



REGULATORY IMPACT STATEMENT

***DRAFT PETROLEUM (MIDSTREAM CRUDE OIL AND NATURAL GAS
PIPELINE AND STORAGE OPERATIONS) REGULATIONS, 2025***

JUNE 2025

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1 INTRODUCTION

The Petroleum Act, Cap 308 ('the Act'), provides a framework for the construction and operation of crude oil and natural gas pipeline and storage in Kenya. To operationalize the Act, the Cabinet Secretary in charge of Petroleum proposes to make *Draft Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 2025* for the requirements applicable to midstream petroleum operations. The Regulations are made pursuant to Sections 126 (1) and 127 of the Act which empowers the Cabinet Secretary to make regulations for the better carrying into effect of the provisions of the Act.

2 STATEMENT OF OBJECTIVES

2.1 General Objective

The purpose of the *Draft Petroleum (Midstream Crude Oil And Natural Gas Pipeline And Storage Operations) Regulations, 2025* is to provide for the requirements applicable to midstream petroleum operations, including the construction and operation of crude oil and natural gas pipeline and storage in Kenya. Specifically: -

- (a) Permits to construct and commission pipelines and storage depots;
- (b) Licences to operate pipelines and storage depots; and
- (c) Arrangements for common use of the facilities.

2.2 Specific Objectives

1. To incorporate the relevant Constitutional principles and values in the management of midstream petroleum operations;
2. To provide for the roles and responsibilities of the Government, the Authority, permit holders and licensees in midstream petroleum operations;
3. To provide a framework for the regulation of midstream petroleum operations and the application, review, approval, and/or rejection, renewal, revocation or suspension of midstream petroleum permits;
4. To provide for a framework for the preparation, submission, review, approval,

rejection and revision of plans, reports and other requests in midstream petroleum operations;

5. To provide for a framework for the design, construction, installation, operation, maintenance, inspection and decommissioning of midstream petroleum facilities;

3 STATEMENT ON THE EFFECTS OF THE PROPOSED REGULATIONS

The *Petroleum Act, 2019 (Cap. 308)*, provides the legislative framework governing midstream petroleum operations. However, there is need for regulations under the Act to specifically guide midstream crude oil and natural gas pipeline and storage operations.

The *Draft Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 2025*, are expected to formalize and provide guidance on the requirements applicable to midstream petroleum operations, specifically, crude oil and natural gas pipeline and storage operations.

The proposed Regulations will strengthen the midstream petroleum sector by reducing regulatory uncertainty and facilitating investment through clarity and predictability, promoting fair and transparent market access, and ensuring comprehensive compliance with local content and public interest objectives.

4 ASSESSMENT OF OTHER PRACTICABLE MEANS OF ACHIEVING THE OBJECTIVES OF THE PROPOSED REGULATIONS

4.1 Option A: Maintaining Status Quo

As noted above, while the *Petroleum Act, 2019 (Cap. 308)* provides a broad legislative framework for midstream petroleum operations, no specific subsidiary regulations currently exist to operationalize and standardize midstream crude oil and natural gas pipeline and storage operations. Maintaining the status quo would perpetuate regulatory uncertainty, inconsistent application of requirements, inadequate safety

standards, and unclear investment guidelines, undermining sector growth and posing significant risks.

4.2 Option B: Self-Regulation

Self-regulation typically requires a mature industry with numerous established participants and clear industry norms. In Kenya, the midstream petroleum sector remains at an early stage of development, with limited operational experience and few market players. Furthermore, due to the significant public interest dimensions of midstream petroleum operations—including safety, environmental protection, and fair market access—self-regulation alone would be insufficient to ensure comprehensive compliance and protection of public interest.

4.3 Option C: Use of Frameworks Such as Guidelines

The Government also considered issuing the operational requirements as guidelines to the industry. Guided by *Section 2 of the Statutory Instruments Act (Cap. 2A)*, guidelines are also defined as statutory instruments subject to the requirements of the Act. In addition, the enforceability of guidelines could face legal challenges since guidelines cannot be used to create offences and penalties, which are necessary for the effective application of the operational requirements.

4.4 Option D: Use of Contractual Frameworks

Setting out the operational requirements in midstream petroleum arrangements/contracts was found untenable given that, embedding operational requirements into individual contractual arrangements would lead to inconsistent application of standards and requirements, creating fragmented regulatory practices. Contractual terms typically vary based on negotiations, financial considerations, and specific project risks, leading to disparities in safety, environmental management, tariff methodologies, and operational practices. This approach would lack transparency, fairness, and the necessary oversight capability required for effective regulation.

4.5 Option E: Developing of the Proposed Regulations

Enacting the proposed Regulations will be in compliance with *Section 127 of the Petroleum Act*, which requires the Cabinet Secretary to publish regulations for midstream petroleum operations.

In addition, the Regulations will be legally enforceable and universally applicable to all persons engaged in midstream petroleum operations, specifically crude oil and natural gas pipeline and storage adaptable to emerging technologies and innovations and aligned with Best Petroleum Industry Practices.

In light of the gaps identified in utilizing the other options, enacting the proposed Regulations is the preferred option.

5 ASSESSMENT OF THE COSTS AND BENEFITS OF THE PROPOSED REGULATIONS

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

5.1 Economic Impacts

Table 1: Economic Impacts

Impact/ Benefit	Remarks
1. Attracting investment	<ul style="list-style-type: none">Stable legal framework: a well-defined and stable regulatory framework can attract foreign and domestic investment in the oil and gas sector.
2. Energy security	<ul style="list-style-type: none">Reliable and efficient transportation and storage facilities for crude oil and natural gas enhance domestic supply reliability, reducing energy

Impact/ Benefit	Remarks
	import dependence.
3. Revenue Generation	<ul style="list-style-type: none"> • Efficient midstream infrastructure increases throughput capacity, facilitating larger petroleum resource volumes and thus higher government revenue through taxes and tariffs. • Improved accuracy and transparency in tariff calculations support optimal revenue collection.
4. Socio-economic growth	<ul style="list-style-type: none"> • Structured midstream petroleum projects create substantial business opportunities and employment, spur local industry growth, and stimulate infrastructure developments including roads, power supply, and water access.

5.2 Environmental Impacts

Table 2: Environmental Impacts

Impact/ Benefit	Remarks
1. Environmental sustainability	<ul style="list-style-type: none"> • Clear obligations for environmentally sustainable construction and operations to minimize environmental risks.
2. Land resource utilization	<ul style="list-style-type: none"> • Requirement for pipeline routing studies, surveys and consolidated storage infrastructure reduce land use, minimize habitat disruption, and optimize space efficiency compared to dispersed transportation and storage solutions

5.3 Social Impacts

The proposed Regulations require local communities to be involved in the issuance of certain permits. As a result, the following social impacts are realized: -

1. Protection and promotion of community rights;
2. Project legitimacy and acceptance;
3. Social inclusivity;
4. Transparency and accountability; and
5. Improvement of livelihoods- increased employment, improved healthcare, upskilling and educational opportunities and infrastructure development such as roads, water, and electricity.

5.4 Administration and Compliance Costs

Once enacted, the proposed Regulations will enhance government revenue through clearly defined application, permitting, licensing, renewal fees, and penalties for non-compliance, thus generating sustainable financial inflows. These fees and charges will result in marginally increased operational costs for midstream petroleum operators. However, these costs are offset by reduced business uncertainty, minimized regulatory delays, improved operational safety, and increased investor confidence.

It is also expected that the Authority and other Government agencies will incur a marginal cost in regulatory compliance and enforcement of the proposed Regulations.

6 ANY OTHER MATTERS SPECIFIED BY THE GUIDELINES

According to Regulation 2 of the proposed Regulations, all matters prescribed for in the Regulations relate to the construction and operation of crude oil and natural gas pipeline and storage facilities and jetty in Kenya.

7 DRAFT COPY OF THE PROPOSED STATUTORY RULE

The *Draft Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage*

Operations) Regulations, 2025 are annexed herein.

