette on 15th June 2025. The comments that were received from the public both in written and verbal

will be recorded reviewed in subsequent TC meetings before developing the final draft regulations.

6. Cost – Benefit Analysis (CBA)

The cost and benefits of the regulations were analysed as listed in Table 2.

Table 2: Cost-benefit analysis

	Aspect	Expected Result	Effect	Impact	Action Plan	Management
1	Licensing & Certification	Standardized marine fuel handling	Positive	Increased compliance & safety	Strengthen licensing requirements and conduct compliance checks	Monitoring & Enforcement
2	Spill Containment Measures	Reduction in fuel spills	Positive	Improved marine ecosystem health	Implement spill response protocols and training programs	Monitoring & Enforcement
3	Refuelling Safety Standards	Lower risk of fire and accidents	Positive	Safer operations for boat users	Enforce minimum safety standards for refuelling vessels	Enforcement
4	Environmental Compliance	Reduced fuel contamination in water bodies	Positive	Sustainable marine environment	Mandate strict environmental impact assessments before approvals	Monitoring
5	Increased Compliance Costs	Initial high costs for compliance	Negative	May impact small fuel vendors initially	Develop phased compliance programs and financial support initiatives	Monitoring

	Aspect	Expected Result	Effect	Impact	Action Plan	Management
6	Stakeholder Training	Improved awareness and adherence	Positive	Long-term regulatory compliance	Conduct industry-wide training and public sensitization campaigns	Monitoring & Enforcement

This analysis considers the findings from stakeholder engagements in key marine regions, ensuring that the proposed regulations address real-world safety, economic, and environmental concerns. The recommended action plans will support compliance, enforcement, and stakeholder adaptation.

7. Monitoring and Review

The identified key success criteria for of these regulations are listed in Table 3 below.

Table 3: Action plan and key performance indicator (KPIs)

	Action Plan	KPI	Measurement Parameter	Target
1	Strengthen licensing requirements and conduct compliance checks	Compliance Rate of Licensed Marine Fuel Vendors	Percentage of marine fuel vendors meeting licensing requirements	100% compliance within two years
2	Increase field inspection capacity and frequency	Number of Regulatory Inspections & Audits Conducted	Frequency of routine and random audits	At least 4 inspections per licensed vendor per year
3	Implement spill response protocols and training programs	Reduction in Fuel-Related Marine Pollution Incidents	Number of reported fuel spills or contamination cases	50% reduction within three years
4	Ensure strict adherence to EIA requirements before licensing	Compliance with Environmental Impact Assessments (EIA) &	Percentage of licensed vendors meeting EIA compliance	100% of new refuelling sites must conduct EIA before approval

	Action Plan	KPI	Measurement Parameter	Target
		Mitigation Measures		
5	Establish continuous feedback mechanisms and industry engagement forums	Stakeholder Feedback & Compliance Satisfaction Levels	Percentage of positive feedback from operators and regulators	80% satisfaction with regulatory implementation
6	Enhance enforcement mechanisms and introduce stricter penalties	Number of Enforcement Actions & Penalties Issued	Number of fines, suspensions, or enforcement actions	Zero tolerance for repeat non-compliance cases
7	Conduct periodic stakeholder consultations and legislative reviews	Periodic Review & Update of Regulations	Frequency of regulatory updates	Every 3–5 years with stakeholder engagement

It is proposed that the above will be monitored monthly and annually to ensure continued compliance. A detailed review will be undertaken in five (5) years to ensure continued relevance of the regulations to the industry needs.

8. Conclusion

The *Petroleum (Marine Refuelling) Regulations, 2025* provide a structured, enforceable, and sustainable framework for marine fuel dispensing. They align with the *Petroleum Act, 2019*, environmental protection laws, and maritime safety requirements. The preferred option is to pass the regulations, ensuring enhanced safety, environmental compliance, and operational efficiency in marine refuelling activities.