



Review of the Pest Control Products Bill, 2022 and accompanying regulations Submitted by the Route to Food Initiative

The National Values and Principles of Governance espoused in Article 10 of the Constitution of Kenya, 2010 bind all state organs, state officers and public officers to the principle of democracy and participation of the people. The Route to Food Initiative (RTFI), being a civic body engaged in the right to food and environmental advocacy, is an interested person within the meaning of the said section.

In response to the invitation for stakeholder participation on Pest Control Products Bill, 2022, and accompanying regulations received from the Pest Control Products Board (PCPB), please find below recommendations for consideration.

The draft Pest Control Products Bill, 2022, and the attendant draft regulations are a marked improvement of the existing legal and regulatory framework of pest control products. As well as addressing the issues of safe use, environment and human health, the draft legislation aligns with various Conventions and agreements to which Kenya is State Party. However, there are still gaps in addressing specific issues of consumer protection as well as protection of the environment.

Clause or Regulation No.	Issue	Stakeholder recommendation
The draft Pest Control Products Bill, 2022		
Clause 9 (1)	<ol style="list-style-type: none">1. Board composition - The Act fails to include the representation of consumers in the board.2. Representation of livestock producers (Pastoralists, fisher folk, beekeepers amongst other livestock sub-sectors that can be negatively impacted by PCPs)3. Inclusion of export producers in the board	<p>It is important that consumers, who are directly affected by both the cost of pest control inputs as well as their negative externalities, be represented in the board. This will strengthen the consideration of the board on food safety and the right of every Kenyan to access safe food.</p> <p>It is noted that in the initial draft, livestock farmers were represented in the board composition but the current draft omits them. Livestock producers might not be direct users of PCPs but interact with the impacts of PCPs on a daily basis and we believe that their involvement in the board is important to ensure that their perspectives are adequately integrated in the board operations and decisions.</p> <p>While it is important to consider the trade aspects of fresh produce in decision making by the board, we feel that the inclusion of the export traders association while the representation of Kenyan consumers is not secured is not against the mandate and scope of the PCP Authority which should put the Kenyan consumer first before working</p>



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		for other consumers. This has been one of the biggest issues with our food residue testing and analysis only focusing on export market with no one looking at what is consumed locally. We recommend that before exporters are included in the board, the Kenyan consumer must have their representation secured.
Clause 9 (2)	<i>The Board may co-opt one person in charge of agriculture for the Council of Governors</i> Not very clear/strong for coordination.	This should be reconsidered as it's not a firm provision. Considering the important role of county governments, it is important to strengthen their involvement and position in the
Guiding principles (5)	The principles of transparency, access to information, inclusivity and objectivity should be included, setting out specific requirements demonstrative of transparency and objectivity are missing in the list of guiding principles.	Include the principles of transparency, access to information, inclusivity and objectivity should be included, setting out specific requirements demonstrative of transparency and objectivity. For example Formulate and include the following additional principles: <ul style="list-style-type: none"> - Transparency - Access to information - Inclusivity - Objectivity The varying competing interests surrounding pest control products, requires data collection and review processes, that are transparent, and include varying scientific perspectives for objective decisions to be made, where those decisions and the information informing the outcome should be accessible to the public.
Clause 5 (guiding principles)	Ratified international conventions not included	Include ratified international conventions on PCPs, Human Right to Adequate Food, environmental and biodiversity conservation.
Interpretation (2)	The concept of Good Agricultural Practices (GAP) is not defined	"practices aimed at improving the quality, safety, and sustainability of food and agricultural products while maintaining environmental, economic, and social sustainability." See: FAO - COMMITTEE ON AGRICULTURE (17th Session)
Clause 3 (Scope)	1. Advertisement is not listed as part of the scope of the Authorities work	Add regulation of advertisement of PCP products to the scope of the PCP Authority.



<p>Clause 8 (Functions of the Authority)</p>	<p>The role of domestication of international treaties is unclear (also duplicated in 8 (i) and 8(m) -</p>	<p>Be specific on: 1) The International Treaties/Conventions that are domesticated 2) What the role of PCP Authority shall be: Is it advising or implementing. See 8 (i) and 8(m) for example 3) Clause 8 (d): which standards (are there any specific standards that will guide the authority?</p>
	<p>8 (e) Unclear reference to “commodities”</p>	<p>(should be crops and crop use) - Was in the previous draft (eg- difference between animal feeds and human feeds -</p>
	<p>8(g) IPM is part of an overall approach to GAP and the phrasing “and other” is vague</p>	<p>Reword to: “Promote Good Agricultural Practices (GAP) for the judicious use of pesticides” OR “Promote Good Agricultural Practices (GAP) in the use of pesticides, which includes practices such as Integrated Pest Management (IPM)” If IPM is included, it needs to be defined in Section 2</p>
	<p>8 (h) Not clear i.e. who is targeted - we had proposed that PCPB or the Authority established as per the act is involved in creating awareness also to the general public.</p>	<p>It should be clear what the mandate of PCP Authority is in awareness creation on potential negative impacts of PCPs. In addition, the authority cannot just target producers considering that there is potential for access to PCPs to virtually everyone. This should be clear- what mechanisms will be used, what are the metrics used to monitor and assess the level of awareness created etc.</p>
	<p>Insert an additional function to legislate the function of the Authority to maintain a database of registered products</p>	<p>8(...) maintain a database of pest control products registered for use by the Authority. The database will include the product name registration no., active ingredient, manufacturer, local agent, and label and be publicly available on the Authority’s website.</p>
	<p>PCP function on advertising of PCPs is missing</p>	<p>Insert an additional function to legislate the function of the Authority to review and approve advertisements in accordance with the Act and Labelling Regulations</p>
<p>Clause 20 (Role of the County Government)</p>	<p>(b) Training and awareness creation of agro-dealers, farmers and the public on responsible use of pest control products;</p>	<p>There seems to be duplicity of roles between the County government and the Authority</p>
<p>Appointment and designation</p>	<p>18(1) The Authority may appoint inspectors and analysts, as may be necessary for the performance of</p>	<p>18(1)(i) external analysts that would not materially benefit from the outcomes of a decision should be appointed to uphold the principles</p>



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of inspectors and analysts (18)	its functions under this Act. Add a clause after this ...	of transparency and objectivity in data collection and scientific assessments
Registration of pest control products (24)	The Registrar is satisfied that the pest control product is (a)(i) safe to human health and the environment	The Registrar is satisfied that the pest control product is (a)(i) safe to human health and the environment
FIRST SCHEDULE	Chairperson to preside- The language used is not gender sensitive as the section only refers to (He)	Use gender sensitive language
Pest Control Products (Registration) Regulations, 2022		
SECOND SCHEDULE	2. Interpretation- "Boardas"- spelling mistake	Correct

Name of stakeholder ... Route to Food Initiative Phone Number ... +254 705 672 111 County Nairobi, National

Stakeholder category and organization (e.g. farmer) ... Civil society organisation Date ... 16.05.2022