



NATIONAL BIOSAFETY AUTHORITY

GUIDELINES ON PUBLIC PARTICIPATION IN DECISION MAKING PROCESS FOR ENVIRONMENTAL RELEASE AND PLACING ON THE MARKET OF GENETICALLY MODIFIED ORGANISMS (GMOs) IN KENYA

OBJECTIVES

The objectives of these guidelines are;

- i. To encourage the development of a common approach to public participation with respect to decision-making process during the environmental release and placing on the market of Genetically Modified Organisms (GMOs) and their derived products;
- ii. To stimulate open, transparent, efficient and accountable decision-making on activities with environmental release of GMOs, thereby fostering good practices for public participation in decision-making;
- iii. To Promote and facilitate public awareness, education and participation in decision-making towards commercialization of activities involving GMOs.

INTRODUCTION

Public awareness and participation in issues that have the potential to affect society in one way or the other have become an integral part of the democratic process, especially in relation to good governance. Decision-making is no longer the prerogative of only the three arms of government; civil society now has a unique and critical role to play. Indeed, the general public has the right to now access information and comment on issues that have social, cultural, economic and political implications for the well-being of the populace.

Biotechnology is one such issue that requires the full awareness and participation of the public in its application in the country. This is because, as useful as biotechnology is as a tool in agriculture and health-related research, among others, scientists recognize that the deliberate release of GMOs into the environment and the accidental release of GMOs from certain types of contained use may have significant adverse effects on the environment, and pose risks to human health. This is enough justification for the need for transparency and public participation in decision-making on GMOs. The end results, hopefully, will be to provide consumers with adequate information on products

consisting of or containing GMOs to enable them to make informed environmental choices. The ultimate goal is to build public confidence in decision-making on the use of GMOs.

The important role of the public in the deployment of Living Modified Organisms (LMOs) is spelt out in Article 23 of the Cartagena Protocol. Article 23 (2) requires that the public is consulted in the decision making process regarding LMOs and the results of the decision are also made public while respecting confidential information. The Biosafety Act, 2009 (Article 19(4) and The Biosafety (Environmental Release) regulations, 2011 (Article 12) also provides that the Authority shall promote public awareness and participation on proposed environmental release of genetically modified organisms.

PUBLIC NOTICE AND ACCESS TO INFORMATION RELEVANT TO PUBLIC PARTICIPATION

Providing adequate public notice of a specific planned activity with GMOs within the scope of this chapter of the Guidelines should be the first step in the public participation process.

The Authority shall make available to the public non-confidential information on applications for environmental release through;

- i) By notice in the Gazette
- ii) In at least two newspapers of wide circulation
- iii) On its website

CONTENTS OF THE PUBLIC NOTICE

The following information shall be notified to the general public concerned in the context of the decision-making procedures;

- (a) The name of the notifier or applicant;
- (b) A general description of the GMOs; including the common, scientific, and technical name, the unique identification code and transformation event;
- (c) The purpose of the proposed activity with the GMOs;
- (d) Approvals done on the same product in other countries or jurisdictions where applicable
- (e) The areas/counties where the proposed deliberate release of the GMOs into the environment will take place
- (f) The proposed activity and the application on which a decision will be taken;
- (g) The type of decision which is being taken
- (h) The National Competent Authority responsible for making the decision;
- (i) The envisaged process, including, as and when this information can be provided:
 - (i) The commencement of the process;
 - (ii) The opportunities for the public to participate;
 - (iii) The link to where non-confidential (non-CBI) version of the application may be accessed;
 - (iv) The address of the National Biosafety Authority and the email address to which comments or questions can be submitted; and
 - (v) Any other information that the National Biosafety Authority considers appropriate.

PROCESS FOR PUBLIC PARTICIPATION AND DECISION-MAKING

The public participation processes shall provide for early participation, when all options are open and effective public participation can take place. The following paragraphs provide examples of good practice for processes for public participation;

1. Public participation processes shall allow the public to submit; in writing, any memoranda, comments, information, analysis or opinions in relation to the proposed environmental release of GMOs.
2. The Authority will accept comments/objections within 30 days from publication of the notice. The comments shall be in writing (English or Kiswahili).
3. The Authority shall endeavor to acknowledge all submissions presented with regards to an environmental release application where adequate contact addresses have been provided.
4. The National Biosafety Authority should ensure that in the decision, due account is taken of the outcome of the public participation. This should, where appropriate and feasible, include an analysis of the comments and a description of the reasons for taking or not taking them into account in the decision.
5. When the National Biosafety Authority has taken a decision on a proposed specific activity with GMOs, the public will be informed of the decision through the following means;
 - i) By notice in the Gazette
 - ii) On its website
 - iii) Biosafety Clearing House (BCH)
6. The Authority will make publicly accessible the text of the decision and the reasons and considerations on which the decision is based, together with, where appropriate, a description indicating how due account has been taken of the outcome of the public participation. This can be done by making the information available, through the National Biosafety Clearing House: