THE WILDLIFE CONSERVATION AND MANAGEMENT ACT
(No. 47 of 2013)

IN EXERCISE of the powers conferred by section 32 (4) and Section 36(4) of the Wildlife Conservation and Management Act, 2013, the Cabinet Secretary for Environment and Natural Resources, makes the following Regulations:-

WILDLIFE CONSERVATION AND MANAGEMENT (MARINE PROTECTED AND MARINE CONSERVATION AREAS) REGULATIONS, 2015

PART 1- PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the Wildlife Conservation and Management (Marine Protected & Marine Conservation Areas) Regulations.

(2) These Regulations shall come into force on the date of their publication in the Kenya Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires -

“Act” means the Wildlife Conservation and Management Act, No. 47 of 2013;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to wildlife;

“Conservation area” means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes;

“Marine protected area” means any park or reserve covering the area of intertidal or sub-tidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazetted boundary;
“marine reserve” means a marine protected area where subsistence fishing is permitted;

"Mangrove" means any specimen of the species Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Avicennia germinans (black mangrove).

“Service” means the Kenya Wildlife Service established under section 6 of the Act; and

“Tribunal” means the National Environmental Tribunal established under section 125 of the Environment Management and Coordination Act, No. 8 of 1999.

PART II-MANAGEMENT OF MARINE CONSERVATION AND PROTECTED AREAS

Designation of marine protected areas

3. (1) Pursuant to section 32 of the Act, the Cabinet Secretary may, from time to time, on recommendation of the Service and after consultations with the National Land Commission and following proper public consultations declare, by notice in the Gazette, a certain part and zone within the Republic of Kenya, to be a marine protected area.

(2) A marine protected area shall adopt a system of zoning that caters for multiple uses of marine resources for any or all of the following:

(a) extraction or no extraction zones in respect of marine resources;
(b) protection of nesting, breeding and foraging areas;
(c) no take areas in respect of fisheries;
(d) areas that may be used by local vessels for passage; and
(e) any other purposes with respect to specified human activities within the zone.

Designation of Marine Conservation Areas

4. (1) Pursuant to section 36 of the Act, the Cabinet Secretary may, upon recommendation of the relevant county government after consultation with the relevant lead agencies, by notice in the Gazette, declare any marine area to be a marine conservation area where the area is-

(a) rich in biodiversity or harbors endangered and threatened marine species; or
(b) a critical habitat for a variety of marine resources.

(2) A marine conservation area established under sub-regulation (1) shall be managed by the relevant county government under an approved management plan prepared through a consultative process with the relevant lead agencies and communities.

(3) Notwithstanding the provisions of sub-regulation (2), a marine conservation area shall adopt a system of zoning that caters for multiple uses of marine resources for any or all of the following-
   (a) extraction or no extraction zones in respect of marine resources;
   (b) protection of nesting, breeding and foraging areas;
   (c) no take areas in respect of fisheries; and
   (d) any other purposes with respect to specified human activities within the zone.

(4) A declaration of a marine protected area shall be made only after the Service has conducted appropriate public participation consultation within the affected community.

(5) A declaration of a marine conservation area shall be made only after the County government has conducted appropriate public participation consultation within the affected community.

Protected area notice

5. The Service may, from time to time, display notices at the entrance of any marine protected area or marine conservation area-

   (a) prohibiting or restricting the use and access of any person, vehicle, vessel, pet or species or specimen to any protected area or any other place or part thereof; or

   (b) designate the times and conditions during which and subject to which any sports or other activities may be practiced or performed on such land or water area.

Prohibited activities

6. Subject to Regulation 11 no person shall undertake any of the following activities in a marine protected or marine conservation area-

   (1) disturb, damage or destroy or remove any living marine organism or any part of its habitat;
(2) disturb, damage or destroy or remove any part of the seabed, including the subsoil of the seabed;
(3) carry out any activity, including depositing, discharging or dumping any substance, or causing any substance to be deposited, discharged or dumped, in the vicinity of that area that is likely to result in the disturbance, damage, destruction or removal of anything referred to in paragraph (1) or (2);
(4) install or modify a stream crossing;
(5) drain, dyke, or block a manmade or natural waterway or wetland;
(6) engage in mineral exploration or extraction; or
(7) apply pesticides

Community involvement in marine protection

7. (1) The Service shall take effective measures to ensure community involvement in marine protection including but not limited to-
   (a) Beach Management Units; and
   (b) hiring of community wildlife scouts to patrol risk areas.

(2) The Service shall involve other conservation agencies in marine protection including the Kenya Forest Service, Kenya Maritime Authorities, Agriculture, Fisheries and Food Authority the Wildlife Research Training and Institute.

PART III- ADMINISTRATION AND PERMITS

Permits for certain undertakings

8. (1) Except on grant of a permit from the Service, no person shall be allowed to injure, damage, take, or possess any living, geological, or cultural, marine resource whether for personal or commercial interest.

(2) The Service may grant a permit for research in a marine protected area or marine conservation area upon satisfaction of the requirements set down in Regulation 13 and 14 herein.

(3) Application for a research permit under sub-regulation (2) shall be made under the Wildlife Conservation and Management (Wildlife Research) Regulations.

(4) An applicant for a research permit in a marine conservation area must after receipt of permit seek further consent from the Committee.
(5) The Service may designate certain marine protected and conservation areas open to the public at certain times for educational, recreational and other non-consumptive human use consistent with the protection of all marine resources in the areas.

**Permits for vessels**

9. (1) Any person intending to use a vessel for purposes of research or recreation in a marine protected or marine conservation area must apply for a permit for such a vessel through Form A prescribed in the First Schedule to these Regulations.

(2) A permit granted under this Regulation shall be in Form B prescribed in the First Schedule to these Regulations.

(3) No vessel, which is propelled by means of a propeller above the water, shall be used in a marine protected or marine conservation area.

(4) No person may paint any vessel in a marine protected area unless the prior written approval by the Service has been obtained.

(5) No person may dispose of any solid or liquid waste, including motor oil into any marine protected area.

**Variation of permit**

10. The Institute may give direction for the changes and steps necessary for effective compliance with the terms of a permit issued under these Regulations.

**Revocation of permit**

11. A permit issued under these Regulations may be revoked for any of the following reasons, among others-

(1) fundamental breach of the terms of the permit;
(2) use of the marine resources for unauthorized purposes;
(3) if the marine resources in the permit holders custody are in danger due to neglect and unlawful use; and
(4) if the Service determines that it is in the interest of the long-term conservation of the wildlife resource that the permit be revoked.

provided that the Service shall communicate the intention to revoke a permit and give the permit holder 30 days to show cause why the permit should not be revoked.
Submission of plans

12. Any person who intends to undertake an activity in a marine protected or marine conservation area must submit to the Service for approval, not less than 90 days before the start of the proposed activity, a plan that indicates the specific areas in which the activity is proposed to be carried out and must include-

(1) a statement of the purpose of the activity;
(2) a detailed description of the activity;
(3) the identity of every vessel, if at all, proposed to be used during or in connection with the activity;
(4) the proposed period or periods during which the activity will take place;
(5) the location of the activity, expressed in latitude and longitude;
(6) two copies of all plans and specifications relating to the activity;
(7) two copies of a report assessing the environmental impact of the activity, including a consideration of any cumulative environmental effects that are likely to result from the activity in combination with any other past and current activities undertaken in or affecting that area and any other anticipated activities that may be undertaken in or may affect that area;
(8) a list of every license, permit, authorization or consent obtained or applied for in respect of the activity; and
(9) the name, address and telephone number and, if applicable, and electronic mail address of the contact person.

Approval of plans

13. (1) Subject to sub-regulation (2) herein, the Cabinet Secretary shall within a period of 30 days evaluate and approve the plan as submitted or suggest amendments thereon taking into consideration the following matters -

(a) the activities to be undertaken thereof;
(b) area to be covered;
(c) possibility of monitoring the activities being undertaken; and
(d) environmental impact of the planned activities

(2) If the Cabinet Secretary makes proposals for amendments, the plan shall not be approved without inclusion of the proposals.

(3) The Cabinet Secretary shall not approve the plan referred to in sub-regulation (1) if the cumulative environmental effects of the proposed activity, in combination with any
other past and current activities undertaken in or affecting the marine conservation or protected area and any other anticipated activities that may be undertaken in or may affect that area, are likely to result in disturbance, damage or destruction of the protected area beyond what may be reasonably anticipated to be restored.

**Exemptions**

14. (1) The Service may grant a permit for the removal of living marine organisms from a marine protected area or marine conservation area in the following circumstances; when-

(a) the removal does not cause any damage or destruction referred to in these Regulations;
(b) the removal causes only damage or destruction referred to in Regulation 8 sub-regulations (1) (2) and (3) that is within the natural variation of the ecosystem in which that area is located;
(c) the removal of the living marine organisms is only to an extent that is within the natural variation of the ecosystem in which, as the case may be, is located;
(d) fishing for a species of fish authorized by a permit, complies with the terms and conditions of the permit;
(e) the permit is for ground fish and the holder of the permit, when fishing complies with the terms and conditions of the permit; and
(f) the permit is a valid commercial fishing permit, other than a permit referred to in paragraph (a) or (b), and the holder of the permit, when fishing for a species of fish authorized by the permit.

(2) In the case of a marine conservation area, a person allowed to remove marine living organisms must seek further consent from the Committee.

**Regulated activities**

15. (1) The Service may, from time to time, display notices in any marine protected or marine conservation area directing the following activities in these areas:

(a) visiting hours;
(b) types of vessels that may be driven in the areas;
(c) speed limits;
(d) levels of noise;
(e) zones that may be out of bounds;

(2) In addition to sub-regulation (1) the Service shall regulate the following activities
(a) trade;
(b) activities in the area 30M above the high water mark in accordance with the Act.
(c) fishing in the marine reserves using artisanal or traditional fishing methods; and
(d) any other activity as the Service or the Committee may elect.

Prohibited activities

16. (1) The following activities are prohibited in a marine conservation and marine protection area-
   (a) all prohibited activities in terrestrial parks;
   (b) disposal of garbage;
   (c) carrying of weapon;
   (d) collection of shells;
   (e) harvesting of coral;
   (f) construction of structures 60M above high water mark in accordance with the Physical Planning Act, Cap 286;
   (g) construction of beach walls and shoreline re-enforcement;
   (h) closing of beach access roads;
   (i) fishing activities inside a marine park; and
   (j) commercial fishing in a marine reserve.

   (2) The warden of the marine park and reserve shall have the authority to declare closed seasons for fishing or any activity based on prevailing conditions as may be necessitated.

Protection of mangrove forests

17. (1) All activities, which are likely to pose a risk to a mangrove ecosystem, shall be subjected to an exhaustive public participation processes prior to decisions being made. Only after it has been demonstrated that the potential advantages outweigh the potential damage should the activity be allowed to commence.

   (2) Decisions on the use of mangrove ecosystems shall include consideration of the need:

   (i) to utilise the mangrove resources so that their natural productivity is preserved;
   (ii) to avoid degradation of the mangrove ecosystems;
   (iii) to rehabilitate degraded mangrove areas;
   (iv) to avoid over exploitation of the natural resources produced by the mangrove ecosystems;
(v) to avoid negative impacts on neighbouring ecosystems;
(vi) to recognise the social and economic welfare of indigenous mangrove dwellers;
(vii) to control and restrict non-sustainable uses so that long term productivity and benefits of the mangrove ecosystems are not lost.

**PART IV-FINAL PROVISIONS**

**Application of other laws**

18. These Regulations shall be applied in consonance with the Fisheries Act, Cap 378 and the Regulations formulated under it.

**Appeal**

19. Any person aggrieved by the decision of the Service under these Regulations may prefer an appeal to the Tribunal within a period of sixty days from the date of such decision:

    provided that the Tribunal may entertain any appeal after the expiry of the said period of the sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
FIRST SCHEDULE

FORM A (To be completed in Triplicate)

THE REPUBLIC OF KENYA

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013

Wildlife Conservation and Management (Marine Protected and Marine
Conservation) Regulations, 2015

(Regulation 7 (1)

APPLICATION FOR A VESSEL PERMIT

PART I- DETAILS OF APPLICANT

INDIVIDUAL APPLICANTS

NAME OF APPLICANT______________________________________________________________

SEX  M [ ]  F [ ]

(First) (Middle) (Surname)

ID NUMBER/____________________

PIN NO.__________________________

ADDRESS________________________________________POSTAL CODE____________

TEL. NUMBER_______________________________________________________________

CORPORATE APPLICANTS

NAME OF APPLICANT____________________________________________________________

REGISTRATION NUMBER_____________________

(Attach copy of certificate of registration)

PIN NO.______________________________
ADDRESS________________________________POSTAL CODE_________________

TEL. NUMBER___________________________________________________________

Name of the contact person in regard to this application and the position held in the organization______________________________________________________________

FOR ALL APPLICANTS

Have you ever been convicted of any criminal violation relating to wildlife, in Kenya or in any other jurisdiction? Yes □ No □

If yes, please list and explain type of violation and country in which the violation occurred:

_____________________________________________________________________

_____________________________________________________________________

Have you ever had a wildlife-related permit or license suspended or revoked?

Yes □ No □

If yes, explain _________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

PART II- DETAILS OF PERMIT

TYPE OF PERMIT_______________________________________________________

TYPE OF APPLICATION:

□ NEW APPLICATION

□ RENEWAL- PERMIT NUMBER______________GRANTED ON_____________

REASON FOR PERMIT__________________________________________________

_____________________________________________________________________

(Commercial, recreation)
DURATION OF PERMIT______________________________________________________________

(Where applicable, state period during the year in months for which permit is required)

PART III-DETAILS OF VESSEL

SIZE OF VESSEL_______________________________________________________________

MAKE AND MODEL____________________________________________________________

NUMBER OF PEOPLE ON VESSEL________________________________________________

PART IV-DETAILS OF AREA

NAME OF PROTECTED AREA_____________________________________________________

__________________________________________________________________________

LAND TO WHICH APPLICATION RELATES_________________________________________

__________________________________________________________________________

(Specify and identify each piece of land to which this application relates by reference to lot, location, plot number, county.)

PART V-FINAL

OTHER DOCUMENTS (Check if attached)

☐ Payment of prescribed fee;  ☐ Location(s) of access;

I hereby apply for a permit and swear by signature that the information submitted in this application and supporting documents is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to criminal penalties. I further state that I will abide by all applicable laws, those governing wildlife and the terms and conditions of this permit.

SIGNATURE OF APPLICANT_________________________ DATE_____________________

OFFICIAL USE ONLY
NAME OF RECEIVING OFFICER__________________________________________

DATE______________________________________________________________

STATION________________________________________________________________

PERMIT APPROVED  ☐ DECLINED  ☐

If declined, reason__________________________________________________________

________________________________________________________________________
FORM B

THE REPUBLIC OF KENYA

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013

Wildlife Conservation and Management (Marine Protected and Marine Conservation) Regulations, 2015

(Regulation 7 (2)

VESSEL PERMIT

Original

Not Transferable

Permit No.___________

This permit is granted to ____________________________________________________________

of ID/ REG NO. ___________________________ and address ______________________________

________________________________________________________________________________

in accordance with Regulation 5(3) of the Wildlife Conservation and Management (Marine Protected Areas) Regulations, 2015 for ______________________________

________________________________________________________________________________

________________________________________________________________________________

(insert reason for permit)

at ____________________________________________________________

(insert name of marine protected area)

The holder of this permit is allowed to use the vessel ______________________________

________________________________________________________________________________

(insert make and model) without contravention of the Act and the Regulations formulated therewith.
This permit is issued subject to the Act and the Regulations and may be suspended, cancelled or revoked should the holder breach any of the conditions of issue and those contained in the Regulations.

_________________________________________ being the holder of this permit
undertakes to abide by the conditions of this permit and to promptly report to the Kenya Wildlife Service any matter within knowledge that may prejudice the interests, security and welfare of wildlife in Kenya.

Issued on____________________
Valid until____________________

SIGNED_____________________                     DATE____________________

DIRECTOR GENERAL
KENYA WILDLIFE SERVICE