



Dear Sir/Madam,

RE: SUBMISSION OF NATURAL JUSTICE'S COMMENTS TO THE CARBON CLIMATE CHANGE (CARBON REGISTRY) REGULATIONS, 2025.

Natural Justice is a pan-African organisation that operates across the Continent with three regional offices. In Kenya, Natural Justice is registered as a non-profit organization. Natural Justice's mission is to protect biodiversity, advance climate change mitigation and adaptation, and empower local communities and indigenous peoples to participate effectively and make their own decisions over resource use, including over land, and a just energy transition. Natural Justice works at the local, national, regional, and international levels with a wide range of partners. In addition to making sure that advancements made in international fora are completely upheld at lower levels, we work to ensure that community rights and duties are reflected and upheld on a larger scale.

Please find attached our detailed comments and recommendations on the Draft Climate Change (Carbon Registry) Regulations, 2025. These comments are intended to support the development of a robust, transparent and inclusive carbon registry system that reflects Kenya's national priorities, aligns with right to access to information, international best practices and safeguards community rights particularly those of Indigenous Peoples and local communities.

Sincerely,

Mercy Chepkemai

Natural Justice: Lawyers for communities and the environment mercy@naturaljustice.org

SPECIFIC COMMENTS TO THE BILL

Part in the Regulation	Section in Draft Regulations	Current Provision in the Regulations	Proposed Recommendations	Justification and rationale
PART I – Preliminary	Interpretation	Carbon Registry – means a secure electronic system established for the purpose of recording, tracking, and managing information on mitigation outcomes, particularly Internationally Transferred Mitigation Outcomes	Carbon Registry- means a secure, transparent and publicly accessible electronic platform established and maintained for recording, tracking and managing information on all mitigation outcomes generated within or transferred from Kenya. This includes internationally transferred mitigation outcomes (ITMOs), voluntary market credits, and domestic mitigation efforts.	The proposed revision ensures a more inclusive and future-proof Carbon Registry by encompassing both internationally transferred mitigation outcomes (ITMOs) and domestic mitigation efforts. This inclusivity strengthens transparency and public accountability, allowing stakeholders to verify and monitor carbon transactions. Furthermore, aligning the Registry with existing national frameworks such as the Climate Change Act, the Carbon Markets Non-Market Approaches Regulations ensures legal coherence
			Carbon Market Regulations: Climate Change (Carbon	

			Markets) Regulations 2024	
Part I- Preliminary	Reg.3(a)	<p>- a) Provide for the operation and effective administration of the National Carbon Registry and related sector registries.</p> <p>- b) Provide for access to information of carbon projects for enhanced public confidence and market integrity;</p>	<p>-Provide for the establishment, operation and coordination of the National Carbon Registry and any related sectoral registries.</p> <p>c) To achieve that the National Carbon Registry shall be accessible to the public as per section 23G(4) of the Act and in line with section 35 of the Constitution.</p>	<p>- Clarifies that the Registry is to be both established and coordinated, promoting coherence across sectoral systems.</p> <p>- Public access to information in the National Carbon Registry helps to ensure accountability of carbon market participants. It is also needed to protect, promote and respect the right to access to information in terms of the Constitution.</p>
PART II – Governance Framework	Reg 6	<p>The Designated National Authority appointed under Section 8(2A) of the Act shall-</p> <p>c) Ensure that the design of the carbon registry and its operations comply with Kenya’s international obligations and align to national development priorities.</p>	c) Ensure that the design of the carbon registry and its operations comply with Kenya’s national and international obligations and align to national development priorities.	Due to the responsibilities of the Designated National Authority in section 7 of the Carbon Market Regulations and Act.
PART II – GOVERNAN CE FRAMEWO RKS	Reg.7		<p>- Include community and stakeholder feedback mechanisms in registry performance.</p> <p>- include monitor</p>	- Integrating feedback mechanisms ensures that the registry remains responsive, inclusive and accountable to all actors, particularly

			<p>and report on any noncompliance with the carbon project requirements as per section 16 of the Carbon Market Regulations in the Registry.</p>	<p>Indigenous Peoples and local communities who are often directly affected by carbon projects. This promotes environmental integrity and allows for early identification of issues such as non-compliance or harm. This will strengthen both national ownership and public confidence in the carbon market system.</p> <p>- The Designated National Authority is responsible for the obligations as set out in section 7 of the Carbon Market Regulations which include (e) monitor registered carbon projects and project proponents' compliance with these regulations and (i) keep and update a list of recognized carbon standards. In terms of this Regulation, it is further appointed to</p> <p>a) Oversee the establishment and operations of the National Carbon Registry and Sector</p>
--	--	--	---	--

				<p>Registries b) Be the custodian of the National Carbon Registry and c) Ensure that the design of the carbon registry and its operations comply with Kenya's intentional obligations and align to national development priorities. The Designated National Authority is best place to report and make public any noncompliance of the Act and its regulations in the Registry.</p>
Part III- OPERATION S OF NATIONAL CARBON REGISTRY	Reg.10	<p>e) The National Carbon Registry shall:</p> <p>i. Record information related to carbon project design and implementation, National Carbon Registry 4 including the issuance of letters of no-objection and approval, as well annual progress reports to be submitted by project proponents.</p> <p>ii. Record the following actions related to carbon projects and programs:</p> <p>a) approvals in accordance with Regulation 22(4) (a) of</p>	<p>- e) The National Carbon Registry shall:</p> <p>i) include registers on the list in section 23G(3) of the Act.</p> <p>ii. Record information related to carbon project design and implementation, National Carbon Registry including the issuance of letters of no-objection, approval, cancellation of approval as well annual progress</p>	<p>- Public access to information in the National Carbon Registry helps to ensure accountability of carbon market participants. Pursuant to Article 10 of the Constitution of Kenya 2010, one of the national values and principles is democracy and participation of the people and inclusiveness. It is therefore important that the Bill incorporates public participation</p>

		<p>the Climate Change Carbon Markets Regulations 2024</p> <p>b) authorization</p> <p>c) first transfer</p> <p>d) Track</p> <p>e) transfer</p> <p>f) acquisition</p> <p>g) holdings</p> <p>h) use towards Nationally Determined Contributions</p> <p>i) Voluntary cancellation</p> <p>j) Administrative cancellation</p> <p>-f(ii) provides for public website with reports and user interface to foster transparency</p>	<p>reports to be submitted by project proponents.</p> <p>iii. Record the following actions related to carbon projects and programs:</p> <p>a) approvals in accordance with Regulation 22(4) (a) of the Climate Change Carbon Markets Regulations 2024</p> <p>b) authorization</p> <p>c) first transfer</p> <p>d) Track</p> <p>e) transfer</p> <p>f) acquisition</p> <p>g) holdings</p> <p>h) use towards Nationally Determined Contributions</p> <p>i) Voluntary cancellation</p> <p>j) Administrative cancellation</p> <p>k) certification</p> <p>l) validation</p> <p>m) verification</p> <p>n) Environmental and social impact assessment</p> <p>-include feedback channel and /or grievance mechanism</p>	<p>components to ensure that there is effective public participation.</p> <p>- A feedback and grievance mechanism is essential to ensure transparency, accountability and inclusivity in the operation of the National Carbon Registry. It allows community members, project stakeholders and the public to report inaccuracies, raise concerns about project impacts or misuse of carbon credits.</p>
--	--	--	---	--

	Reg.11	-Provides that National Registrar may establish Sector Carbon Registries in accordance with Section 8(2)(i) of the Act.	Clarify that registries shall be established within a specified period	The Climate Change Act, 8, (2)(i), mandates that lead agencies, including government, the private sector, and individual citizens, to undertake their respective roles in climate change response measures. The use of may provides for ambiguity on whether establishment is mandatory or discretionary therefore risking uneven implementation
	R.12	-Provides that all applicants seeking to open an account in the registry shall be required to provide verified identification documents, including national identity card, passport, or legal registration certificate; Proof of physical address.	-Allow alternative forms of ID (e.g. chief's letters) and accept geo-coordinates or community maps as proof of location.	-Use of formal identification only risks exclusion from participation by host communities despite them being significant contributors to carbon. Need for proof of location may also disadvantage Informal settlements, with nomadic lifestyles who may not have mappable or titled addresses.
	Reg.16	-(a)The registry shall maintain an exhaustive inventory of publicly available information as provided in the First	-need to publish a comprehensive list of all data and documents included as publicly	-The term "exhaustive" is vague as it's unclear which specific documents are included or

		<p>Schedule.</p> <p>-(b)A person seeking access to additional information not publicly available and held in the registry shall-Submit a request in the prescribed form as set out in the Second Schedule and pay the applicable fees as may be determined by the Registrar.</p> <p>-e) Where a request is rejected, the Registrar shall provide the applicant with a written notice stating the reasons for the rejection.</p>	<p>accessible to allow for public input and periodic review to expand the list especially to include items of public interest.</p> <p>-include clause where Registrar may waive or subsidize fees for public interest groups, Indigenous Peoples, local communities, and researchers. Ensure the request process is simple, time-bound, and aligned with data protection and access to information laws</p> <p>Add a right of appeal to an independent oversight body of the National Environment Tribunal or Commission of Administrative Justice.</p>	<p>excluded.</p> <p>-Payment of applicable fees may limit access to justice and transparency especially for community members with limited resources which may also risk undermining the principle of free, prior, and informed consent (FPIC) if communities can't access project data and information.</p> <p>Without a clear redress pathway, requesters have no recourse if information is denied unfairly or arbitrarily. This can undermine trust in the registry and discourage public participation</p>
	R.18	- Inactivity and delayed fees as grounds for suspension may be too broad or punitive.	- Clarify thresholds for inactivity and introduce flexibility or exemptions for community.	- Some users (e.g., community-based) may have low activity but still be compliant on overly strict grounds could deter

		-No provision for appeal or review of suspension.	-Include a right to appeal suspensions to an independent oversight body, such as National Environment Tribunal or the Commission on Administrative Justice (CAJ) in line with the Fair Administrative Action Act.	<p>participation.</p> <p>- Suspension decisions could be subjective or unfair without recourse and without an independent review mechanism, there's a risk of arbitrary decisions, misuse of power or errors.</p>
PART IV: General Provisions	R.21	Any dispute arising under these Regulations shall be resolved in the manner provided under section 23H of the Act.	Any dispute arising under these Regulations shall be resolved in the manner provided under section 23H of the Act but in no way limits the constitutional right to the authority of the courts to uphold and enforce the Bill of Rights in Section 23 specifically in instances that dispute resolution is not possible.	Dispute resolution cannot be used in the event of an application for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the bill of Rights. The dispute resolution is a mechanism which may not be available to communities who have been unable to acquire a community development agreement. These communities should not be precluded from enforcing their rights as per the Constitution and applicable law.

