

17/12/2012

## **Submission: Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012**

**No. , 2012**

*(Agriculture, Fisheries and Forestry)*

### **A Bill for an Act to amend laws relating to agricultural and veterinary chemicals, and for related purposes**

The following submission is based on the premise that current laws have failed to adequately protect the Australian public and the natural environment upon which humans, domestic animals and wildlife depend. There has been a failure in our local, state and federal governments' "duty of care" that should involve a precautionary approach as stated in the Wingspread Precautionary Principle, 1998. The Precautionary Principle, authored by 32 international academics, including environmental and medical professionals, states:

*"Where an activity raises threats of harm to the environment or human health, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.  
In this context the proponent of an activity, rather than the public bears the burden of proof."*

The experience in Western Australia has been that the public bears the burden of proof. Repeatedly, in recorded cases of adverse experiences that raise concerns about the impact on the environment and public health posed by agricultural chemicals, government authorities have not shown a "duty of care". Complaints from members of the public who question the spraying of toxic agricultural chemicals in our parks, playing fields (usually by boom-sprayer), urban bushland, along our laneways, verges and curb-sides (usually through the window of a moving vehicle in daytime traffic) are generally met with the response that the products are registered for use by the APVMA and that the practice is legal. Petitions, submissions and general correspondence presented to councils and state authorities, raising these concerns over the years, have largely been ignored.

There is evidence that individuals and communities feel as though they have been treated with contempt by authorities who in their short-sightedness and unsubstantiated claims show a bias towards supporting industries ahead of public health and environmental well-being.

The following section responds to the proposed amendments in Schedule 1 contained in the Bill and also addresses other related matters.

### **Re: Schedule 1 —Approvals, registrations, permits and licences**

*Agricultural and Veterinary Chemicals Code Act 1994*

Amendment to *Insert:*

#### ***1A Implementing the Code***

*(1) This Code recognises that:*

1.

- (a) *the furthering of trade and commerce between Australia and places outside Australia; and*
- (b) *the present and future economic viability and competitiveness of primary industry which relies on access to chemical products and their constituents; and*
- (c) *a domestic industry for manufacturing and formulating chemical products and their constituents;*

*are essential for the well-being of the economy and require a system for regulating chemical products and their constituents that is cost effective, efficient, predictable, adaptive and responsive.*

**Note A)** This amendment makes unsubstantiated presumptions about the “well-being” into the future of an economy that is heavily dependent on internationally recognized polluting industries. The pesticide industry is largely based on the widespread use of harmful synthetic agricultural chemicals not only for agricultural purposes but also for urban use on public land by local and state governments as well as for domestic use, mainly for the control of weeds.

Question 1. Whether imported or manufactured in Australia, what is “essential” about supporting a heavily polluting industry that produces harmful synthetic chemicals that are known to have long half lives and residual effects, and all the associated problems of disposal?

Question 2. Why does the amendment ignore a burgeoning organic industry and the growing public desire and demand, both in Australia and internationally, for pesticide - free produce?

**Note B)** This amendment ignores the problems caused by the national weeding obsession that has been promoted through our government departments and the state and federal environmental weeding strategies. These strategies have led to the widespread use of synthetic chemical poisons that have adverse effects on soil microorganisms and plant health. Vast areas of land around our country and urban areas, as well as our agricultural lands are sprayed with these toxic chemicals. Chemical weeding methodologies are used even in bushland.

The promotion of the perfect “weed-free” lawn and the lack of truth in advertising the toxicity of commonly used weed and feed type of fertilizers and other pesticides, have lulled unsuspecting consumers into a misguided belief that the products pose no risk to their health. International studies tell us that children who run bare-footed on lawns that are treated with fertilizers that also contain herbicides carry the toxic chemicals back into their homes where residues of chemicals such as 2,4-D have been detected.

Question 1. Why does this amendment promote the ongoing international pesticide trade and the domestic industry in the manufacture of chemical products whilst ignoring the economic harm to the nation and the human suffering due to the increase in the often life-threatening diseases that have been linked to chemical exposure?

Such evidence as that of the twenty-five different pesticide residues found in our catchment drains, as stated in the Department of Water Report on the Swan-Canning Catchment, is ignored in this amendment. The facilitation of more registered agricultural chemicals for the sake of the perceived “well-being” of the economy is misguided. This amendment ignores the undeniable truth that there will be huge costs to our communities if we continue to allow the contamination of our soils, water and air with an ever increasing mixture of harmful synthetic chemicals.

Question 2. What are the true costs to the economy from the contamination of our soils, water and air due to the relentless use of agricultural chemicals along vast areas of roadsides, verges, parkland, playing fields, river foreshores, lake beds, coastal dunes, bushland and even paved areas in our built environment?

**Note C)** This amendment ignores the huge burden of ill health on the private lives of those affected and their families, as well as the cost to the economy of an ever increasing health budget that is already stretched, and a health system that is struggling to cope with ill health due to many diseases with known links to pesticide exposure.

Question 1. What are the true costs to the economy from the well documented known or suspected adverse impacts of these agricultural chemicals on human health with links to asthma, flu-like symptoms, and a wide range of chronic and life-threatening conditions including cancers, autoimmune and neurological diseases, as well as birth defects?

Question 2. Why does the Bill ignore the evidence that:

- a) authorities (who have promoted what can only be described as a national obsessive - compulsive weeding disorder, a multi - million dollar herbicide industry and the spraying of vast areas of roadsides, verges, parkland, playing fields, river foreshores, lake beds, coastal dunes, bushland and even paved areas in our built environment), have not adequately addressed the concerns and claims of those individuals who have been made sick due to chemical exposure resulting from the herbicide spraying policies that have been sanctioned by our local, state and federal governments,
- b) there are many past and present cases of adverse experiences to pesticides such as the Kimberley weeders and their families (many of whom have died), who were exposed to a form of Agent Orange imported at the time, and the almost countless Western Australians, young and old who suffer from some form of Multiple Chemical Sensitivity, and
- c) in Western Australia a network of MCS sufferers has for more than a decade attempted to raise the issue of the harm to their health due to the widespread use of pesticides?

**Note D)** This Bill ignores the failure of the publicly funded WA Health Department 2009 Survey of Perceived Environmental Harm to include in the list for respondents the “elephant in the room” which is the contamination of soil, the pollution of air and water, and the obvious risk to public health from the local and state government practices of using registered toxic chemicals and known poisons with long-lasting residual effects on the public land near residential areas and in the parks where our children play.

The same WA Health Department survey states that a significant majority of respondents (71%) agreed with the statement:

*‘The land, air and water around us are, in general, more contaminated than ever before’,* - and that further analysis revealed that respondents reporting little control over risks to their health were more likely to agree with the statement.

Question 1. a) Why does the WA State Health Department Survey ask respondents to rate the perceived risk of harm from the contamination of soil by industry and the misuse of chemicals and poisons in the home and garden whilst making no mention of the multi-million dollar pesticide industry that is apparently supported by all three levels of governments who authorize and condone the widespread spraying of toxic chemicals and known poisons on public land for the control of weeds that pose no comparable risk to public health?

b) Is it not a failure of this Bill to not recognize such cases of public misinformation by omission of all the facts about the use and risks of pesticides?

Question 2. Why does the Bill not provide an amendment to ensure that there is international best practice in the application of a comparative Risk Assessment of the risks to public health posed by common “weeds” such as dandelion, clover and even grass in curb- sides and laneways, versus the risks posed by the toxic chemicals that are used to kill them? 3.

- Question 3 Why does the Bill not recognize the mounting concern in Western Australia about the failure of our governments and our pesticide Regulator, the APVMA, to adequately protect our health and environment from the mixture toxicity that now exists due to the thousands of products that are legally sold and used in our country?
- Question 4. Why does the Bill not recognize that there are many well documented and reported cases of adverse experiences due to unsolicited exposure to pesticides, and that these cases have been largely ignored by local and state governments as well as the Regulator?
- Question 5 a) Why does the Bill not recognize that the failure of the WA Barnett Government to heed widespread warnings about the risks of lifting State bans on the growing of genetically modified herbicide resistant crops has led to the contamination of organic farms and the natural environment?
- b) Why does this Bill not recognize that this was foreseeable contamination of both private and public property by herbicide resistant GM crops and a clear case of negligence on the part of a government who blatantly placed the vested interests of a pesticide industry above the interests of public health and the natural environment?
- Question 6 Why does the Bill not recognize that widespread abuse of herbicides has both nationally and internationally already led to the serious problem of herbicide resistant weeds and that these weeds, when combined with escaped GM crops, will impose a huge burden on our growers and protectors of native forests and bushland, with the foreseeable effect of leading to a demand for herbicides of even greater toxicity?
- Note E)** This Bill places as its first priority the insertion of the following objectionable amendment that facilitates a harmful industry:

#### **1A Implementing the Code:**

- (a) the furthering of trade and commerce between Australia and places outside Australia; and*
- (b) the present and future economic viability and competitiveness of primary industry which relies on access to chemical products and their constituents; and*
- (c) a domestic industry for manufacturing and formulating chemical products and their constituents;*
- are essential for the well-being of the economy and require a system for regulating chemical products and their constituents that is cost effective, efficient, predictable, adaptive and responsive.*

**In supporting the pesticide industry, this Bill uses the same type of flawed logic and short-sighted arguments that were once used about the tobacco and asbestos industries. It fails to recognize the seriousness of the risks to public health and the environment from the widespread use and the ongoing registration of pesticides.**

- Note F)** This Bill ignores the evidence from independent testing of soil and foliage samples taken from public land in the Perth metropolitan area, including our parks and bushland. The samples tested show residues of commonly used herbicides as well as other pesticides.
- Question 1. In light of the above, is the ongoing contamination of our soils and vegetation “essential” and good for the Australian economy, and is this ongoing contamination not the logical outcome of a Bill that facilitates pesticide registration, importation, sales and use?
- Question 2. How does the Bill provide for transparent and ongoing sample testing for commonly used pesticides that are sprayed often by boom sprayer on our public urban land?
- Note G)** This Bill ignores the evidence that many trees in Western Australia are intentionally or inadvertently killed or made sick by herbicides.

**Note H)** This Bill ignores the evidence that a premier Western Australian laboratory has claimed that it is not able to test soils for residues of some of our most commonly used herbicides and yet the Bill seeks to facilitate the ongoing registration, importation, sale and use of pesticides.

Question 1. How does this Bill provide the public with confidence in methods of detection for chemical residues in contaminated soils and vegetation if a premier state laboratory is not able to undertake important sample testing?

Question 2. How does the Bill provide for independent review and audit of a pesticide industry with a history of “commercial in confidence” deals and confidential “out of court” settlements?

**Note I)** This Bill ignores the mounting evidence that to ignore the risks posed by pesticides and herbicides is a failure in our governments’ duty of care to protect public health and the natural environment. In light of the following:

- laboratory results of independent testing showing evidence of pesticide residues in samples of soils and foliage taken from parks and bushland in the Perth metropolitan area,
- scientific and medical expositions linking pesticides to many cancers, autoimmune and neurological diseases, and
- overwhelming anecdotal evidence and reported cases of adverse experiences due to pesticide exposure,

there is a reasonably held view that there has been a failure and a degree of negligence on the part of our governments to understand the risk of harm, to show a duty of care, to adopt a precautionary approach to the management of public land and to remove the risk of pesticide exposure from people, pets and wildlife.

Specific examples of such failures can be seen in the actions of local and state authorities and committees who have refused to take the requested action after reasonable evidence of harm presented in submissions and petitions from their constituents and the general public.

**We have seen the City of Nedlands** introduce only one pesticide –free park in response to community concerns about pesticides whilst back-flipping on a previous Council recommendation that a comparative Risk Assessment be undertaken to compare the risks to the public posed by weeds with the risks to the public posed by pesticides. Why was the Risk Assessment refused?

The same Council also sent a letter to Nedlands residents, dated August 2012, advising that the city would be spraying “city-wide” all turf areas with a combination of 2,4-D ( one of the two Agent Orange ingredients) , Clopyralid and Dicamba. With only one park in the City being pesticide -free is this not effectively playing a game of “Russian roulette” with the health of our children some of whose parents will unwittingly take them to play in one of the City’s toxic parks instead of the pesticide -free park?

**We have seen the failure of the City of Stirling** to listen to the demands of approximately 3,600 signatories to the 2007 Pesticide Petition that was supported by international academic expositions of the risk to public health, children and the unborn child posed by pesticides. Residents gave of their time and worked relentlessly for many months to gather the information and the petition that was effectively ignored by Council.

There have been numerous reports of the City of Stirling having failed over the years to adequately prevent widespread contamination of soils and the poisoning of vegetation, including remnant mature Tuart trees, as well as having failed to take seriously residents’ requests for pesticide exclusion zones.

This is seen by some in the community as a breach of the City's duty of care as referred to under the Civil Liability Act. Many residents refer to "duty of care" when complaining about their council's spraying policies and practices and there appears to be a growing public perception that land management authorities either do not understand or do not care about the risks to the public from the use of pesticides.

In conclusion, the Bill purports to "balance" the health and safety of human beings, animals and the environment whilst supporting a pesticide industry that is widely known and proven to be polluting. It claims that the industry is "essential for the well-being of the economy", 1A(1) but it ignores the failure of local and state authorities to undertake

full and transparent community consultation and to substantiate their claims that weeds pose a risk to our urban communities and that there is a strong demand to remove them and to undertake toxic chemical weeding methodologies in order to do so.

The Bill simply supports a pesticide industry for short-term economic gain whilst ignoring all the serious long-term adverse effects on the health of future generations and the environment in which they will have to live. It makes one salient point in 1A (2) (d) of the Code which states that the Code is to be implemented in a manner that:

*"recognises that the use of chemical products that pose unmanageable risks to the health and safety of human beings, animals and the environment is not appropriate in Australia;"*

Current laws already pose unmanageable and unacceptable risks to the health and safety of human-beings, animals and the environment in Australia, and this Bill, in further facilitating the ongoing registration, importation, sale and use of toxic agricultural chemicals for widespread use in our environment and public spaces goes against the long-term interest of the public for short-term economic gain. The Bill is conflicted and it cannot protect public health and the natural environment whilst supporting the ongoing widespread use of toxic agricultural chemicals.

I urge all members to reject this Bill.

Alex Jones

Linda Rogers,

Wayne Monks, Chairman Western Region Environment Network, (WREN)

Independent Candidate for the state seat of Churchlands

Anna Vanderbom,

Wilma Van Boxtal, Founder of Greendrinks Perth WA, [www.greendrinks.org/perth](http://www.greendrinks.org/perth)

Leisha Jack, Resident of Karrinyup WA

Janet Grogan, Resident of Karrinyup WA

Foodwatch WA