

FREQUENTLY ASKED QUESTIONS ON EXTENDED PRODUCER RESPONSIBILITY



The Ministry of Environment and Forestry is in the process of instituting the Solid Waste management Bill 2019 through issuance of Draft Extended Producer Responsibility Regulations ,2020. The regulations shall have a far-reaching impact in the way manufacturers and traders handle wastes and plastics once passed.

In order to understand the magnitude and depth of these regulations as proposed, here are a few answers to the most frequently asked questions.

Question 1:

What is Extended Producer Responsibility (EPR)?

Answer:

EPR, as it is known in short refers to the obligation of all producers to reduce pollution through environmentally sound practices in all phases of a product lifecycle including post-consumer and end of life stage. It includes but is not limited to design for re-use and recyclability, creation of take back schemes, recycling, composting and other suitable recovery and disposal measures.



Question 2:

Who is a 'producer' according to the EPR regulations?



Answer:

Refers to any person who introduces into the market by authorized means goods, products and packaging as described in Schedule 1 of the EPR regulations. the introduction of schedule 1 goods can occur through;

- Raw material transformation into finished goods and products for sale
- Raw material transformation through other uses including intermediate processes of production, finishing or semi-manufactured goods,
- Selling of already manufactured goods and products to others,
- Importation, manufacturing, filling and converting, distribution of materials, products and packaging.

All these levels of producers are expected to assume EPR obligations for products that they put to the market.

The products in schedule 1 are subject to review by NEMA from time to time based on their hazard, quantity introduced into the market and the health/ environmental risks they pose.

Question 3:

What are the objectives of the Extended Producer Responsibility (EPR) regulations?



Answer:

The objective of the regulations is to provide for Mandatory EPR schemes for all Schedule 1 products which advocates for responsibility from production to final safe disposal/recycling. The overall objective being reduced pollution, sustainable natural resource use and promotion of a circular economy.

Question 4:

How does one
comply with the
EPR regulations?



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Answer:

In order for “producers” to be registered, they have 2 options,

- a) The producer can **become a member of a Producer Responsibility Organization (PRO)**, with which they shall enter into an agreement for the PRO to take the partial or complete responsibility(ies) of compliance with the requirements of the National Environment Management Authority as set out in the EPR regulations.
- b) **Setting up an individual EPR compliance scheme.** The producer/ marketer shall be responsible for the compliance of his enterprise with all regulations as set out by NEMA which include collection and treatment of any waste from products they introduce into the market.

The **lack of an established PRO** within a certain waste stream / sector **does not exempt** the **producer from any responsibilities** as set out in the regulations.

Question 5:

How are Producer
Responsibility
Organizations (PRO)
registered under
the proposed EPR
regulations?

Answer:

After compliance with the requirements on registration, the PRO is issued with a Producer Extended Responsibility Number (PERN) for an initial 4 year period.

The registration is renewed annually at a fee of Kshs 10,000 subject to compliance with statutory requirements, set PRO performance targets and satisfaction of the members, who must be shareholders of the PRO.





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Question 6:

**How can individual
companies register
for EPR certification?**



Answer:

An individual company intending to go it alone shall be issued with an Individual Producer Responsibility Number (IPRN) once they meet the following requirements;

The registration is valid for 4 years and is subject to the producer demonstrating proof of operational, technical, management and financial capacity to meet their EPR obligations and compliance to terms of reference established by government.

Thereafter, The IPRN is renewable annually at a fee of Kshs 5,000 subject to compliance. The IPRN can be summarily revoked due to noncompliance.

Question 7:

What are the requirements for
Producer Responsibility
Organization (PRO) registration
under EPR regulations?



Answer:

PRO Limited Company registration, an updated membership list/
membership fee structure, 2-year workplan/budget, operations
and management plans, Sample/actual Contracts with service
providers, payment of registration fees and proof of a dispute
resolution mechanism

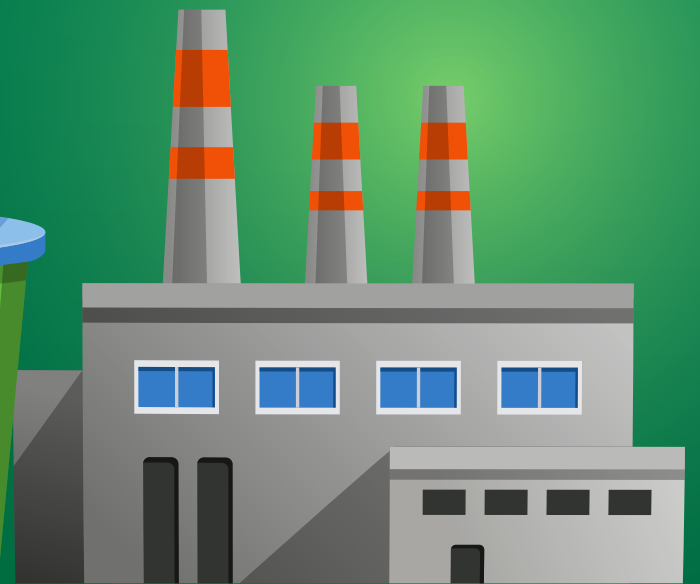


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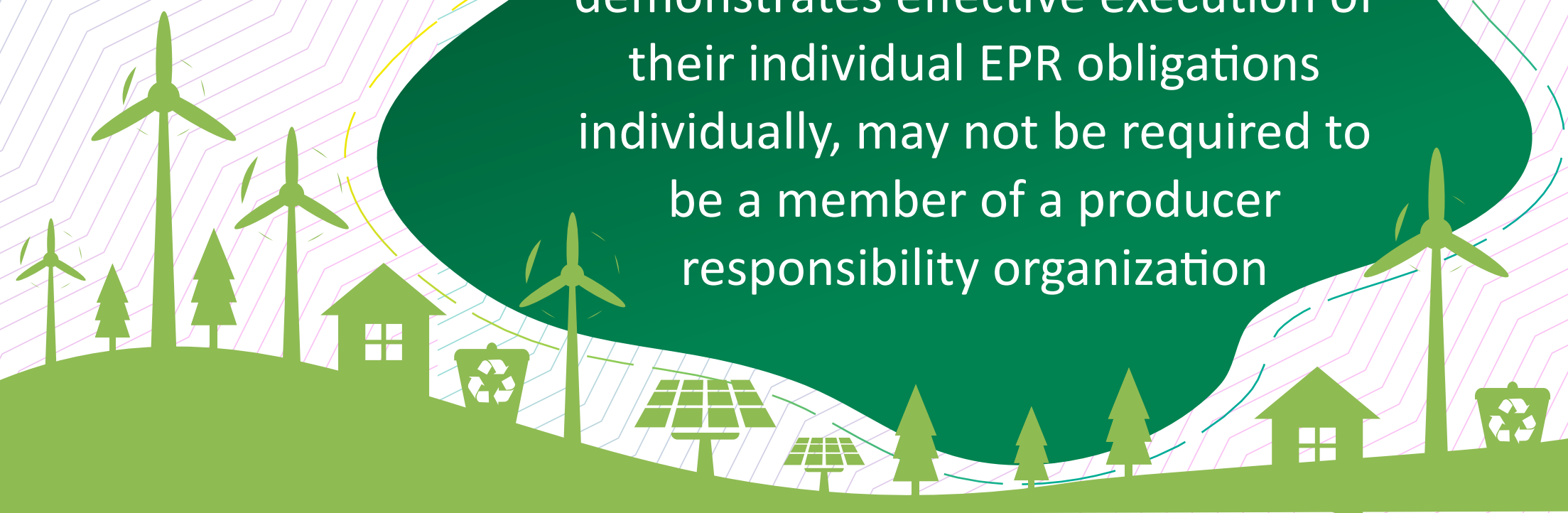
Question 8:

**Can a company be exempt
from PRO membership?**



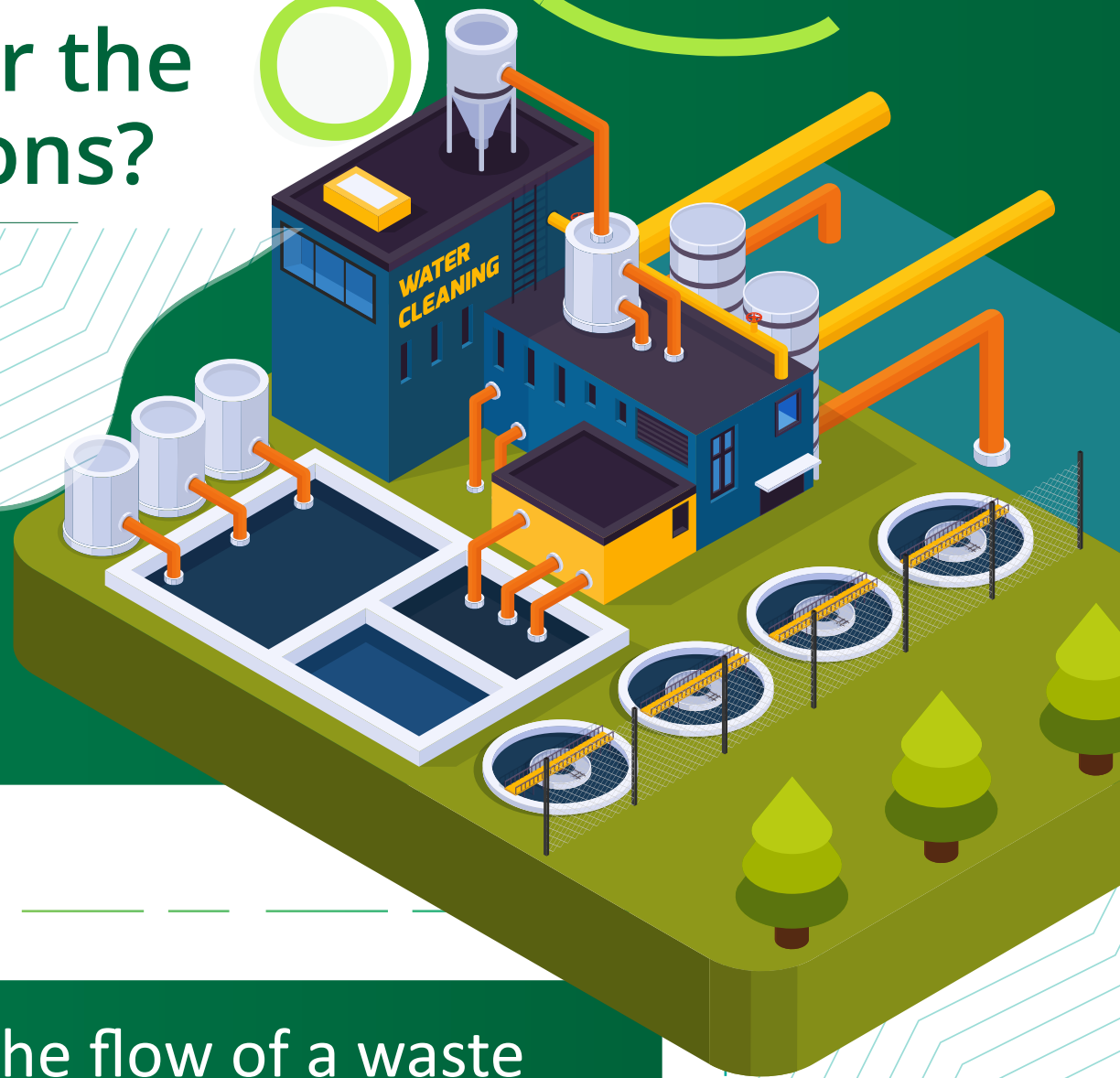
Answer:

Yes, A producer who demonstrates effective execution of their individual EPR obligations individually, may not be required to be a member of a producer responsibility organization



Question 9:

What is a waste stream under the EPR regulations?



Answer:

Waste stream describes the flow of a waste type from domestic or industrial production all the way through to the final disposal. The waste can be categorized depending on the nature of the substance(s) or processes being used in production and disposal which means that agrochemicals shall likely be categorized a 1 (one) waste stream. There can only be 1 PRO per waste stream as per the proposed regulations.