

# PESTICIDES MANAGEMENT BILL, 2008

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## RECOMMENDATIONS



### An overview

India regulates its pesticides under the Insecticides Act 1968. This Act, however, hasn't been able to stop the pesticides from contaminating the environment and having a deleterious impact on health.

We need a strong bill that will regulate and control the pesticides and its use so as to ensure that they do not affect the environment or the health of people. The Pesticides Management Bill 2008 is now tabled in the parliament. The bill was introduced in October 2008, after which it was sent to the Standing Committee on Agriculture. The committee submitted its report in 2009. The Standing Committee recognized a few problems but not all. The proposed Pesticides Management Bill 2008 incorporates a few changes but they are incremental; the larger loopholes remain. For the effective management of pesticides a lot more needs to be done.

The Centre for Science and Environment (CSE) has worked extensively on the impact of pesticides on environment and health and feels that in its current form the bill has failed to adequately safeguard human and environmental health.

Based on our study of international best practices and ground realities in India, we recommend following changes/inclusions in the Bill:

- **Precautionary Principle** should be enshrined in the object of the Bill. In case of any uncertainty human and environmental health should be given priority.
- Pesticides can not be regulated by Ministry of Agriculture as it promotes the use of pesticides. Either the **Ministry of Environment and Forests or the Ministry of Health should be given the power to regulate pesticides.**
- New pesticides safer than older one should be allowed to be used. Any pesticide that is being registered for the first time, should be registered on the principle of **Comparative Risk Assessment** which means that existing data on pesticides should be used and considered to avoid any future hazards.
- Considering that pesticides useful in one agro-ecological zone can be detrimental to another, **states must have powers to regulate the use of pesticides.**
- Liability of environmental contamination and health impacts should be on the pesticides manufacturers as per the **Polluter Pays Principle.**
- **Compensation** should be provided under the Pesticides Management Bill, 2008 instead of the Consumer Protection Act, 1986.
- The Bill should ensure **complete transparency and data disclosure.**

## CSE's Recommendations: A Clause by Clause Analysis

- **Promoter cannot be the Regulator:**

- Since the Ministry of Agriculture promotes the use of pesticides, it cannot be the regulator. There is a conflict of interest.
- The legislative powers to regulate pesticides should be with the Ministry of Environment and Forests (MoEF) and the Ministry of Health (MoH) instead of the Ministry of Agriculture.
- The Ministry of Environment and Forests (MoEF) shall register pesticides through the Registration Committee. The Registration Committee shall report to the Ministry of Environment and Forests (MoEF). Ministry of Environment and Forests (MoEF) shall be the parent ministry of the Central Pesticides Board and Registration Committee.
- The Food Safety and Standards Authority of India (FSSAI) is supposed to fix standards for pesticides on food commodities. The Ministry of Health is the administrative body for FSSAI.

- **No Registration of Pesticides unless MRLs (Maximum Residue Limit) are fixed:**

- **Clause 12 (1): THE SUB CLAUSE SHOULD BE REVISED** - No pesticides should be registered unless the MRLs are fixed. All pesticides registered under the Insecticides Act 1968 should be re-registered, treated like a fresh application and MRLs for all existing pesticides should be fixed.
- **Clause 12 (5)(a): A NEW SUB CLAUSE SHOULD BE ADDED** - MRLs should be based on the Acceptable Daily Intakes (ADIs). MRLs can be considered safe only if the cumulative daily intake of pesticides remains within the ADI, which is based on chronic toxicity. The ADI should especially include the risk factor to children.
- **Clause 12 (5)(b): A NEW SUB CLAUSE SHOULD BE ADDED** - MRLs of pesticides should be reviewed every 5 years to ensure that new scientific information on health impacts are factored in.

- **Registration of pesticides should be based on comparative risk assessment:**

- **A NOTE FOR THE REGISTRATION COMMITTEE:** Registration of pesticides should be based on the **Precautionary Principle**, which means that any existing data on the chemical, even if insufficient in a fullest sense and even from other places, should be considered and possible future hazards avoided.
- **Clause 12(10)(1)(i): A NEW SUB CLAUSE SHOULD BE ADDED-** All pesticides being introduced for the first time should be registered on the principle of **comparative risk assessment**.
- **A NOTE ON CLAUSE 12(10)(1)(i):** Comparative risk assessment means assessing the safety and health risk posed by an insecticide and comparing them to the safety and health risks posed by the already registered insecticides that are being used for same purposes. Insecticides with lower overall comparative risk compared to the already registered insecticides used for the same purposes shall be registered. The goal of the regulation is to ensure use of those pesticides that have lower safety and health risks.
- **Clause 7(c): THE SUB CLAUSE SHOULD BE REVISED-** The Registration Committee should review the toxicity and the safety of the pesticides every five years. The report of this review shall be



made publicly available and public comments shall be invited and then thereafter a decision shall be taken on the fate of the registration of the pesticides.

- **Clause 7(c)(1): A NEW SUB CLAUSE SHOULD BE ADDED-** The review of the pesticides shall be done by an independent committee appointed by the central government which shall review its toxicity, health impact and ecological impact.
- **A NOTE ON CLAUSE 7(c)(1):** The committee shall have members from Ministry of Health and Family Welfare represented by the Indian Council of Medical Research and Ministry of Environment and Forest, civil society and the state pesticides board.
- **Clause 7(f): A NEW SUB CLAUSE SHOULD BE ADDED-** The funds for periodic review of pesticides shall be drawn from a corpus of funds collected from the pesticide industry. The industry shall contribute to the corpus either through a percentage of their annual turnover or a fee levied on their turnover or the value of the products sold. These funds will meet the expenses on regulation, surveillance and enforcement of laws related to pesticides by the board.
- **Composition of the Central Pesticides Board and Registration Committee:**
  - **Clause 11(1)(k): A NEW SUB CLAUSE SHOULD BE ADDED-** The Central Pesticides Board and Registration Committee should have representation from the different agro-climatic zones/different states.
  - **A NOTE FOR THE CLAUSE 11(1)(k):** The states shall be represented on a rotational basis for a period of two years.
  - **Clause 11(1)(j): A NEW SUB CLAUSE SHOULD BE ADDED-** The Registration Committee shall include members from the civil society, working on issues related to health and environment.
  - **Clause 12(3): THE SUB CLAUSE SHOULD BE REVISED-** There should be independent assessment of the biosafety and efficacy of pesticides. Agriculture universities should be roped in to do independent assessment of human and animal health and ecology data. This data should be generated over and above the information provided by the registrant/applicant.
  - **A NOTE FOR CLAUSE 12(3):** A pesticide should not be registered based on the data provided only by the manufacturers.
- **Concurrent powers to states and centre:**
  - **Clause 33(1):** The Pesticides Management Bill extends the temporary ban period, that states can impose, from 60 days to 180 days.
  - **Clause 33(1): THE SUB CLAUSE SHOULD BE REVISED-** Since agriculture is a state subject, the **power to regulate pesticides, approve them or ban them should lie with the state.**
  - **Clause 33(3): A NEW SUB CLAUSE SHOULD BE ADDED-** Each state shall have a State Pesticides Board, on the lines of the Central Pesticides Board. This state board should have powers to (a) allow the use of pesticides recommended by the Central Insecticides Board and Registration Committee (b) to disallow the use of any pesticide that has been recommended by the Central Insecticides Board and Registration Committee, and (c) to give additional conditions for use of certain pesticides for certain crops.



- **NOTE ON CLAUSE 33(3):** The centre can register the pesticides but states should have the power to restrict or allow the use of the pesticides. Since all states have different ecosystems, power to the states will ensure that pesticides are not misused. Moreover, this will give two rounds of screening for the pesticides that are being allowed in the country.
- **Companies should be held liable:**
  - **Clause 12(9)(a): A NEW SUB CLAUSE SHOULD BE ADDED-** The liability of the pesticides manufacturers should be based on the **Polluter Pays Principle** where the terms of accountability and mechanisms of liability should be spelt out for non-performance/non-effectiveness of the pesticides and for degradation of human and environmental health.
  - **Clause 12(9)(b): A NEW SUB CLAUSE SHOULD BE ADDED-** The liability of the pesticides manufacturer should be proportional to companies turnover. An independent committee should be formed to decide on the quantum of liability.
  - **Clause 12(9)(c): A NEW SUB CLAUSE SHOULD BE ADDED-** Any pesticides manufacturer that gives false, misleading or suppressed data should be blacklisted and barred from doing business within the country.
- **Compensation to those affected due to pesticides use:**
  - **Clause 51: THE SUB CLAUSE SHOULD BE REVISED-** Compensation should be provided under the Pesticides Management Bill 2008, instead of providing it under the Consumer Protection Act, 1986.
  - **NOTE ON CLAUSE 51:** Pesticides are not consumed directly instead the health impacts on humans and animals and environmental damages are caused due to the long term use of the pesticides; hence the compensation clause should be within the Pesticides Management Bill 2008.
  - **Clause 51 (1): A NEW SUB CLAUSE SHOULD BE ADDED-** An independent committee comprising health experts, ecologists, environmentalists and civil society should decide the quantum of compensation to farmers and affected persons within a stipulated time period.
- **Disclosure of Data and Complete transparency:**
  - **Clause 12(14): A NEW SUB CLAUSE SHOULD BE ADDED-** There should be complete disclosure of biosafety data. There should be complete transparency in such a disclosure.
  - **Clause 12(14)(i): A NEW SUB CLAUSE SHOULD BE ADDED** The Central Pesticides Board should publish the complete data on their website. The details should include data on biosafety and annual reports of the pesticides, the status of their use, state wise consumption pattern, data on acute poisoning of pesticide and complete details of a new registrant.
  - **Clause 12(14)(ii): A NEW SUB CLAUSE SHOULD BE ADDED** The Central Pesticides Board, through the Ministry of Environment and Forests, should present before the parliament annual reports of the pesticides, the status of their use, state wise consumption pattern, data on acute poisoning of pesticide and complete details of a new registrant. All reports related to public health and ecological data should be kept in the public domain to ensure transparency.
  - **Clause 30 (7): A NEW SUB CLAUSE SHOULD BE ADDED-** The report of the analysis of pesticides done by a pesticides analyst and submitted to the pesticide inspector should be put up on the public domain. The details of why a pesticide was analysed, its results and the action taken thereafter should be declared.

- **Clause 32 (3): A NEW SUB CLAUSE SHOULD BE ADDED-** The state government in its quarterly report to the centre, on pesticides poisoning, should also include cases of chronic health impact and environmental contamination.
- **Other Recommendations:**
  - **Clause 3(z): THE SUB CLAUSE SHOULD BE REVISED-** The definition of ‘sale’ of pesticide should include free distribution of insecticides and pesticides by the central government, state government, companies or any other agencies. The definition should not be restricted to wholesale or retail only.
  - **Clause 7(f): A NEW SUB CLAUSE SHOULD BE ADDED-** In order to safeguard the health of children and infants, the Central Pesticides Board with Indian Council of Agricultural Research, Director General of Health Services and civil society representatives should collect data on food consumption pattern of infants and children on a regular basis along with a regular pesticides residue analysis data.
  - **A NOTE ON CLAUSE 7(f):** If the pesticides intake is above the Average Daily Intake (ADI), then the registration of the pesticide should be revoked.
  - **A NOTE ON CLAUSE 7(f):** The pesticide residue data collection activities should provide for improved data collection of insecticides residues and increased sampling of foods most likely to be consumed by infants and children.
  - **Clause 12(13): THE SUB CLAUSE SHOULD BE REMOVED-** This clause eases the registration of pesticides and it should be removed. The clause provides for speedy registration of pesticide in case of national emergency, urgency or public interest. The bill does not define what qualifies as national emergency, urgency or public interest and in all likelihood the clause is going to be misused.
  - **Clause 55: A NEW CLAUSE SHOULD BE ADDED-** An emergency management clauses should be built in, especially hazardous situations such as fire accidents in the pesticide factories, spillovers on land and water, pesticide tanker collisions, etc. The factory owners, manufacturers, distributors and stockists should be made liable for any accident occurring on or near the manufacturing site.