

UNPOISON

EARTH • AIR • WATER

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FOR IMMEDIATE RELEASE:

Hazardous Loopholes And UnLawful Process: Immediate Suspension of Pesticide Derogations Required

[UnPoison](#), in a [letter of demand](#), is calling on DALRRD to **immediately halt the flawed derogation process** - that allows for the continued use of highly hazardous chemicals even after they have been identified for phase-out/ ban - and to suspend all new derogation applications until the guidelines are fully revised to ensure **scientific integrity, legal compliance, and transparency**.

This new exemption process was introduced in April 2024, just two months before the first group of CMR pesticides (carcinogenic, mutagenic, and toxic to the reproductive system) were meant to be phased out as per [DALRRD's 2022 phase out notice](#) “to reduce the risks associated with such products.” This gave industry two years to adapt, but just before the final hour a loophole was introduced.

A legal analysis conducted by UnPoison with support from the [LRC](#), revealed serious legal and procedural flaws in the Department of Agriculture, Land Reform and Rural Development (DALRRD)'s [guidelines](#) for pesticide derogations.

Adding to concerns, the **first derogation notices published by industry for public comment, appeared between the 6th and 31st of December 2024**, with the 30-day public comment period falling over the holiday season, a time when many civil society organizations, scientists, and environmental actors are on their much-needed annual leave. This **seems like a deliberate industry tactic to take advantage of the holiday period to slip derogations through unnoticed**.

Civil society was inundated with **13 derogation notices and risk assessments between 6th and 20th of December. A total of 28 derogations have been published for public comment since the 6th of December**. This burden placed on civil society to monitor, analyse and conduct complex scientific reports, and respond to rushed derogations highlights **a fundamental failure in the regulatory process**, one that favors the pesticide sector over the people, our public health and environmental safety.

Additionally, **twelve agrochemical companies published glufosinate ammonium derogation notices using almost exactly the same risk assessment report** (with only minor editorial differences), completed

by the same company on the same dates for the twelve different products. These products however have differing co-formulants, and active ingredient ratios, and cannot be the same.

This raises concerns about the integrity of the risk assessments, and **whether the companies seemingly coordinated amongst each other to have their risk assessments conducted as a batch**, rather than conducting independent risk assessments.

Regulatory Loopholes That Keep Toxic Pesticides in Use

South Africa has long lagged behind international best practices in phasing out HHPs. After first hand experience participating in the public participation process, and subsequently conducting a legal analysis of the derogation guidelines, UnPoison has uncovered **deep flaws that threaten to keep some of the most dangerous pesticides in use.**

Key issues with the derogation process:

- **Lack of justification** - The Derogation Guideline is intended to only allow for “exceptional circumstances” in which “the Registrar may grant or renew a registration of a pesticide set for phase out.

In an attempt to do this three criteria are listed:

- a. The risk to humans, animals or the environment from exposure to the active substance in an agricultural remedy, under realistic worst-case conditions of use, is negligible; or
- b. There is evidence that the active substance is essential to prevent or control a serious danger to human health, animal health or the environment; or
- c. Not approving the active substance would have a disproportionate negative impact on society when compared to the risk to human health, animal health or the environment arising from the use of the substance.”

However there is no guideline for what evidence or research, in what format, is required to prove a pesticide meets these criteria. Evaluating risk assessments without a motivation for the derogation, nor evidence that the pesticide meets the derogation criteria nor demonstrates exceptionality, is a waste of civil society’s resources.

- **Impossible exceptionality anyway** - The pesticides slated for phase out have already been assessed, multiple times, by regulatory authorities in Europe are no longer authorised for use in the EU. Alternatives are being used, and there is no basis for suggesting that another (presumably desktop) risk assessment in South Africa can alter the fact that a pesticide is cancer-causing, mutagenic or a reproductive toxin. Based on this fact alone, the process is viewed by civil society as frivolous and purely a loophole for industry to continue business as usual.

- **The criteria are not defined** - There is no definition in the guideline as to what constitutes “realistic worst-case conditions of use” or how “disproportionate” a negative impact must be on society to warrant an exception. How is impact measured and from whose perspective? The mother whose child is developmentally delayed as a result of in utero exposure? The farm worker whose asthmatic cough is written off as the result of smoking by ‘experts’ when she is not a smoker?

Industry has long blamed farmers and farm workers for ‘misuse’ of pesticides, but there is considerable evidence showing that typical use conditions in Low and Middle Income Countries are not only unsafe but the result of structural limitations in how pesticides can be used. For the industry risk assessors, a realistic work-case condition of use will be totally different that of the pregnant women or the farm worker.

- **Lack of legal clarity** - The guidelines fail to fully reflect the legal requirement that derogations should only be granted when “no other agricultural remedies are available.” This omission could allow industry to continue using banned pesticides, even when safer alternatives exist.
- **Weak risk assessment criteria** - There are **no clear scientific standards** for evaluating whether risks are “sufficiently mitigated.” The process allows for vague, industry-driven risk assessments rather than independent scientific evaluation. By comparison, international and other national agencies and organisations have risk assessment guidelines that could be referenced. The DALRRD guidelines are silent here.
- **Inadequate transparency** - Companies seeking derogations are **not required to disclose all chemical components** of their products, making it difficult for the public and experts to assess potential harm. The guidelines also fail to ensure that the public receives a clear, detailed summary of risks and mitigation strategies.
- **Industry influence over regulatory decisions** - Should the public require an extension for public comments, these requests must be sent to the pesticide manufacturer as the applicant. This gives the applicant the discretion to accept late public comments. Under the Constitutional provisions for fair administrative actions, this is a power that should rest only with the regulator to ensure fairness and accountability.
- **Contradictory procedural rules** - Conflicting sections in the guideline create confusion over when risk assessments must be submitted, increasing the risk of incomplete evaluations and rushed approvals.

“These flaws expose South Africans to **dangerous pesticides that should have been banned outright**,” said Professor Leslie London, Chair Public Health Medicine at UCT. “Instead of strengthening pesticide regulations, DALRRD’s derogation process creates loopholes that allow these toxic chemicals to stay on the market, putting public health and the environment at risk.”

These findings come on the heels of UnPoison's [2025 update of South Africa's Highly Hazardous Pesticides \(HHPs\) database](#) in February, which shows that **116 highly hazardous pesticides** (active ingredients which are then used in hundreds of different brand named products) **are still legally used in South Africa despite having been banned in the European Union (EU) due to their harms to human health and the environment.** Alarming, only 29 pesticides have been fully banned in South Africa. This stark contrast raises serious concerns about our country's ability to protect its citizens and ecosystems from toxic agrochemicals.

Derogations Undermine the Phase-Out of Substances of Concern and Highly Hazardous Pesticides

The derogation process is not unique to South Africa; many countries, including those in the EU, allow temporary derogations for specific pesticides under extreme circumstances, such as a pest outbreak that threatens food security. However, the EU recently **tightened its regulations** to prevent derogations from being misused to bypass highly hazardous pesticide bans. South Africa, on the other hand, **allows derogations for pesticides already recognized as too hazardous for continued use.**

The result is a broken system where the government identifies certain pesticides as dangerous enough to phase out, but then allows the very same chemicals to stay on the market through derogations, seemingly without proper justification.

"We have a situation where highly hazardous pesticides that are too dangerous for Europe are still freely used in South Africa," added Professor London. "Now, the derogation process is being exploited to **delay and weaken the phase-out of these highly hazardous poisons.** This is a direct threat to our health, water, soil, and biodiversity."

A Call for Safer Agricultural Solutions

"We need an urgent moratorium on derogations until these regulatory gaps are closed," said Anna Shevel, network coordinator of UnPoison. "The government must ensure that highly hazardous pesticide bans are meaningful, not just symbolic, and that no company can exploit loopholes to continue poisoning our land, food, and people."

While South Africa continues to rely on hazardous chemicals, the global agricultural sector is shifting towards **safer, more sustainable alternatives**, including biological pest control and integrated pest management (IPM). Many of these alternatives remain blocked in the registration process due to regulatory barriers that favor synthetic pesticides.

"Instead of propping up the toxic pesticide industry with derogations, South Africa should be leading the way in supporting **biological solutions that are safer for farmers, consumers, and the environment,**" said Shevel. "We must stop this cycle of regulatory failure and move toward a future where food production does not come at the cost of human and environmental health."

Action Required

UnPoison advises the following actions be initiated by DALRRD:

- An **immediate halt to the current derogation process** and suspension of new applications.
- Full legal and procedural **revisions to ensure that derogations are only granted when truly necessary**—and never for highly hazardous pesticides already identified as too dangerous.
- A **commitment to banning highly hazardous pesticides and accelerating the approval of safer alternatives**.

To learn more about UnPoison's advocacy visit <https://unpoison.org> and access the full [2025 Highly Hazardous Pesticide Report](#).

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[UnPoison](#) is both an advocacy NPO that specialises in the regulatory framework governing pesticides, as well as a high-level expert network of over 70 top experts, including approx 20 university science departments, toxicologists, doctors, lawyers, scientists, agronomists, manufacturers, farmers, agricultural standards and certifiers, farmworker organisations, unions, researchers and NGO's. UnPoisons members participate in national, SADC, regional, and international committees contributing to pesticide research, policy, and standards at every level.

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