

103^D CONGRESS
2^D SESSION

S. 2050

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26 (legislative day, APRIL 11), 1994

Mr. LEAHY (by request) introduced the following bill; which was referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**

4 **ERENCE.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Federal Insecticide, Fungicide, and Rodenticide Act
7 Amendments of 1994”.

8 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; Table of contents; Reference.
- Sec. 2. Registration renewal (“Sunset”).
- Sec. 3. Imports and export.
- Sec. 4. Cancellation.

- Sec. 5. Coordination with the Federal Food, Drug, and Cosmetic Act (FFDCA).
- Sec. 6. Suspension.
- Sec. 7. Label call-in.
- Sec. 8. Phase-out/phase down.
- Sec. 9. Reduced risk pesticides.
- Sec. 10. Minor uses.
- Sec. 11. Fees.
- Sec. 12. Use-by-prescription.
- Sec. 13. Judicial review.
- Sec. 14. Indemnification.
- Sec. 15. Certification and training.
- Sec. 16. Pesticide recordkeeping.
- Sec. 17. Enforcement.
- Sec. 18. "Whistle Blower" provision.

1 (c) REFERENCE.—Whenever in this Act an amend-
 2 ment or repeal is expressed in terms of an amendment
 3 to, or repeal of, a section or other provision, the reference
 4 shall be considered to be made to a section or other provi-
 5 sion of the Federal Insecticide, Fungicide, and
 6 Rodenticide Act.

7 **SEC. 2. REGISTRATION RENEWAL ("SUNSET").**

8 Section 3 of the Federal Insecticide, Fungicide, and
 9 Rodenticide Act (7 U.S.C. 136a) is amended by adding
 10 at the end the following:

11 “(g) REGISTRATION RENEWAL.—

12 “(1) GENERAL RULE.—Under the subsection
 13 the registrations of pesticides are to be renewed pe-
 14 riodically as set out in paragraph (4). The dates for
 15 the renewal of a registration of a pesticide are based
 16 on dates applicable to the active ingredient of the
 17 pesticide as set out in paragraph (2). The date on
 18 or after which an application shall be submitted for

1 the renewal of a registration is the reapplication
2 date of the active ingredient as set out in paragraph
3 (3). The initial and subsequent reapplication date of
4 an active ingredient is set out in paragraph (4). The
5 date by which a renewal application is required to be
6 approved is the expiration date of the active ingredi-
7 ent as set out in paragraph (5). The expiration date
8 refers to the date a registration will expire if not re-
9 newed and such date is 3 years after the
10 reapplication date of the active ingredient. A reg-
11 istration shall not expire under this section except as
12 provided under paragraph (5) of this subsection.

13 “(2) LIST OF ACTIVE INGREDIENTS.—

14 “(A) INITIAL LIST.—Not later than 180
15 days after the date of enactment of the Federal
16 Insecticide, Fungicide, and Rodenticide Act
17 Amendments of 1994, the Administrator shall
18 publish in the Federal Register a list of each
19 active ingredient contained in any pesticide cur-
20 rently registered on the date of the publication
21 of such list.

22 “(B) LIST REVISION.—The Administrator
23 shall revise the list to add a new pesticide active
24 ingredient on the date a pesticide is registered
25 under subsection (c) which contains such ingre-

1 dient. If the expiration date of the active ingre-
2 dient expires without renewal of the registration
3 of at least one pesticide containing such active
4 ingredient, the Administrator shall remove the
5 active ingredient from the list. The Adminis-
6 trator shall annually publish such list to include
7 each revision made under this subparagraph.

8 “(C) LIST CONTENT.—The list published
9 by the Administrator under this paragraph
10 shall state the name, reapplication date, and
11 the expiration date of each active ingredient
12 contained in the list.

13 “(D) PUBLICATION GROUPS.—Active in-
14 gredients listed under this paragraph shall be
15 grouped as follows: An active ingredient shall be
16 classified—

17 “(i) in group 1 if the active ingredient
18 was first contained in a pesticide initially
19 registered before November 1, 1984,

20 “(ii) in group 2 if the active ingredi-
21 ent was first contained in a pesticide ini-
22 tially registered after October 31, 1984,
23 but before the date of enactment of the
24 Federal Insecticide, Fungicide, and
25 Rodenticide Act Amendments of 1994, or

1 “(iii) in group 3 if the active ingredi-
2 ent was first contained in a pesticide ini-
3 tially registered after such date of enact-
4 ment.

5 “(3) REAPPLICATION DATE.—The initial
6 reapplication date of an active ingredient—

7 “(A) in group 1, shall be a date established
8 by the Administrator 12–14 years after the is-
9 suanance of a reregistration eligibility decision
10 document for the active ingredient under sec-
11 tion 4(g)(2),

12 “(B) in group 2, shall be a date estab-
13 lished by the Administrator 10–13 years after
14 the enactment of the Federal Insecticide, Fun-
15 gicide, and Rodenticide Act Amendments of
16 1994, and

17 “(C) in group 3 shall be 12 years after the
18 date of initial registration of a product contain-
19 ing the active ingredient.

20 Subsequent reapplication dates for each active ingre-
21 dient shall be 12 years after the preceding expiration
22 date of such active ingredient.

23 “(4) RENEWAL.—

24 “(A) PROCEDURE FOR RENEWAL.—All
25 registrants shall comply with guidelines pub-

1 lished by the Administrator specifying the infor-
2 mation required for renewal of registration that
3 are in effect 4 years prior to the reapplication
4 date for each active ingredient in the reg-
5 istrant's product. Such guidelines shall provide
6 registrants with information sufficient to deter-
7 mine each scientific study that must be submit-
8 ted for renewal of registration.

9 “(B) DATA SUBMISSION, COMPENSATION,
10 AND EXEMPTION.—For purposes of this sub-
11 section, the provisions of subsection (c)(1) and
12 (c)(2)(D) shall be applicable to the require-
13 ments for renewal of a registration of a pes-
14 ticide.

15 “(C) STANDARD.—The Administrator shall
16 renew the registration of a pesticide if the Ad-
17 ministrator determines that (i) the registrant
18 has submitted an application for renewal of reg-
19 istration no later than the date set forth in
20 paragraph (3) of this subsection; (ii) the reg-
21 istrant has submitted all required information
22 as specified by the guidelines published pursu-
23 ant to subparagraph (A) and any written com-
24 munications from the Administrator to the reg-
25 istrant regarding the application of such guide-

1 lines; and (iii) the active ingredient meets the
2 requirements of subsection (c)(5) of this sec-
3 tion.

4 “(D) NOTIFICATION.—The Administrator
5 shall endeavor to review applications as expedi-
6 tiously as practicable, and shall notify the reg-
7 istrant promptly of any deficiencies in the appli-
8 cation for renewal of registration.

9 “(E) EFFECTIVE DATE OF RENEWAL.—
10 The renewal of the registration of a pesticide
11 under this paragraph shall take effect on the
12 day after the expiration date of the previous
13 registration of the pesticide.

14 “(F) EXTENSION.—If the registrant of a
15 pesticide submits a complete application for the
16 renewal of the registration of a pesticide in ac-
17 cordance with subparagraph (A) and the Ad-
18 ministrator does not take final action on such
19 application before the expiration date of such
20 registration, the Administrator shall extend the
21 pesticide’s registration for one additional year.

22 “(5) EXPIRATION.—

23 “(A) INCOMPLETE APPLICATION.—If the
24 registrant of a pesticide does not submit a com-
25 plete application to the Administrator, including

1 all required information as specified by the
2 guidelines published pursuant to paragraph
3 (4)(A), on or before the reapplication date of
4 the active ingredient for which registration re-
5 newal is required and the Administrator has not
6 after such date renewed the registration, the
7 Administrator shall notify the registrant at
8 least 30 days prior to the expiration date of the
9 registration that the registration shall expire
10 upon the expiration date unless the registrant
11 has requested a hearing before such time. No
12 reapplication shall be deemed incomplete if it
13 complies with the guidelines under paragraph
14 (4). If a hearing is requested, the only matter
15 for resolution at that hearing shall be whether
16 the registrant failed to submit a complete appli-
17 cation on or before the reapplication date of the
18 active ingredient. If a hearing is held, a decision
19 after completion of such hearing shall be final.
20 If, after a hearing, the Administrator issues a
21 determination that the application is incom-
22 plete, the registration shall expire. Notwith-
23 standing any other provision of this Act, a
24 hearing shall be held and a determination made
25 within 75 days after receipt of a request for

1 such hearing. If a registrant fails to submit a
2 request for a hearing under this subsection, the
3 registration shall expire automatically upon the
4 expiration date and the expiration of the reg-
5 istration shall not be reviewable in any court.

6 “(B) INSUFFICIENT INFORMATION.—Not-
7 withstanding any other provision of this section,
8 if the Administrator determines that the infor-
9 mation submitted for an active ingredient for
10 which registration renewal is required is insuffi-
11 cient to permit the Administrator to evaluate
12 the active ingredient under the requirements of
13 section 3(c)(5), the Administrator shall notify
14 each registrant to which the determination ap-
15 plies at least 30 days prior to the expiration
16 date for such registrations that each registra-
17 tion shall expire upon the expiration date unless
18 the registrant has requested a hearing before
19 such time. If a hearing is requested, the only
20 matter for resolution at that hearing shall be
21 whether the Administrator’s determination was
22 reasonable that the information submitted is in-
23 sufficient to evaluate the active ingredient
24 under section 3(c)(5). If a hearing is held, a de-
25 cision after completion of such hearing shall be

1 final. If after a hearing, the Administrator is-
2 sues a determination that the information sub-
3 mitted is insufficient to permit the Adminis-
4 trator to evaluate the active ingredient under
5 the requirements of section 3(c)(5), the reg-
6 istration shall expire. Notwithstanding any
7 other provision of this Act, a hearing shall be
8 held and a determination made within 75 days
9 after receipt of a request for such hearing. If a
10 registrant fails to submit a request for a hear-
11 ing under this subsection, the registration shall
12 expire automatically upon the expiration date
13 and the expiration of the registration shall not
14 be reviewable in any court.

15 “(6) CANCELLATION.—If the Administrator de-
16 termines on the basis of a registrant’s application or
17 any other information that one or more uses of an
18 active ingredient for which registration renewal is re-
19 quired does not meet the requirements of section
20 3(c)(5) of this Act, the Administrator shall initiate
21 a proceeding to cancel all registrations containing
22 such active ingredient to which the determination
23 applies under section 6(b) of this Act. Registrations
24 subject to cancellation proceedings shall neither ex-
25 pire nor be renewed pending the completion of can-

1 cellation proceedings. If, after completion of can-
2 cellation proceedings under section 6(b), the Admin-
3 istrator determines not to cancel a registration, the
4 Administrator shall renew such registration.

5 “(7) FEES.—

6 “(A) The Administrator is authorized to
7 issue regulations to assess fees from registrants
8 reasonably calculated to cover costs associated
9 with the review of registrations pursuant to this
10 subsection.

11 “(B) If any fee prescribed by regulations
12 issued pursuant to this paragraph with respect
13 to the registration of a pesticide is not paid by
14 the time prescribed by such regulations, the Ad-
15 ministrator, by order and without hearing, may
16 cancel the registration.

17 “(8) REGISTRATION RENEWAL FUND.—

18 “(A) ESTABLISHMENT.—There shall be es-
19 tablished in the Treasury of the United States
20 a registration renewal fund.

21 “(B) SOURCE AND USE.—All fees collected
22 by the Administrator under paragraph (6) shall
23 be deposited into the fund and shall be available
24 to the Administrator, without fiscal year limita-

1 tion, to carry out the provisions of subsection
2 (g) of this Act.

3 “(9) EXISTING STOCKS.—Whenever a pesticide
4 registration expires pursuant to this subsection, the
5 Administrator may issue an order allowing continued
6 distribution, sale or use of existing stock of the ex-
7 pired pesticide subject to such conditions and limita-
8 tions as the Administrator may specify, provided
9 such distribution, sale or use is consistent with the
10 provisions of the Act.”.

11 **SEC. 3. IMPORTS AND EXPORTS.**

12 (a) EXPORTS.—Section 17 (7 U.S.C. 136o) is amend-
13 ed to read as follows:

14 “(a) CANCELLATION NOTICES FURNISHED TO FOR-
15 EIGN GOVERNMENTS.—Whenever a registration or a can-
16 cellation or suspension of the registration of a pesticide
17 becomes effective, or ceases to be effective, the Adminis-
18 trator shall transmit, not later than 180 days after the
19 effective date of the action, notification of the action to
20 the governments of other countries and to appropriate
21 international agencies. The notification shall include infor-
22 mation related to the cancellation or suspension of the reg-
23 istration of the pesticide and information concerning other
24 pesticides that are registered under section 3 and other

1 alternatives including Integrated Pest Management, that
2 could be used in lieu of the pesticide.

3 “(b) CERTAIN PESTICIDES PROHIBITED FROM EX-
4 PORT.—

5 “(1) PESTICIDES CONTAINING ACTIVE INGREDI-
6 ENTS BANNED BECAUSE OF ADVERSE EFFECTS ON
7 HUMAN HEALTH OR THE ENVIRONMENT.—

8 “(A) Except as provided in subparagraph
9 (B) or (C), no person may export to a foreign
10 country a pesticide that contains an active in-
11 gredient if all or virtually all use of the active
12 ingredient in the United States has been pro-
13 hibited. An active ingredient is subject to the
14 preceding sentence if any of the following has
15 occurred:

16 “(i) Registrations of pesticides con-
17 taining the active ingredient have been sus-
18 pended or canceled by the Administrator.

19 “(ii) Applications for registration of
20 pesticides containing the active ingredient
21 have been denied by the Administrator.

22 “(iii) Applications for registration of
23 pesticides containing the active ingredient
24 have been withdrawn by the registrant vol-
25 untarily.

1 “(iv) Registrations of the pesticide
2 have been canceled by the registrant volun-
3 tarily.

4 “(v) Tolerances under section 408 of
5 the Federal Food, Drug, and Cosmetic Act
6 (21 U.S.C. 346a) for the active ingredient
7 have been revoked; and, as a result, all or
8 virtually all volume of the active ingredient
9 may not be used lawfully in the United
10 States.

11 “(B) The Administrator shall permit the
12 export of a pesticide subject to the prohibitions
13 of paragraph (A) solely because of actions de-
14 scribed in subparagraph A (iii) or (iv), if the
15 Administrator publishes after notice and oppor-
16 tunity for public comment a determination that
17 the Administrator is unaware of any informa-
18 tion indicating use of the pesticide could pose a
19 risk of significant adverse effects on public
20 health or the environment.

21 “(C) The Administrator shall permit the
22 export of a pesticide to a specific importing
23 country if—

24 “(i) the Administrator finds, after no-
25 tice and opportunity for comment, that the

1 pesticide is not subject to a prohibition of
2 subparagraph (A) for any reason related to
3 an adverse human health effect; and

4 “(ii) the importing country has in-
5 formed the Administrator in writing that
6 the country wishes to import the pesticide
7 and affirms that the country is aware that
8 all or virtually all uses of the pesticide are
9 prohibited in the United States.

10 A finding under this subparagraph shall be ef-
11 fective for 1 year, except that the Administrator
12 may renew the finding if the importing country
13 informs the Administrator annually in writing
14 that it wishes to continue to import the pes-
15 ticide.

16 “(D) The Administrator shall, after oppor-
17 tunity for comment, establish and keep current
18 a list of pesticide active ingredients which the
19 Administrator determines are described in para-
20 graph (1)(A). The Administrator shall publish
21 such list in the Federal Register initially within
22 six months of the date of enactment of this
23 paragraph and shall publish any additions to or
24 deletions from the list promptly upon the Ad-

1 administrator’s determination that the list should
2 be amended.

3 “(E) The omission of any active ingredient
4 from the list published pursuant to subpara-
5 graph (D) that is subject to the restrictions of
6 paragraph (1)(A) shall not limit the authority
7 of the Administrator to initiate enforcement ac-
8 tion under this Act with regard to a pesticide
9 containing such active ingredient exported in
10 violation of paragraph (1)(A).

11 “(2) PESTICIDES SUBJECT TO OBJECTIONS
12 FROM IMPORTING COUNTRIES.—

13 “(A) The Administrator shall, by order,
14 prohibit persons from exporting a pesticide to a
15 foreign country that has informed in writing the
16 Administrator, or an international agency of
17 which the United States is a member, that the
18 country does not wish to import the pesticide
19 and the foreign country certifies that it—

20 “(i) is not producing and will not
21 produce the pesticide for use in the coun-
22 try;

23 “(ii) is not importing and will not im-
24 port the pesticide from any other country;
25 and

1 “(iii) does not wish to import the pes-
2 ticide because of concerns of the country
3 above adverse effects on human health or
4 the environment.

5 “(B) The Administrator shall issue an
6 order under subparagraph (A) not later than 30
7 days after receipt of the certification.

8 “(C) If the Administrator determines, after
9 notice and opportunity for comment, that a for-
10 eign country is not in compliance with a certifi-
11 cation provided under subparagraph (A), the
12 Administrator shall promptly withdraw the
13 order issued under subparagraph (A). The with-
14 drawal shall become effective on publication in
15 the Federal Register.

16 “(3) REQUIREMENT FOR A METHOD OF RESI-
17 DUE DETECTION IN FOOD.—No person may export
18 a pesticide unless—

19 “(A) there is a tolerance or an exemption
20 from the requirement of tolerance under para-
21 graph (3) or (4) of section 408(d) of the Fed-
22 eral Food, Drug, and Cosmetic Act (21 U.S.C.
23 346a(d)) governing residues of each ingredient
24 in the pesticide in at least one food;

1 “(B) there is a practical method for detect-
2 ing residues of each ingredient in the pesticide
3 in or on foods and the Administrator has an ap-
4 propriately certified pesticide reference stand-
5 ard; or

6 “(C) the Administrator determines that
7 the pesticide is not likely to be used in a man-
8 ner resulting in pesticide residues in or on im-
9 ported foods.

10 “(4) PESTICIDES THAT HAVE NEVER BEEN
11 REGISTERED UNDER SECTION 3.—

12 “(A) No person may export a pesticide to
13 a foreign country if any ingredient of the pes-
14 ticide has not been and is not the subject of any
15 registration under section 3, unless the Admin-
16 istrator determines that—

17 “(i)(I) for each active ingredient,
18 there is a tolerance greater than zero or an
19 exemption from the requirement for a tol-
20 erance under paragraph (3) or (4) of sec-
21 tion 408(d) of the Federal Food, Drug,
22 and Cosmetic Act (21 U.S.C. 346a(d)); or

23 “(II) residues of the pesticide on food
24 have been permitted or the pesticide has
25 been approved for use in at least 3 coun-

1 tries that evaluate pesticides prior to mar-
2 keting in accordance with internationally
3 recognized scientific standards and on the
4 basis of a competent, independent, sci-
5 entific review of public health and environ-
6 ment risks; and

7 “(ii) the country of import partici-
8 pates in the United Nations Environment
9 Program-Food and Agriculture Organiza-
10 tion system for exchange of information on
11 pesticides in international trade, or has
12 equivalent provisions in place.

13 “(B) Any person may petition the Admin-
14 istrator to withdraw the determination under
15 subparagraph (A) that a pesticide may be ex-
16 ported.

17 “(5) RESTRICTIONS ON THE EXPORT OF SMALL
18 QUANTITIES OF PESTICIDES FOR RESEARCH AND
19 DEVELOPMENT.—Notwithstanding paragraphs (1)
20 and (4), the Administrator may permit the export of
21 a small quantity of a pesticide to a foreign country
22 solely for purposes of research and development, but
23 not test marketing. The Administrator, however,
24 shall not permit the export of such a pesticide if it
25 contains any active ingredient which has been pro-

1 hibited for all or virtually all uses and for which the
2 Administrator has not made the determination in
3 (1)(B). Export of a pesticide under this subpara-
4 graph shall be subject to such quantity limitations,
5 notification, reporting and labeling requirements as
6 are necessary to determine the nature and extent of
7 such research and development activities and to en-
8 sure that the pesticide will be used solely for re-
9 search and development in the country.

10 “(c) REQUIREMENT FOR FOREIGN PURCHASER AC-
11 NOWLEDGEMENT STATEMENT.—In the case of an unreg-
12 istered pesticide other than a pesticide covered by para-
13 graph (1) of subsection (b), the exporter shall obtain from
14 the foreign purchaser a signed statement acknowledging
15 that the purchaser understands that the pesticide is not
16 registered for use in the United States and cannot be sold
17 in the United States under this Act. A copy of the state-
18 ment shall be transmitted to the Administrator and to an
19 appropriate official of the importing country.

20 “(d) INFORMATION ON ALTERNATIVES.—The Ad-
21 ministrator shall develop and update annually a circular
22 describing environmentally preferable alternatives and
23 pest management techniques to exported pesticides that
24 are not registered under section 3 or registered pesticides
25 that are exported pursuant to paragraph (1)(C) of sub-

1 section (b) of this section. The Administrator shall trans-
2 mit the circular and the annual update of the circular to
3 the governments of other countries and to appropriate
4 international organizations.

5 “(e) PESTICIDES OR DEVICES INTENDED FOR EX-
6 PORT.—No pesticide or device may be exported to a for-
7 eign country unless—

8 “(1) the pesticide or device complies with this
9 section and sections 2(p), 2(q), 7, 8, 19(a), and
10 19(e); and

11 “(2) the label of the pesticide—

12 “(A) is written in an official language of
13 the country of use; and

14 “(B) to the extent not in conflict with re-
15 quirements of the country of use, contains all
16 health, safety, environmental, and other related
17 information required to be included under sec-
18 tion 3 on the labeling for the pesticide for use
19 in the United States, if the product is reg-
20 istered under Section 3 of this Act.

21 “(f) PRODUCT STEWARDSHIP.—

22 “(1) REGULATIONS.—To promote proper prod-
23 uct stewardship, the Administrator shall, by regula-
24 tion, require a person who exports a pesticide from
25 the United States to comply with the product stew-

1 ardship provisions of the 1993 International Code of
2 Conduct on the Distribution and Use of Pesticides
3 of the Food and Agricultural Organization of the
4 United Nations. The Administrator may amend such
5 regulations to require persons who export pesticides
6 to comply with any amendments to such code as the
7 Administrator deems necessary.

8 “(2) NONCOMPLIANCE.—If the Administrator
9 determines after providing notice and opportunity
10 for informal hearing that an exporter of pesticides
11 has demonstrated a pattern of noncompliance with a
12 regulation issued under paragraph (1), the Adminis-
13 trator—

14 “(A) shall publish in the Federal Register
15 the finding of the Administrator with respect to
16 the noncompliance; and

17 “(B) may prohibit the exporter from ex-
18 porting pesticides for a period of not more than
19 180 days unless the noncompliance has not
20 been corrected by the end of the period.

21 “(g) CONFIDENTIALITY OF EXPORT INFORMA-
22 TION.—

23 “(1) Notwithstanding sections 7(d) and 10(b),
24 the Administrator shall make available to the public
25 on request without restriction the following informa-

1 tion in the possession of the Administrator concern-
2 ing exports of pesticides:

3 “(A) The identity of the producer and ex-
4 porter of an exported pesticide.

5 “(B) The active ingredients in an exported
6 pesticide.

7 “(C) The name of an exported pesticide.

8 “(D) The date of export.

9 “(E) The countries to which a pesticide is
10 exported, including the countries of final des-
11 tination.

12 “(2) The Administrator shall make available to
13 the public upon request information specified by
14 paragraph (1) concerning the export of a pesticide
15 solely in small quantities for purposes of research
16 and development only to the extent that such infor-
17 mation would be subject to disclosure if it concerned
18 a pesticide used for similar research and develop-
19 ment purposes in the United States, provided the ex-
20 porter, in accordance with rules issued by the Ad-
21 ministrator, certifies to the Administrator, in writ-
22 ing, that the pesticide is being exported solely in
23 small quantities for purposes of research and devel-
24 opment.

1 “(h) RECORDS.—Any person who distributes or sells
2 a pesticide for export shall submit to the Administrator
3 records of the distribution or sale under such conditions
4 as the Administrator may prescribe by regulation. No reg-
5 ulation issued pursuant to this subsection shall require
6 any person to duplicate reporting of any information oth-
7 erwise required to be reported by the person under section
8 7.

9 “(i) ANNUAL EXPORTS REPORT.—The Adminis-
10 trator shall prepare and make available to the public an
11 annual report beginning with the first full calendar year
12 following the year of enactment of this subsection. The
13 report shall include a description of the identities, aggre-
14 gate quantities, and destinations of pesticides exported to
15 foreign countries during each calendar year, to the extent
16 the Administrator determines that disclosure of the infor-
17 mation is consistent with the requirements of section 10.

18 “(j) FEES.—

19 “(1) AUTHORITY.—The Administrator may
20 issue regulations to assess fees on pesticide reg-
21 istrants that are reasonably calculated to cover costs
22 associated with carrying out this section.

23 “(2) ESTABLISHMENT OF FUND.—There shall
24 be established in the Treasury of the United States
25 a fund to carry out this section.

1 “(3) SOURCE AND USE.—All fees collected by
2 the Administrator under paragraph (1) shall be de-
3 posited into the fund, and thereafter, shall be avail-
4 able until extended, subject to appropriation, to
5 carry out this section.

6 “(k) TECHNICAL ASSISTANCE PROGRAMS.—

7 “(1) IN GENERAL.—The Administrator is au-
8 thorized to use each fiscal year not more than
9 \$4,000,000 to provide countries technical assistance
10 in—

11 “(A) safe handling and use of pesticides;

12 “(B) alternative methods of pest control;

13 “(C) strengthening of pesticide regulatory
14 institutions;

15 “(D) provision of technical information;

16 “(E) support for pesticide management
17 and safety training programs; and

18 “(F) coordination with assistance efforts
19 conducted by other donor or international orga-
20 nizations.

21 “(2) PRIORITY.—Priority for assistance under
22 this subsection shall be given to developing countries
23 that are major sources of food imported into the
24 United States.

1 “(3) COORDINATION WITH THE UNITED STATES
2 AGENCY FOR INTERNATIONAL DEVELOPMENT.—To
3 ensure full consistency with ongoing U.S. AID tech-
4 nical assistance programs in those areas, all EPA
5 activities conducted under this section in countries
6 that receive U.S. AID assistance shall be undertaken
7 in close cooperation with the Administrator of U.S.
8 AID.

9 “(l) IMPORTATION OF PESTICIDES AND DEVICES.—

10 “(1) IN GENERAL.—The Secretary of the
11 Treasury shall—

12 “(A) notify the Administrator of the arriv-
13 al of pesticides and devices;

14 “(B) deliver to the Administrator, on the
15 request of the Administrator, samples of pes-
16 ticides or devices that are being imported into
17 the United States; and

18 “(C) give notice to the owner or consignee
19 of the pesticide or device.

20 “(2) OPPORTUNITY TO BE HEARD.—The owner
21 or consignee may appear before the Administrator
22 and introduce testimony.

23 “(3) VIOLATIONS.—If it appears from the ex-
24 amination of a sample that the sample is adulter-

1 ated, misbranded, otherwise violates this Act, or is
2 otherwise injurious to health or the environment—

3 “(A) the pesticide or device may be refused
4 admission; and

5 “(B) the Secretary of the Treasury may—

6 “(i) refuse delivery to the consignee;
7 and

8 “(ii) cause the destruction of any pes-
9 ticide or device refused delivery.

10 “(4) NONEXPORT.—A pesticide or device that is
11 refused admission shall not be exported unless the
12 export conforms to the requirements of subsection
13 (c) and such regulations as the Secretary of the
14 Treasury may prescribe, except in accordance with
15 this section.

16 “(5) BOND.—The Secretary of the Treasury
17 may deliver to the consignee the pesticide or device
18 pending examination and decision in the matter on
19 execution of bond for the amount of the full invoice
20 value of the pesticide or device, together with the
21 duty on the pesticide or device. If the consignee re-
22 fuses to return the pesticide or device for any cause
23 to the custody of the Secretary of the Treasury,
24 when demanded, for the purpose of excluding the
25 pesticide or device from the United States, or for

1 any other purpose, the consignee shall forfeit the full
2 amount of the bond.

3 “(6) CHARGES.—All charges for storage, cart-
4 age, and labor on pesticides or devices that are re-
5 fused admission or delivery shall be paid by the
6 owner or consignee. Any default of the payment
7 shall constitute a lien against any future importation
8 made by the owner or consignee.

9 “(7) REGULATIONS.—The Secretary of the
10 Treasury, in conjunction with the Administrator,
11 shall prescribe regulations for the administration
12 and enforcement of this subsection.

13 “(m) COOPERATION IN INTERNATIONAL EFFORTS.—

14 “(1) PRESIDENT.—The President is encouraged
15 to pursue appropriate international agreements or
16 arrangements to address notification programs and
17 trade in pesticides consistent with this Act.

18 “(2) ADMINISTRATOR.—The Administrator is
19 encouraged to, in cooperation with the Secretary of
20 State, the Administrator of the Agency for Inter-
21 national Development and the head of any other ap-
22 propriate Federal agency, participate and cooperate
23 in any international efforts to develop improved pes-
24 ticide research and regulations.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) REGISTRATION OF ESTABLISHMENTS.—Sec-
2 tion 7(c) (7 U.S.C. 136e(c)) is amended—

3 (A) by striking paragraph (1) and insert-
4 ing the following new paragraph:

5 “(1) IN GENERAL.—

6 “(A) Any producer operating an establish-
7 ment registered under this section shall inform
8 the Administrator within 30 days after the es-
9 tablishment is registered of the types and quan-
10 tities of pesticides and active ingredients used
11 in producing pesticides that the producer—

12 “(i) is currently producing;

13 “(ii) has produced during the past
14 365-day period; and

15 “(iii) has sold or distributed during
16 the past 365-day period.

17 “(B) Any producer operating an establish-
18 ment registered under this section shall inform
19 the Administrator within 30 days after the es-
20 tablishment is registered of—

21 “(i) the types and quantities of pes-
22 ticides, and active ingredients used in pro-
23 ducing pesticides, that are produced for ex-
24 port to a foreign county; and

1 “(ii) the date of export and quantity
2 of pesticides and active ingredients ex-
3 ported to each foreign county to which the
4 producer has exported during the past
5 365-day period.

6 “(C) The information required by this
7 paragraph shall be kept current and submitted
8 to the Administrator annually as required under
9 such regulations as the Administrator may pre-
10 scribe.”; and

11 (B) in subparagraph (2) by striking “(2)”,
12 and inserting “(2) STOP SALE ORDERS.”.

13 (2) UNLAWFUL ACTS.—Section 12(a)(2) (7
14 U.S.C. 136j(a)(2)) is amended—

15 (A) by striking “or” at the end of subpara-
16 graph (R);

17 (B) by striking the period at the end of
18 subparagraph (S) and inserting “; or”; and

19 (C) by adding at the end the following:

20 “(T) to export any pesticide in violation of sec-
21 tion 17 or to violate any regulation or order issued
22 under section 17.”.

23 (3) ADVERSE EFFECTS INFORMATION.—Section
24 6(a) (7 U.S.C. 136c(a)) is amended by adding at the
25 end the following: “EFFECTIVE DATE.—

1 “(A) The prohibitions in section 17(b)
2 shall become effective 30 days after the date of
3 enactment of the Federal Insecticide, Fun-
4 gicide, and Rodenticide Act Amendments of
5 1994.

6 “(3) Any person, who exports a pesticide or
7 who produces a pesticide for export, shall submit to
8 the Administrator—

9 “(A) any factual information regarding un-
10 reasonable adverse effects on the environment
11 of the pesticide; and

12 “(B) any information regarding the regu-
13 latory status of such pesticide in other countries
14 that would affect whether the pesticide may be
15 exported.”.

16 **SEC. 4. CANCELLATION.**

17 (a) Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended
18 to read as follows:

19 “(6) DENIAL OF REGISTRATION.—If the Ad-
20 ministrator determines that the requirements of
21 paragraph (5) for registration are not satisfied, the
22 Administrator may issue a notice proposing denial of
23 registration. Such a notice shall include the legal
24 and factual bases for the denial. The Administrator
25 shall send a notice proposing denial to the applicant

1 for registration and shall promptly publish the notice
2 in the Federal Register. Subsequent action on the
3 proposed denial shall be in accord with the applica-
4 ble provisions of section 6(b).”.

5 (b) Section 3(d)(2) (7 U.S.C. 136a(d)(2)) is amended
6 to read as follows:

7 “(2) CHANGE IN CLASSIFICATION.—If the Ad-
8 ministrator determines that a change in the classi-
9 fication of any use of a pesticide from general use
10 to restricted use is necessary because, without such
11 restriction, the use may cause unreasonable adverse
12 effects on the environment, he shall follow the appli-
13 cable provisions of section 6(b).”.

14 (c) Section 6(b) (7 U.S.C. 136d(b)) is amended to
15 read as follows:

16 “(b) CANCELLATION, DENIAL OF REGISTRATION,
17 CHANGE IN CLASSIFICATION.—

18 “(1) STANDARD FOR CANCELLATION.—The Ad-
19 ministrator may cancel, deny application for reg-
20 istration of, or change the classification of a pes-
21 ticide if the Administrator determines that—

22 “(A) the pesticide generally causes unrea-
23 sonable adverse effects on the environment
24 when used in accordance with widespread and
25 commonly recognized practice; or

1 “(B) the pesticide product or its labeling
2 or other material required to be submitted by
3 the Act do not comply with the requirements of
4 the Act.

5 The proponents of registration of a pesticide shall at
6 all times have the burden of showing that the stand-
7 ard for cancellation, denial or change in classifica-
8 tion is not met.

9 “(2) CONSULTATION WITH FEDERAL AGEN-
10 CIES.—If the Administrator intends to cancel or
11 change the classification of a pesticide registered for
12 agricultural uses, the Administrator shall consult
13 with the Secretary of Agriculture regarding the pro-
14 posed action and provide an opportunity to submit
15 written comments. If the Administrator intends to
16 cancel or change the classification of a pesticide reg-
17 istered for public health uses, the Administrator
18 shall consult with the Secretary of Health and
19 Human Services regarding the proposed action and
20 provide an opportunity to submit written comments.

21 “(3) PROPOSED ORDER.—If the Administrator
22 determines that the standard for canceling, denying
23 application for registration of, or changing the clas-
24 sification of a pesticide may be met, the Adminis-
25 trator may issue a proposed order to cancel, deny or

1 change the classification of a pesticide. In issuing
2 any proposed order under this paragraph, the Ad-
3 ministrator shall consider restricting a pesticide's
4 use or uses as an alternative to cancellation. The
5 Administrator shall send a copy of the proposed
6 order to each registrant holding a registration ad-
7 dressed by the proposed order and shall publish the
8 proposed order in the Federal Register. The pro-
9 posed order shall include (or incorporate by ref-
10 erence to publicly available documents) the following:

11 “(A) A statement of the factual and legal
12 bases for the proposed action.

13 “(B) If the pesticide is used to produce an
14 agricultural commodity, a general analysis of
15 the impact of the proposed action on consum-
16 ers, retail food prices, production of agricultural
17 commodities, and otherwise on the agricultural
18 economy.

19 “(C) A copy of any written comments on
20 the proposed action submitted by the Secretary
21 of Agriculture, the Secretary of Health and
22 Human Services, or the Scientific Advisory
23 Panel.

24 “(D) The changes, if any, in the terms and
25 conditions of registration that a registrant

1 would need to make in order for the Adminis-
2 trator to conclude that cancellation or change in
3 classification would not be appropriate.

4 “(E) Notice of the availability of an infor-
5 mal public hearing.

6 “(4) PROCEDURES FOR PROPOSED CANCELLA-
7 TION ORDERS, DENIALS OF APPLICATIONS FOR REG-
8 ISTRATION, OR CHANGES IN CLASSIFICATION.—

9 “(A) The registrant or applicant for reg-
10 istration, and any other interested person, shall
11 be afforded an opportunity to comment on a
12 proposed cancellation order, denial of applica-
13 tion for registration, or change in classification,
14 for at least ninety days after publication of the
15 proposal in the Federal Register.

16 “(B) The registrant or applicant for reg-
17 istration, and any other interested person, may
18 request that the Administrator hold an informal
19 public hearing during the comment period. Re-
20 quests for hearing must be filed within twenty-
21 one days of publication of a proposed cancella-
22 tion order, denial of application, or change in
23 classification in the Federal Register. The Ad-
24 ministrator may deny such request if holding a
25 hearing would not be in the public interest.

1 “(C) No final order to cancel, change clas-
2 sification, or deny application may be issued
3 under paragraph (6) of this section before the
4 appropriate comment period has expired.

5 “(D) If a final order to cancel or change
6 classification differs significantly from a pro-
7 posed order, the Administrator shall, prior to
8 issuing the final order, consult with the Sec-
9 retary of Agriculture and the Secretary of
10 Health and Human Services under the condi-
11 tions set forth in paragraph (b)(2) of this sec-
12 tion.

13 “(5) INFORMAL PUBLIC HEARING.—

14 “(A) If a timely request for an informal
15 public hearing is made on a proposed cancella-
16 tion, change in classification, or denial of appli-
17 cation, and the Administrator determines that a
18 hearing shall be held, the Administrator shall
19 publish in the Federal Register a notice of
20 hearing, and shall send a copy of such notice to
21 any person who requested such a hearing. Such
22 notice shall identify a time and location for the
23 hearing, and shall specify such procedures for
24 the hearing as the Administrator may deter-
25 mine appropriate. Any interested person shall

1 be given an opportunity to appear at the hear-
2 ing, either in person or through an authorized
3 counsel or representative, and to be heard with
4 respect to the proposed order. The Adminis-
5 trator shall appoint a hearing officer to preside
6 over the hearing. The hearing officer shall
7 cause a verbatim transcript of the hearing to be
8 kept. Such transcript, and any written material
9 submitted at a hearing in accordance with any
10 requirements set forth in the notice of hearing,
11 shall be a part of the record of the proceeding.

12 “(B) If the Administrator denies a timely
13 request for hearing, the Administrator shall
14 publish in the Federal Register a notice of de-
15 nial and the reasons therefor, and shall send a
16 copy of such notice to any person who re-
17 quested such hearing.

18 “(6) FINAL ORDERS.—

19 “(A) If no comments opposing the pro-
20 posed action are submitted by registrants or
21 other interested persons during the comment
22 period provided pursuant to paragraph (4) or at
23 any hearing held pursuant to paragraph (5),
24 and if, in the case of a proceeding to cancel or
25 change the classification of a pesticide, a reg-

1 istrant does not file a timely application for
2 amendment of registration to implement the
3 changes, if any, specified in the proposed order
4 pursuant to subparagraph (b)(3)(iv) of this sec-
5 tion, the Administrator may issue a summary
6 final order canceling registration, denying appli-
7 cation for registration, or changing classifica-
8 tion. Such final order shall be published in the
9 Federal Register and sent to each registrant of,
10 and applicant for, a registration addressed by
11 the final order. Such final order shall not be
12 subject to judicial review.

13 “(B) If, after reviewing comments submit-
14 ted pursuant to paragraph (4), and the record
15 compiled at any informal hearing held pursuant
16 to paragraph (5), the Administrator determines
17 that the standard for cancellation of registra-
18 tion, denial of application for registration, or
19 change in classification is met, the Adminis-
20 trator shall publish a final order of cancellation,
21 denial of application, or change in classification
22 in the Federal Register and shall send a copy
23 of such order to each applicant for, or reg-
24 istrant holding, a registration addressed by the
25 final order. The final order shall include (or in-

1 corporate by reference to publicly available doc-
2 uments) the following:

3 “(i) The factual and legal bases for
4 the final order.

5 “(ii) A summary of the significant
6 comments submitted either in writing or
7 orally at a hearing by the public and, in
8 the case of a proposed cancellation order,
9 by the Secretary of Agriculture, the Sec-
10 retary of Health and Human Services, the
11 Scientific Advisory Panel, and the Admin-
12 istrator’s responses to those comments.

13 “(iii) In the case of a proceeding for
14 the cancellation or change in classification
15 of a pesticide used in the production of an
16 agricultural commodity, a general analysis
17 of the impact of the action on consumers,
18 retail food prices, production of agricul-
19 tural commodities, and otherwise on the
20 agricultural economy.

21 “(iv) In the case of a final order can-
22 celing or changing the classification of a
23 pesticide, a description of the changes, if
24 any, in the terms and conditions of reg-
25 istration of a pesticide product that a reg-

1 istrant would need to make in order for
2 the final order not to apply to the product.
3 Final orders issued pursuant to this subpara-
4 graph will be effective upon publication in the
5 Federal Register, except that in the case of a
6 final order where the Administrator has estab-
7 lished terms and conditions as an alternative to
8 cancellation or change in classification pursuant
9 to subclause (iv), the order shall not be effective
10 until thirty days after publication in the Fed-
11 eral Register, and a product will not be can-
12 celed nor its classification changed pursuant to
13 the order if a registrant, within such 30 days
14 time period, has applied to amend its registra-
15 tion to comply with the specified terms and con-
16 ditions.

17 “(C) if, after reviewing the comments sub-
18 mitted pursuant to paragraph (4), and the
19 record compiled at any informal hearing held
20 pursuant to paragraph (5), the Administrator
21 determines not to cancel, deny application, or
22 change classification, the Administrator shall
23 publish in the Federal Register a final decision
24 to that effect and shall send a copy of such de-
25 cision to each registrant of, and applicant for,

1 a registration addressed by the proposed order.
2 Such decision shall include the information de-
3 scribed by clauses (i)–(iii) of subparagraph (B)
4 of this paragraph. Such a decision shall be ef-
5 fective upon publication.

6 “(7) PETITIONS TO SUSPEND, CANCEL, DENY
7 APPLICATION OR CHANGE CLASSIFICATION.—

8 “(A) Any person may, at any time, petition
9 the Administrator to suspend or cancel a reg-
10 istration pursuant to this section or to deny an
11 application for registration or change the classi-
12 fication on a pesticide pursuant to section 3 of
13 this Act. Such a petition must include the fac-
14 tual and legal bases supporting the petition.

15 “(B) If the Administrator determines that
16 the requested action is necessary to serve the
17 purposes of the Act, the Administrator shall
18 suspend the pesticide or issue a proposed order
19 to cancel, deny application, or change classifica-
20 tion, and the appropriate provisions of sections
21 3 or 6 shall apply.

22 “(C) If the Administrator denies the peti-
23 tion, the Administrator shall issue an order
24 specifying the basis for such denial.

1 “(8) EFFECT OF FINAL ORDER OF CANCELLA-
2 TION, DENIAL OF APPLICATION, OR CHANGE IN
3 CLASSIFICATION.—

4 “(A) The Administrator may issue an
5 order summarily denying any application for
6 registration or amendment under section 3 or
7 24 of this Act, or application for exemption
8 pursuant to section 18 of this Act, with respect
9 to a pesticide that has been subject to a final
10 order issued pursuant to this section canceling
11 registration, denying application for registra-
12 tion, or changing classification, unless the ap-
13 plicant has presented substantial new informa-
14 tion which—

15 “(i) may materially affect the basis
16 for or content of the prior order;

17 “(ii) was not available to the Adminis-
18 trator at the time he issued the final order;

19 and

20 “(iii) could not, through the exercise
21 of due diligence, have been available to the
22 applicant prior to the issuance of the final
23 order.

24 If the Administrator determines that the appli-
25 cant has not provided substantial new informa-

1 tion complying with the requirements set forth
2 in this subparagraph, the Administrator may
3 issue an order summarily denying the applica-
4 tion and shall send a copy of such order to the
5 applicant.

6 “(B) If, after review of an application (and
7 supporting data submitted by the applicant) for
8 a registration or amendment pursuant to sec-
9 tion 3 or 24 of this Act, the Administrator de-
10 termines that the applicant has submitted sub-
11 stantial new information and that reconsider-
12 ation of the prior final order may be warranted,
13 the Administrator shall publish a notice in the
14 Federal Register announcing that the Adminis-
15 trator is reconsidering the prior final order.
16 Such notice shall describe the nature of the ap-
17 plication, contain the factual and legal bases for
18 the Administrator’s determination that recon-
19 sideration may be warranted, and shall provide
20 an opportunity of at least 60 days for interested
21 persons to comment on the issues of whether
22 reconsideration should be granted and whether
23 the application should be granted.

24 “(C) After the opportunity for comment on
25 a notice issued pursuant to section 6(b)(8)(B)

1 has expired, the Administrator shall publish a
2 final decision in the Federal Register either de-
3 nying the application or granting reconsider-
4 ation of the prior final order to the extent nec-
5 essary to consider the application. A final deci-
6 sion granting reconsideration may, at the Ad-
7 ministrator’s discretion, contain a final deter-
8 mination granting or rejecting the application.
9 If such a final determination is not contained in
10 a final decision granting reconsideration, the
11 application shall be reviewed according to the
12 provisions of section 3 or 24 as appropriate.

13 “(D)(i) If the Administrator grants recon-
14 sideration, but denies the application, the Ad-
15 ministrator shall publish in the Federal Reg-
16 ister a notice proposing denial of registration
17 pursuant to section 3(c)(6) of this Act. Such a
18 notice may be contained in a final decision
19 granting reconsideration issued pursuant to sec-
20 tion 6(b)(8)(B). Subsequent action on the pro-
21 posed denial shall be in accord with the applica-
22 ble provisions of section 6(b).

23 “(ii) If the Administrator determines, after
24 granting reconsideration, that the application
25 should be granted, he shall publish in the Fed-

1 eral Register a notice granting the application.
2 Such a notice may be contained in a final deci-
3 sion granting reconsideration issued pursuant
4 to section 6(b)(8)(B).

5 “(9) EXISTING STOCKS.—The Administrator
6 may permit the continued sale and use of existing
7 stocks of a pesticide whose registration is canceled
8 under this Act to such extent, under such conditions,
9 and for such uses as the Administrator may specify
10 if such sale or use is not inconsistent with the pur-
11 poses of this Act and will not have unreasonable ad-
12 verse effects on the environment.”.

13 “(d) CONFORMING AMENDMENT.—Section 25(d) (7
14 U.S.C. 136w(d)) is amended to read as follows:

15 “(d) SCIENTIFIC ADVISORY PANEL.—Prior to issu-
16 ance of a proposed order under section 6(b), the Adminis-
17 trator shall notify an advisory panel of such action and
18 shall provide such panel an opportunity to submit written
19 comments as to the impact on health and the environment
20 of such proposed orders. The Administrator shall submit
21 proposed and final form regulations issued under section
22 25(a) within the same time periods as provided for the
23 comments of the Secretary of Agriculture. The time re-
24 quirements for proposed and final form regulations may
25 not be modified or waived unless in addition to meeting

1 the requirements of section 25(a), the advisory panel has
2 failed to comment on the proposed action within the pre-
3 scribed time period or has agreed to the modification or
4 waiver.”.

5 **SEC. 5. COORDINATION WITH THE FEDERAL FOOD, DRUG,**
6 **AND COSMETIC ACT.**

7 Section 6 (7 U.S.C. 136d) is amended by adding at
8 the end the following:

9 “(i) COORDINATION WITH THE FOOD, DRUG, AND
10 COSMETIC ACT.—

11 “(1) The Administrator shall, by order and
12 without a hearing, cancel a pesticide registration, or
13 deny the application for registration or amended
14 registration of a pesticide if the Administrator has
15 revoked a tolerance regulation or denied a petition
16 to establish a tolerance regulation under section 408
17 of title 21 of the United States Code for residues of
18 the pesticide in or on food that could result from the
19 use of the pesticide, unless the Administrator deter-
20 mines that such use is unlikely to result in food that
21 is adulterated within the meaning of section
22 342(a)(2)(B) of title 21 of the United States Code.

23 “(2) Except where such order eliminates all
24 uses of a pesticide, any order issued pursuant to
25 paragraph (1) shall not be effective until thirty days

1 after publication in the Federal Register, and an ap-
2 plication or registration shall not be denied or can-
3 celed pursuant to the order if the applicant or reg-
4 istrant, within such thirty days, has applied to
5 amend the registration or application to delete the
6 uses that form the basis of the cancellation or denial
7 under paragraph (1).”.

8 **SEC. 6. SUSPENSION.**

9 (a) Section 6(c) (7 U.S.C. 136d(c)) is amended to
10 read as follows:

11 “(c) SUSPENSION.—

12 “(1) ORDER.—If the Administrator determines
13 that use of a pesticide results in an imminent haz-
14 ard, he may issue an order immediately suspending
15 the registration of such pesticide. The order shall
16 specify the bases for the Administrator’s determina-
17 tion that an imminent hazard exists. The Adminis-
18 trator shall send to the registrant by certified mail
19 a copy of the suspension order, and shall publish the
20 order in the Federal Register. The order shall be-
21 come effective with respect to the registrant upon
22 publication in the Federal Register or upon receipt
23 by the registrant of the order, whichever occurs first.
24 The order shall become effective with regard to per-
25 sons other than the registrant upon publication of

1 the order in the Federal Register. The suspension
2 shall automatically expire one hundred and eighty
3 days after becoming effective unless, on or before
4 such expiration date, the Administrator has pub-
5 lished in the Federal Register a proposed cancella-
6 tion order that would cancel the registration of the
7 pesticide use suspended by the order issued under
8 this subparagraph. If a proposed cancellation order
9 is issued before the expiration date, the suspension
10 shall continue in effect until terminated in accord-
11 ance with paragraph (4).

12 “(2) CONSULTATION WITH FEDERAL AGEN-
13 CIES.—If the Administrator intends to suspend a
14 pesticide registered for agricultural uses, the Admin-
15 istrator shall consult with the Secretary of Agri-
16 culture regarding the proposed suspension. If the
17 Administrator intends to suspend a pesticide reg-
18 istered for public health uses, the Administrator
19 shall consult with the Secretary of Health and
20 Human Services regarding the proposed suspension.

21 “(3) DURATION OF SUSPENSION.—A suspen-
22 sion order issued under this subsection may be ter-
23 minated by the Administrator at any time. A sus-
24 pension order issued under this subsection shall
25 automatically terminate upon completion of a pro-

1 ceeding to cancel the registration of the pesticide
2 under subsection (b), or upon cancellation by the
3 Administrator of the suspended registration. If the
4 Administrator's cancellation of the suspended reg-
5 istration is overturned by a reviewing court, the sus-
6 pension order issued under this subsection shall be
7 reinstated unless otherwise ordered by the reviewing
8 court, if the decision of the court overturning the
9 cancellation allows for further substantive delibera-
10 tions by the Administrator on the proposed cancella-
11 tion.

12 “(4) PETITION TO RECONSIDER SUSPENSION.—

13 “(A) A registrant, or any other interested
14 person with the concurrence of the registrant,
15 may, within thirty days of publication of the
16 suspension order in the Federal Register, peti-
17 tion the Administrator to reconsider the issu-
18 ance of the suspension order. A petitioner must
19 include in the petition specific objections to the
20 suspension order, and must include the specific
21 bases supporting the petitioner's conclusion
22 that the standard for suspension is not met. A
23 petition must be accompanied by any informa-
24 tion the petitioner wishes the Administrator to
25 consider in reviewing the petition. The Adminis-

1 trator shall, within one hundred and twenty
2 days of receipt of the last of such petitions,
3 issue an order granting or denying petitions re-
4 ceived within thirty days of the publication of a
5 suspension order. Any suspension order issued
6 under this subsection shall expire automatically
7 if the Administrator fails to respond to any pe-
8 tition within the time required. Such an order
9 responding to a petition for reconsideration
10 shall be sent to the petitioner and published in
11 the Federal Register, and shall include the fac-
12 tual and legal bases for the Administrator's de-
13 termination on the petition.

14 “(B) A registrant, or any other interested
15 person with the concurrence of the registrant,
16 may file with the Administrator a petition to re-
17 consider the issuance of a suspension order
18 more than thirty days after publication of the
19 suspension order in the Federal Register only if
20 the petition is based upon substantial new in-
21 formation which—

22 “(i) may materially affect the basis
23 for or content of the suspension order;

24 “(ii) was not available to the Adminis-
25 trator at the time he issued the suspension

1 order or denied any petition submitted
2 under subparagraph (5)(A) of this para-
3 graph; and

4 “(iii) could not, through the exercise
5 of due diligence, have been submitted to
6 the Administrator within thirty days of the
7 issuance of a suspension order.

8 In addition to demonstrating that the petition
9 is based upon new information which meets the
10 criteria of this subparagraph, a person filing a
11 petition more than thirty days after the publica-
12 tion of a suspension order must include in the
13 petition specific objections to the suspension
14 order and the specific bases supporting the peti-
15 tioner’s conclusion that the standard for sus-
16 pension is not met. Such a petition must be ac-
17 companied by any information the petitioner
18 wishes the Administrator to consider in review-
19 ing the petition. The Administrator shall issue
20 an order granting or denying a petition filed
21 more than thirty days after the publication of
22 a suspension order within one hundred and
23 twenty days of receipt of the petition. Such an
24 order shall be sent to the petitioner and pub-
25 lished in the Federal Register, and shall include

1 the factual and legal bases for the Administra-
2 tor’s determination on the petition.”.

3 (b) Section 6(h) (7 U.S.C. 136d(h)) is amended to
4 read as follows:

5 “(h) UNREVIEWABLE ACTIONS.—Nothing in this sec-
6 tion relating to the provision of notification to or consulta-
7 tion with other Federal Agencies or the Scientific Advisory
8 Panel shall be construed as creating any right or benefit,
9 substantive or procedural, enforceable at law by a party
10 against the United States, its agencies, its officer, or any
11 person. No court of the United States shall have jurisdic-
12 tion to review any challenge to any action or failure to
13 take action by the Agency pursuant to this section where
14 such challenge is based upon an assertion that the Agency
15 failed to properly notify or consult with any other Federal
16 Agency or the Scientific Advisory Panel.”.

17 **SEC. 7. LABEL CALL-IN.**

18 (a) Section 3 (7 U.S.C. 136a) is amended by adding
19 at the end the following:

20 “(h) LABEL CALL-IN.—

21 “(1) AUTHORITY TO REQUIRE CHANGES.—If
22 the Administrator determines that the risks associ-
23 ated with the use of a pesticide can be reduced by
24 a change in the labeling, packaging, or composition
25 of the pesticide, the Administrator may issue a no-

1 tice requiring that registrants change the labeling,
2 packaging, or composition of the pesticide. Provided,
3 however, that the Administrator may not pursuant
4 to this section require any change in the labeling,
5 packaging or composition of a pesticide if the Ad-
6 ministrator determines the change will effectively
7 prohibit or make economically unfeasible substan-
8 tially all use of the pesticide on one or more use
9 sites. The Administrator shall send any notice issued
10 pursuant to this section to the registrant of every
11 pesticide to which the determination relates. The no-
12 tice shall include a description of the required
13 changes and the bases for the Administrator’s deter-
14 mination that such changes will reduce the risks as-
15 sociated with the use of the pesticide. The notice
16 shall also include such requirements for notifying the
17 Administrator or submitting amendments of reg-
18 istration reflecting the changes as the Administrator
19 deems appropriate.

20 “(2) REGISTRANT RESPONSE.—Any registrant
21 receiving a notice pursuant to subsection (a) may,
22 within 60 days of receipt of the notice, file written
23 objections to the change. A registrant may object to
24 the change if the registrant believes—

1 “(A) the change would effectively prohibit
2 or make economically unfeasible substantially
3 all use of the pesticide on one or more use sites;

4 “(B) the change is not necessary for the
5 particular product or that a better alternative
6 means exists to prevent the unreasonable ad-
7 verse effects on the environment; or

8 “(C) the costs to society of making the
9 proposed change exceed the benefits of the risk
10 reduction associated with making the proposed
11 change.

12 Any objections must include the specific bases for
13 the objections, and may be accompanied by any writ-
14 ten information the registrant desires to submit in
15 support of the objections. If a registrant fails to file
16 timely objections to a notice, the requirements con-
17 tained in the notice shall become final and shall not
18 be reviewable in any court.

19 “(3) RESPONSE TO OBJECTIONS.—The Admin-
20 istrator shall respond to any objections within 90
21 days of receipt of the objections by either withdraw-
22 ing, modifying, or affirming the requirements con-
23 tained in the notice issued pursuant to subsection
24 (a). Such written response shall be sent to the reg-
25 istrant and shall include the bases therefor. The re-

1 sponse shall also include such requirements for noti-
2 fying the Administrator or submitting amendments
3 of registration reflecting the changes as the Admin-
4 istrator deems appropriate.

5 “(4) ANNUAL COMPLIANCE DATE.—An annual
6 compliance date is hereby established to be on the
7 first day of October. The Administrator may estab-
8 lish a different compliance date for registrants if it
9 would be in the public interest.

10 “(5) TIME TO MAKE CHANGE.—Except as pro-
11 vided in paragraph (g), a registrant may not distrib-
12 ute or sell a product on or after the first compliance
13 date occurring more than one year after issuance of
14 a notice pursuant to subsection (a) of this section
15 unless the labeling, packaging, or composition of
16 such product complies with any requirements con-
17 tained in the notice or, if the notice is challenged,
18 in the response to objections issued pursuant to sub-
19 section (c): *Provided, however,* That if timely objec-
20 tions are filed and the Administrator does not re-
21 spond to such objections within 90 days, a registrant
22 may not distribute or sell a product on or after the
23 first compliance date occurring more than 7 months
24 after the Agency responds to the objections, or more

1 than one year from the issuance of the notice under
2 subsection (a), whichever is later.

3 “(6) EXCEPTION.—Notwithstanding any other
4 provision of this subsection, if the Administrator de-
5 termines that an earlier effective date for a change
6 in product labeling, packaging, or composition is in
7 the public interest, the Administrator may require
8 such changes within reasonable timeframes.

9 “(7) SUSPENSION.—If a registrant fails to com-
10 ply with a notice issued under subsection (a) or a
11 written response modifying a notice under subsection
12 (c), the Administrator may issue an order without
13 hearing suspending the registration. Such suspen-
14 sion shall remain in effect until the registrant has
15 complied with the terms of the notice or the re-
16 sponse modifying the notice.

17 “(8) PESTICIDES IN THE CHANNELS OF
18 TRADE.—

19 “(A) Except as provided in paragraph (2),
20 persons other than the registrant, of a pesticide
21 product that does not comply with a notice is-
22 sued under subsection (a) and any written re-
23 sponse to objections under subsection (c), may
24 continue to distribute or sell such pesticide
25 product for two years after the registrant is

1 prohibited from selling such product under sub-
2 section (f).

3 “(B) The Administrator may specify a
4 shorter period for the distribution or sale of
5 nonconforming pesticide products than is pro-
6 vided in paragraph (1) of this subsection if the
7 Administrator determines that a shorter period
8 is in the public interest. The Administrator
9 shall publish promptly such determination in
10 the Federal Register.

11 “(9) RECALL.—The Administrator may, by
12 order, require the recall of any pesticide distributed
13 or sold in violation of any requirement issued by the
14 Administrator pursuant to this section. An order is-
15 sued under this subsection may apply to any person
16 who distributes or sells any pesticide in violation of
17 such a requirement and may require such person
18 to—

19 “(A) arrange to make available one or
20 more storage facilities to receive and store the
21 pesticide to which the recall order applies, and
22 inform the Administrator of the location of each
23 such facility;

24 “(B) accept and store at such facility any
25 pesticide distributed or sold by such person in

1 violation of this section that is tendered by any
2 other person who obtained the pesticide directly
3 or indirectly from the person that is subject to
4 such order;

5 “(C) on the request of a person making
6 such a tender, provide for proper transportation
7 of the pesticide to a storage facility;

8 “(D) take such reasonable steps as the Ad-
9 ministrator may prescribe to inform persons
10 who may be holders of the pesticide of the
11 terms of the recall order and how those persons
12 may tender the pesticide and arrange for trans-
13 portation of the pesticide to a storage facility;
14 and

15 “(E) reimburse any person to whom such
16 pesticide was sold for any unused quantities of
17 such pesticide, unless the purchaser had knowl-
18 edge at the time of sale that such sale was in
19 violation of any requirement issued by the Ad-
20 ministrator pursuant to this section.

21 “(10) USE SITE.—For purposes of this section,
22 a use site means, for any agricultural use of a pes-
23 ticide, a particular crop or commodity. The Adminis-
24 trator shall identify, by regulation, nonagricultural
25 use sites.”.

1 (b) CONFORMING AMENDMENT.—Section 12(a)(2) (7
2 U.S.C. 136j(a)(2)) is amended by adding at the end the
3 following:

4 “(T) to sell or distribute any pesticide
5 product in violation of any requirement issued
6 by the Administrator pursuant to section
7 3(g).”.

8 **SEC. 8. PHASE-OUT/PHASE-DOWN.**

9 Section 6 (7 U.S.C. 136d) is amended by adding at
10 the end the following:

11 “(j) REDUCTION, RESTRICTION, OR ELIMINATION OF
12 USE OR PRODUCTION OF A PESTICIDE.—

13 “(1) STANDARD FOR REDUCTION, RESTRIC-
14 TION, OR ELIMINATION.—If the Administrator deter-
15 mines that—

16 “(A) credible scientific evidence indicates
17 that use of the pesticide is reasonably likely to
18 pose a significant risk to humans or the envi-
19 ronment; and

20 “(B) additional information should be de-
21 veloped to reduce uncertainties regarding the
22 risk;

23 the Administrator shall, pursuant to paragraphs
24 (2)–(4), restrict, reduce, or eliminate the use or pro-
25 duction of the pesticide, or evaluate other action as

1 may be necessary to address the risk during the pe-
2 riod required for the development, submission, and
3 review of such additional information. The Adminis-
4 trator may gather any needed information by use of
5 section 3(c)(2)(B) of this Act.

6 “(2) CONSULTATION WITH THE SECRETARY OF
7 AGRICULTURE.—Prior to taking action under para-
8 graph (1), the Administrator, in consultation with
9 the Secretary of Agriculture, shall develop a strategy
10 to reduce or limit the risk identified in order to
11 avoid unnecessary dislocation in agricultural produc-
12 tion.

13 “(3) PROPOSED RULE.—If the Administrator
14 determines that the standard for taking regulatory
15 action under paragraph (1) is met, the Adminis-
16 trator may issue a proposed rule to restrict, reduce
17 or eliminate the use or production of a pesticide.
18 The Administrator shall publish the proposed rule in
19 the Federal Register and shall afford the registrant
20 and any other interested person an opportunity to
21 comment on the proposed rule for at least 60 days
22 after publication in the Federal Register. Any person
23 may submit comments concerning the impact of the
24 proposal on the benefits of the use of the pesticide.
25 The proposed rule shall include (or incorporate by

1 reference to publicly available documents) the follow-
2 ing:

3 “(A) The terms and conditions of the pro-
4 posed rule, including any proposed strategy de-
5 veloped pursuant to paragraph (2) to avoid un-
6 necessary dislocation in agricultural production.

7 “(B) A statement of the factual and legal
8 bases for the proposed action.

9 “(C) A description of the additional infor-
10 mation needed to address the uncertainties of
11 the risk identified in paragraph (1).

12 “(4) FINAL RULES.—

13 “(A) If no comments opposing the pro-
14 posed rule are submitted by registrants or other
15 interested persons during the comment period
16 provided under paragraph (3), and if the reg-
17 istrant does not file a timely application for
18 amendment of registration to implement the
19 changes, if any, specified in the proposed rule,
20 the Administrator may issue a final rule. The
21 Administrator shall publish such final rule in
22 the Federal Register. A final rule issued under
23 this paragraph shall not be subject to judicial
24 review.

1 “(B) If, after reviewing comments submit-
2 ted pursuant to paragraph (3), the Adminis-
3 trator determines that the standard for taking
4 action under paragraph (1) has been met, the
5 Administrator shall publish a final rule in the
6 Federal Register. The final rule shall include
7 (or incorporate by reference to publicly available
8 documents) the following:

9 “(i) The terms and conditions of the
10 final rule.

11 “(ii) The factual and legal bases for
12 the final rule.

13 “(iii) A summary of the significant
14 comments received under paragraph (3)
15 and the Administrator’s responses to those
16 comments.

17 “(iv) A description of the additional
18 information needed to address the uncer-
19 tainties of the risk identified in paragraph
20 (1).

21 “(C) If, after reviewing the comments sub-
22 mitted under paragraph (3) the Administrator
23 determines not to restrict, reduce, or eliminate
24 pesticide uses or production the Administrator
25 shall publish such determination in the Federal

1 Register. Such decision shall include the factual
2 and legal basis for the determination, a sum-
3 mary of the significant comments submitted
4 under paragraph (3), and the Administrator’s
5 response to those comments. Such a decision
6 shall be effective upon publication.

7 “(D) Section 25(a) of this Act shall not
8 apply to proposed or final rules issued pursuant
9 to this subsection.

10 “(E) Unless otherwise ordered by a court
11 of appropriate jurisdiction, a final rule issued
12 under paragraph (4) shall remain in effect
13 pending the resolution of any regulatory action
14 under section 6 or section 106 or until such
15 time as the Administrator revokes or modifies
16 the rule.

17 “(5) REVIEW OF INFORMATION.—

18 “(A) The Administrator shall review
19 promptly upon submission the information iden-
20 tified in the final rule and shall—

21 “(i) initiate appropriate regulatory ac-
22 tion under section 6 or section 106;

23 “(ii) revoke or modify the rule pursu-
24 ant to the procedures provided in para-
25 graphs (3) and (4) of this subsection; or

1 “(iii) issue a final determination to
2 maintain in effect the final rule if the in-
3 formation submitted is not sufficient for
4 the Administrator to proceed under clauses
5 (i) and (ii).

6 “(B) A final determination issued pursuant
7 to subparagraph (A)(iii) to maintain in effect a
8 final rule shall be published in the Federal Reg-
9 ister and shall be subject to judicial review pur-
10 suant to section 16(a) of this Act.

11 “(6) EFFECT ON OTHER AUTHORITIES.—Noth-
12 ing in this subsection shall limit the authority of the
13 Administrator to take any regulatory or enforcement
14 action at any time under any other provision of this
15 Act.”.

16 **SEC. 9. REDUCED RISK PESTICIDES.**

17 (a) REDUCED RISK PESTICIDES.—

18 (1) Section 3(c)(1) (7 U.S.C. 136a(c)(1)) is
19 amended to add at the end the following:

20 “(G) If the applicant is requesting designa-
21 tion as a reduced risk pesticide, an explanation
22 of the basis for the request, in accordance with
23 paragraph (9) of this subsection.”.

24 (2) Section 3(c) (7 U.S.C. 136a(c)) is amended
25 to add at the end the following:

1 “(9) REDUCED RISK PESTICIDES.—

2 “(A) Not later than 1 year after the enact-
3 ment of this paragraph, the Administrator shall
4 develop criteria, after opportunity for public
5 comment, for the designation of reduced risk
6 pesticides. Such criteria shall, at a minimum,
7 address potential risks to human health, tox-
8 icity to other non-target organisms, environ-
9 mental persistence, potential to contaminate the
10 environment, and compatibility with integrated
11 pest management strategies.

12 “(B) Any registrant or applicant for reg-
13 istration may request the Administrator to des-
14 ignate a pesticide as a reduced risk pesticide
15 under this paragraph. The Administrator shall
16 prescribe the form and content of such requests
17 for designation, which shall require the
18 requestor to address each criterion established
19 under subparagraph (A). A request for designa-
20 tion may be combined with an application for
21 registration under this section.

22 “(C) The Administrator, within 30 days
23 after receiving a request for designation, shall
24 notify the applicant or registrant requesting
25 designation whether the request is complete. If

1 it is found to be incomplete, the Administrator
2 shall reject the request. If the request is com-
3 plete, the Administrator shall review the request
4 not later than 120 days after receipt, and shall
5 designate the pesticide as a “reduced risk pes-
6 ticide” if the pesticide meets the criteria for re-
7 duced risk issued pursuant to paragraph (A).
8 The Administrator shall publish a notice of
9 findings regarding such designation in the Fed-
10 eral Register.

11 “(D) If a request for designation is accom-
12 panied by an application for registration or
13 amended registration, the Administrator, within
14 180 days of designating that a pesticide quali-
15 fies for reduced risk status, shall complete re-
16 view of the application and shall notify the ap-
17 plicant or registrant whether the registration or
18 amended registration has been granted or de-
19 nied. If the application is denied, the Adminis-
20 trator shall comply with the procedures under
21 section 3(c)(6).

22 “(E) If at any time after the designation
23 of a pesticide as a reduced risk pesticide the
24 registrant has additional information bearing on
25 the pesticide’s ability to meet the criteria estab-

1 lished under subparagraph (A), the registrant
2 shall immediately submit a report containing
3 such information to the Administrator.

4 “(F) If at any time after the designation
5 of a pesticide as a reduced risk pesticide the
6 Administrator concludes that the determination
7 made under subparagraph (C) can no longer be
8 supported, the Administrator shall revoke the
9 designation, after providing the registrant with
10 an opportunity for comment on the basis of the
11 Agency’s conclusion.”.

12 (b) EXCLUSIVE USE OF REDUCED RISK PESTICIDES
13 AND MINOR USE PESTICIDES.—Section 3(c)(1)(D) (7
14 U.S.C. 136a(c)(1)(D)) is amended to add a new clause
15 (ii) and to redesignate existing clauses (ii) and (iii) as
16 clauses (iii) and (iv), respectively.

17 “(ii) the period of exclusive data use
18 for data submitted to support the applica-
19 tion for the original registration of a pes-
20 ticide under clause (i) shall be extended by
21 an additional two years if, after the date of
22 enactment of this provision—

23 “(I) the Administrator approves
24 at least three minor uses of the pes-
25 ticide prior to the expiration of the

1 period of exclusive use under clause
2 (i); or

3 “(II) the pesticide has been des-
4 ignated as a reduced risk pesticide
5 pursuant to paragraph (9)(C) of this
6 subsection prior to the expiration of
7 exclusive use under clause (i).

8 Any additional exclusive use period under
9 subclause (I) or (II) shall terminate if the origi-
10 nal data submitter voluntarily cancels the origi-
11 nal registration of the pesticide supported by
12 data described in clause (i) of this subsection.
13 Any additional exclusive use period under
14 subclause (II) shall terminate if the Adminis-
15 trator revokes the designation of a pesticide as
16 reduced risk under paragraph (9)(E) of this
17 subsection.”.

18 (c) DEFINITION OF BIOLOGICAL PESTICIDE.—Sec-
19 tion 2 (7 U.S.C. 136) is amended by adding at the end
20 the following:

21 “(hh) BIOLOGICAL PESTICIDE.—The term ‘biological
22 pesticide’ means a biochemical pesticide, plant pesticide,
23 or any organism that is a biological control agent, includ-
24 ing a microbial pesticide.”.

1 (d) CONDITIONAL REGISTRATION FOR NEW
2 BIOLOGICALS.—Section 3(c)(7) (7 U.S.C. 136a (c)(7)) is
3 amended by adding at the end the following:

4 “(D) The Administrator may conditionally
5 register a biological pesticide, as that term is
6 defined by section 2 (7 U.S.C. 136) of this Act,
7 or a mixture of biological pesticides not con-
8 tained in any currently registered pesticide
9 prior to the development of all data necessary
10 for the Administrator to determine whether the
11 pesticide meets the requirements of paragraph
12 (5) of this subsection. A conditional registration
13 under this paragraph may be granted for a pe-
14 riod no longer than is necessary for the genera-
15 tion, submission and review of required data
16 and on the condition that by the end of such
17 period the Administrator receives such data and
18 the data do not meet or exceed risk criteria
19 enumerated in regulations issued under this
20 Act, and on such other conditions as the Ad-
21 ministrator may prescribe. A conditional reg-
22 istration under this subparagraph shall be
23 granted only if the Administrator determines,
24 based on available information, that use of the
25 pesticide during such period will not cause any

1 unreasonable adverse effect on the environment,
2 and that use of the pesticide is in the public in-
3 terest.”.

4 (e) REGISTRATION PRIORITIES.—Section 3(c) is
5 amended by adding at the end the following:

6 “(10) The Administrator shall give priority to
7 applications in the following order:

8 “(A) Applications for registration of any
9 pesticide that would meet pest control needs
10 which are currently being addressed through
11 pesticide use authorized under Section 18 of
12 this Act.

13 “(B) Applications which EPA considers
14 likely to reduce the risk of adverse effects on
15 the environment from the use of currently reg-
16 istered pesticides subject to proceedings under
17 section 6.

18 “(C) Applications for registration of any
19 pesticide that meets reduced risk criteria estab-
20 lished by the Administrator.

21 “(D) Applications for the registration of
22 pesticides for minor uses.

23 “(E) Other applications.”.

24 (f) AMENDMENTS TO CONFORM TO CURRENT REG-
25 ISTRATION PRIORITIES.—

1 (1) Section 3(c)(3)(B)(ii) (7 U.S.C.
2 136a(c)(3)(B)(ii)) is amended as follows:

3 “(ii) In expediting the review of an
4 application for an action described in
5 clause (i), the Administrator shall, to the
6 extent consistent with the priorities estab-
7 lished in subsection (10),—”.

8 (2) RESEARCH AND INVESTIGATION, MONITOR-
9 ING, EDUCATION AND INFORMATION.—Section 20 (7
10 U.S.C. 136r) is amended—

11 (A) by redesignating subsections (b) and
12 (c) as (c) and (d), respectively,

13 (B) by amending subsections (a)–(c) as fol-
14 lows:

15 **“SEC. 20. RESEARCH AND INVESTIGATION, MONITORING,**
16 **EDUCATION AND INFORMATION.**

17 “(a) COOPERATIVE AGREEMENTS.—The Adminis-
18 trator may enter into cooperative agreements, interagency
19 agreements and contracts with, and issue grants to, Fed-
20 eral, State, tribal and local agencies, other public or pri-
21 vate agencies, institutions, organizations, and individuals
22 for research, investigations, studies, demonstrations or
23 other activities for the purposes of carrying out this Act.
24 Such activities may include, but are not limited to, re-
25 search, investigations, demonstrations, and studies in inte-

1 graded pest management, alternative pest management,
2 and reduced pesticide use. The Administrator shall consult
3 with the Secretary of Agriculture in conducting research,
4 investigations, studies, and demonstrations in integrated
5 pest management, and with the Secretary of State and
6 the Administrator of the Agency for International Devel-
7 opment when international activities are involved.

8 “(b) INFORMATION EXCHANGE.—The Administrator,
9 in cooperation with other Federal, State, tribal, and local
10 agencies, universities or others, may promote training,
11 education and information exchange for the general public
12 and for pesticide users.”, and

13 (C) by adding new subsections (e) and (f)
14 as follows:

15 “(e) SURVEYS OF INFANTS AND CHILDREN.—The
16 Secretary of Health and Human Services and the Sec-
17 retary of Agriculture, in consultation with the Adminis-
18 trator, shall review the recommendations of the National
19 Academy of Sciences report, Pesticides in the Diets of In-
20 fants and Children, and conduct surveys to document die-
21 tary exposure to pesticides among infants and children
22 and perform such other research and collect such informa-
23 tion as they determine would be necessary for the evalua-
24 tion and implementation of the recommendations.

1 “(f) DUPLICATION OF ACTIVITIES.—The Adminis-
2 trator shall ensure that activities conducted under this
3 section will not result in unnecessary duplication of activi-
4 ties being undertaken by any other Federal agency or part
5 of the Environmental Protection Agency.”.

6 (3) STATE AND TRIBAL PROGRAM DEVELOP-
7 MENT, ENFORCEMENT, AND TRAINING.—Section 23
8 (7 U.S.C. 136u) is amended as follows:

9 **“SEC. 23. STATE AND TRIBAL PROGRAM DEVELOPMENT,**
10 **ENFORCEMENT, AND TRAINING.**

11 “(a) The Administrator may enter into cooperative
12 agreements, interagency agreements and contracts with,
13 and issue grants to, States and Indian tribes—

14 “(1) to delegate to any State or Indian tribe
15 the authority to cooperate in the enforcement of this
16 Act through the use of its personnel or facilities, to
17 train personnel of the State or Indian tribe to co-
18 operate in the enforcement of this Act, and to assist
19 States and Indian tribes in implementing cooperative
20 enforcement programs;

21 “(2) to assist States and Indian tribes in devel-
22 oping and administering State and tribal programs,
23 and to train and certify applicators consistent with
24 the standards the Administrator prescribes; and

1 “(3) to cooperate in the development of national
2 pesticide programs, including, but not limited to, ef-
3 forts to protect endangered species, ground water,
4 the public, workers, and users from pesticide con-
5 tamination and exposure, and to assist States and
6 Indian tribes in implementing effective pesticide pro-
7 grams.

8 “(b) The Administrator shall, in cooperation with the
9 Secretary of Agriculture, use the services of the coopera-
10 tive state extension services to inform and educate pes-
11 ticide users about accepted uses and other regulations
12 made under this Act.”.

13 (g) ALTERNATIVE PEST CONTROL STRATEGIES.—
14 Section 28 (7 U.S.C. 136w) is amended to read:

15 “(a) IN GENERAL.—

16 “(1) It shall be the goal of the Secretary, as it
17 relates to research in pest control methods, to sup-
18 port research and development of pest control meth-
19 ods that reduce risks to human health and the envi-
20 ronment. The purpose of such research shall be to
21 achieve pest management in the most environ-
22 mentally sound manner possible, to reduce the inci-
23 dence of pest resistance, and to develop sufficient
24 pest management alternative to ensure economical
25 agricultural production.

1 “(2) In support of (1), the following activities
2 shall be pursued:

3 “(A) COMPARATIVE INFORMATION ON PES-
4 TICIDE PROPERTIES.—The Administrator, in
5 consultation with the Secretary of Agriculture,
6 shall develop and make readily available infor-
7 mation that identifies the significant environ-
8 mental properties and potential human health
9 effects of pesticides, provides for comparison
10 and analysis of those properties, and provides
11 information necessary to assist in establishing
12 priorities for research and development of alter-
13 native pest management methods.

14 “(B) EVALUATION OF EFFECTIVENESS OF
15 PEST CONTROL METHODS.—The Secretary of
16 Agriculture, in coordination and cooperation
17 with the Administrator, shall develop a system
18 for evaluating agricultural pest control needs
19 and the effectiveness of available chemical, bio-
20 logical and non-pesticide methods to control
21 pests. Such system shall identify agricultural
22 pest management needs for which there are in-
23 adequate methods of control including the inci-
24 dence of pest resistance and provide a means to

1 assist in setting priorities for research and de-
2 velopment.

3 “(C) RESEARCH PRIORITIES.—The Sec-
4 retary of Agriculture, after consultation with
5 the Administrator, and taking into account pri-
6 vate, academic, and other public research activi-
7 ties, shall establish priorities for the Depart-
8 ment of Agriculture’s research and development
9 efforts in pest management methods. The Sec-
10 retary shall give highest priority to research
11 and development of methods that would signifi-
12 cantly reduce risks to public health and the en-
13 vironment and would meet agricultural pest
14 management needs for which there are inad-
15 equate methods of control. The highest priority
16 shall be for research and development into
17 methods that would meet the criteria stated
18 above and would provide pest control methods
19 to serve as alternatives to pesticides identified
20 in (b).

21 “(b) SAFER ALTERNATIVE PEST CONTROL PLANS.—
22 The Secretary and the Administrator, in consultation with
23 the Secretary of the Interior shall develop and implement
24 a process for coordinating environmental risk reduction
25 through identification of pesticides that pose significant

1 risk to human health or the environment, and for which
2 development of use reduction programs and research on
3 safer alternative means of pest control should be high pri-
4 ority for USDA research programs. The Secretary shall
5 give highest priority to research on methods that would
6 significantly reduce risks to public health and the environ-
7 ment, lead to more sustainable agricultural systems, and
8 would meet significant agricultural pest management
9 needs for which there are inadequate methods of pest
10 management.

11 “(1) LIST OF PESTICIDES.—The Administrator
12 shall identify and provide to the Secretary of Agri-
13 culture, within six months of enactment and annu-
14 ally thereafter, a list of agricultural use pesticides—

15 “(A) for which the Administrator is consid-
16 ering regulatory action under section 4 or 6
17 that would affect the availability of the pes-
18 ticide. Such list shall include the associated ag-
19 ricultural commodities and pests which may be
20 affected by regulatory action regarding the pes-
21 ticide,

22 “(B) which otherwise pose significant risks
23 to human health and the environment, and

24 “(C) for which there exists significant in-
25 stances of pest resistance.

1 “(2) DEVELOPMENT OF PLANS.—The Secretary
2 shall review all available alternatives to the pes-
3 ticides contained in the list provided in (b)(1). Not
4 later than 6 months after the Administrator provides
5 the list to the Secretary, the Secretary shall, in con-
6 sultation with the Administrator, develop a research
7 and technology transfer plan for each pest-commod-
8 ity combination on the list for which there are insuf-
9 ficient efficacious alternative pest control techniques
10 that present significantly less risk to human health
11 or the environment. In developing and implementing
12 such plans, the Secretary shall give highest priority
13 to those pesticides identified in subsection (b)(1)(A).

14 “(A) The objectives of each plan shall be—

15 “(i) to provide alternative pest control
16 methods to growers who will otherwise be
17 limited in the pest control methods avail-
18 able, and

19 “(ii) to significantly reduce risks to
20 humans and the environment.

21 “(B) Each plan shall be developed and im-
22 plemented in a manner consistent with any
23 schedules for regulatory action in sections 4
24 and 6.

1 “(c) RESEARCH.—The research component of each
2 plan shall—

3 “(1) identify all ongoing research which could
4 support the strategy and establish priorities for re-
5 search to be undertaken pursuant to the plan;

6 “(2) provide for the direct involvement of grow-
7 ers in affected regions, educational or research insti-
8 tutions, and other interested persons in the design,
9 implementation and evaluation of the plan; and

10 “(3) give priority to research in cultural pest
11 controls, biological pest controls, and other non-
12 chemical pest controls.

13 “(d) TECHNOLOGY TRANSFER.—The technology
14 transfer component of each plan shall—

15 “(1) be developed with direct involvement of af-
16 fected growers, educational or research institutions
17 and other interested persons;

18 “(2) provide for farm level education and tech-
19 nology transfer of successful alternative pest con-
20 trols; and

21 “(3) identify research projects nearing comple-
22 tion which meet the objectives of this subsection and
23 expedite technology transfer of such research to
24 growers.

1 “(e) COORDINATION WITH REGISTRATION ACTIVI-
2 TIES.—The Administrator shall give priority to applica-
3 tions of any pesticide meeting the criteria for reduced risk
4 under section 9 that may be developed as part of the strat-
5 egy implementation.

6 “(f) IMPLEMENTATION PLAN.—The Secretary and
7 the Administrator shall prepare annually and present to
8 the House Agriculture Committee and the Senate Agri-
9 culture and Forestry Committee report on the progress
10 of pest management for each agricultural commodity for
11 which there exists a plan under paragraph (2). The report
12 shall include an evaluation of whether the plans are meet-
13 ing the objectives of paragraph (2). Evaluation shall be
14 conducted by a committee that includes affected growers,
15 researchers, members of the public and officials of USDA
16 and EPA. The Secretary and the Administrator shall
17 make necessary modifications to the plans, pursuant to
18 such evaluation.

19 “(g) USE OF RESEARCH FUNDS.—

20 “(1) The Secretary shall allocate sufficient ap-
21 propriated funds to carry out the objectives of this
22 section.

23 “(2) The Secretary may provide funds to carry
24 out research and technology transfer plans to which
25 grower funds have been committed, including grower

1 check-off programs, marketing orders or other grow-
2 er funded activities. The Secretary shall give priority
3 to research which is partially funded by non-federal
4 entities. No monies under this section may be made
5 available to persons directly or indirectly engaged in
6 the registration of pesticides under this Act for prof-
7 it.

8 “(h) DUPLICATION OF RESEARCH ACTIVITIES.—The
9 Secretary shall ensure that research conducted under this
10 section does not duplicate research being undertaken by
11 other government agencies, academic institutions, or pri-
12 vate entities.

13 “(i) INTEGRATED PEST MANAGEMENT.—The Sec-
14 retary of Agriculture, in consultation and cooperation with
15 the Administrator shall establish a national goal for the
16 adoption of integrated pest management techniques. Inte-
17 grated pest management refers to the use of pest manage-
18 ment techniques that includes reliance on field monitoring-
19 data, use of economic thresholds in decision-making con-
20 servation of beneficial and non-target species, utilization
21 of biologically based controls and other techniques which
22 minimize the environmental and human health risks of
23 pest management practices. The Secretary of Agriculture,
24 in cooperation with the Administrator, shall implement re-
25 search, demonstration, and education programs to support

1 meeting the goals for adoption of integrated pest manage-
2 ment, and shall collect such information as necessary to
3 evaluate the extent to which the goal is being met. The
4 Secretary of Agriculture and the Administrator shall make
5 information on integrated pest management widely avail-
6 able to pesticide users, including federal agencies. Federal
7 agencies shall use integrated pest management techniques
8 in carrying out pest management activities and shall pro-
9 mote integrated pest management through procurement,
10 regulatory policies, and other activities.

11 “(j) USE REDUCTION.—The Secretary, in coopera-
12 tion with the Administrator, shall initiate pilot programs
13 designed to establish and implement pesticide use reduc-
14 tion goals in selected ecosystems, in cooperation with agri-
15 cultural producers, federal, state and local officials, and
16 other appropriate public and private entities.”.

17 **SEC. 10. MINOR USES.**

18 (a) DEFINITION.—Section 2 (7 U.S.C. 136) is
19 amended by adding at the end the following:

20 “(ii) MINOR USE.—The term ‘minor use’ means the
21 use of pesticide on a commercial agricultural crop, on an
22 animal, or for the protection of public health, for which
23 the Administrator determines that—

24 “(1) the total United States acreage for the
25 crop is less than 300,000 acres and the average an-

1 nual value of production for the crop for the three
2 calendar years most recently completed does not ex-
3 ceed \$500,000,000 adjusted upward annually for in-
4 flation utilizing the Producer Price Index for Farm
5 Products; or

6 “(2) based on information supplied by the ap-
7 plicant, the use does not provide sufficient economic
8 incentive to support initial or continued registration
9 and one of the following criteria applies—

10 “(A) there are insufficient efficacious alter-
11 native registered pesticides available for the
12 use;

13 “(B) the alternatives to the pesticide pose
14 greater risks to the environment or human
15 health; or

16 “(C) the pesticide plays a significant part
17 in managing pest resistance.”.

18 (b) ADEQUATE TIME FOR SUBMISSION OF MINOR
19 USE DATA.—Section 4 (7 U.S.C. 136a) is amended by
20 adding at the end the following:

21 “(m) ADEQUATE TIME FOR SUBMISSION OF MINOR
22 USE DATA.—

23 “(1) If—

24 “(A) a registrant requests a waiver, within
25 time frames and in accordance with the terms

1 established by the Administrator for a minor
2 use waiver of data required under this section
3 or section 3(c)(2)(B); and

4 “(B) the Administrator denies in whole or
5 in part such waiver request;

6 the registrant shall have the time period originally
7 established by the Agency for submission of such
8 data, beginning with the date of the Administrator’s
9 notification of denial.

10 “(2) If a registrant requests additional time,
11 within time frames and in accordance with the terms
12 established by the Administrator, for submission of
13 residue chemistry data for one or more minor food
14 uses, the Administrator may approve a time exten-
15 sion for submission of such data until the final dead-
16 line, established as of the date of the approval of the
17 request, for the submission of the last data required
18 to support reregistration of the pesticide active in-
19 gredient.

20 “(n) CONTINUATION OF UNSUPPORTED MINOR
21 USES.—

22 “(1) Notwithstanding any other provision of
23 this section, the Administrator, on request of a reg-
24 istrant, may delay action to delete a minor food or
25 feed use for which the registrant has not agreed to

1 timely submit residue data necessary for reregistra-
2 tion under this section. Provided that, the Adminis-
3 trator may approve such delay only if the registrant
4 continues to timely submit all other data necessary
5 for reregistration and provided that the delay would
6 not increase the risk of unreasonable adverse effects
7 on the environment or impair the Administrator's
8 ability to make the determination required by sub-
9 section (g)(2). Such delay shall extend no longer
10 than the final deadline, established as of the date of
11 the approval of the request, for the submission of
12 data for the continued uses of the active ingredient.

13 “(2) The Administrator shall publish in the
14 Federal Register notice of minor uses that are ap-
15 proved for continued use, and the date upon which
16 such will be deleted from the pesticide registrations.
17 Each registrant must cease all distribution and sale
18 of products labeled for the minor use on the estab-
19 lished date.

20 “(3) The Administrator may by order and with-
21 out hearing delete a use continued under this sub-
22 section at any time prior to the established date if
23 no registrant is fulfilling data requirements (other
24 than residue chemistry data) necessary for rereg-
25 istration, or if the Administrator determines that the

1 delay may increase the risk of unreasonable adverse
2 effects on the environment or significantly impair
3 the ability to make the determination required by
4 subsection (g)(2). If the registrant does not comply
5 with the order to remove the use from its product
6 registrations, the Administrator shall cancel reg-
7 istrations containing the use by order without a
8 hearing.

9 “(o) AUTHORIZATION OF FUNDS TO DEVELOP PUB-
10 LIC HEALTH DATA.—

11 “(1) For the purposes of this section, ‘Sec-
12 retary’ means Secretary of Health and Human Serv-
13 ices, acting through the Public Health Service.

14 “(2) In the case of a pesticide registered for use
15 in public health programs for vector control or for
16 other uses the Administrator determines to be
17 human health protection uses, the Administrator
18 shall upon timely request by the registrant or any
19 other interested person, or on the Administrator’s
20 own initiative may, consult with the Secretary prior
21 to taking final action to suspend registration under
22 section 3(c)(2)(B)(iv), or cancel a registration under
23 sections 4, 6(e) or 6(f). In consultation with the Sec-
24 retary, the Administrator shall prescribe the form
25 and content of requests under this section.

1 “(3) The Administrator, after consulting with
2 the Secretary, shall make a determination whether
3 the potential benefits of continued use of the pes-
4 ticide for public health or health protection purposes
5 are of such significance as to warrant a commitment
6 by the Secretary to conduct or to arrange for the
7 conduct of the studies required by the Administrator
8 to support continued registration under section 3 or
9 reregistration under section 4.

10 “(4) If the Administrator determines that such
11 a commitment is warranted and in the public inter-
12 est, the Administrator shall notify the Secretary and
13 shall, to the extent necessary, amend a notice issued
14 under section 3(c)(2)(B) to specify additional rea-
15 sonable time periods for submission of the data.

16 “(5) The Secretary shall make such arrange-
17 ments for the conduct of required studies as the Sec-
18 retary finds necessary and appropriate to permit
19 submission of data in accordance with the time peri-
20 ods prescribed by the Administrator. Such arrange-
21 ments may include, but are not limited to, Public
22 Health Service intramural research activities, grants,
23 contracts or cooperative agreements with academic,
24 public health, or other organizations qualified by ex-
25 perience and training to conduct such studies.

1 “(6) The Secretary may provide for support of
2 the required studies using funds authorized to be ap-
3 propriated under this section, the Public Health
4 Service Act, or other appropriate authorities. After
5 a determination is made under subsection (d), the
6 Secretary shall notify the Committees on Appropria-
7 tions of the House of Representatives and the Sen-
8 ate of the sums required to conduct the necessary
9 studies.

10 “(7) There is authorized to be appropriated to
11 carry out the purposes of this section \$12,000,000
12 for fiscal year 1993, and such sums as may be nec-
13 essary for succeeding fiscal years.”.

14 **SEC. 11. PESTICIDE FEES.**

15 (a) WAIVER OF FEES FOR BIOLOGICAL PES-
16 TICIDES.—Section 4(i)(4) (U.S.C. 136a-1(i)(4)) is
17 amended by—

18 (1) renumbering subparagraph (C) as subpara-
19 graph (D); and

20 (2) adding the following new subparagraph (C):

21 “(C) A biological pesticide the value or vol-
22 ume of use of which is small, shall be exempt
23 from the fees prescribed by paragraphs (1), (2),
24 and (3).”.

1 (b) CONTINUATION OF MAINTENANCE FEES.—Sec-
2 tion 4(i)(5)(E) (U.S.C. 136a-1(4)(i)(5)(E)) is amended to
3 read as follows:

4 “(E) The authority provided under this
5 paragraph shall terminate on September 30,
6 1999.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 4(i)(6) (U.S.C. 136a-1(4)(i)(6)) is
9 repealed, and subsection (7) is renumbered as sub-
10 section (6).

11 (2) Section 4(i) (U.S.C. 136a-1(4)(i)) is amend-
12 ed to add at the end the following:

13 “(7) SUPPLEMENTAL REREGISTRATION FEE.—

14 “(A) In addition to fees required pursuant
15 to paragraphs (1)–(5), the registrants of pes-
16 ticides that contain an active ingredient that is
17 listed under subparagraphs (A), (B), (C), or
18 (D) of subsection (c)(2) and that is an active
19 ingredient of any pesticide registered for a
20 major food or feed use shall collectively pay a
21 fee of up to \$120,000 at such time as the Ad-
22 ministrators shall prescribe subject to the limita-
23 tion of subparagraph (C).

24 “(B) In addition to fees required pursuant
25 to paragraphs (1)–(5), the registrants of pes-

1 pesticides that contain an active ingredient that is
2 listed under subparagraphs (A), (B), (C), or
3 (D) of subsection (c)(2) and that is not an ac-
4 tive ingredient of any pesticide registered for a
5 major food or feed use shall collectively pay a
6 fee of up to \$60,000 at such time as the Ad-
7 ministrator shall prescribe subject to the limita-
8 tion of subparagraph (D).

9 “(C) The first $\frac{1}{2}$ of the total fee due
10 under subparagraph (A) or (B) shall be paid
11 not later than nine months after the effective
12 date of this paragraph and the remaining $\frac{1}{2}$
13 not later than 21 months after the effective
14 date of this paragraph.

15 “(D) If 2 or more registrants are required
16 to pay any fee prescribed by subparagraph (A)
17 or (B) with respect to a particular active ingre-
18 dient, the fees for such active ingredient shall
19 be apportioned among such registrants on the
20 basis of the market share in United States sales
21 of the active ingredient for the calendar years
22 1990 through 1992; provided, that no fee shall
23 be collected from registrants owing less than
24 \$100.00.

1 “(E) The Administrator, by order, may re-
2 quire any registrant to submit such reports as
3 the Administrator determines to be necessary to
4 allow the Administrator to determine and ap-
5 portion fees under subparagraph (A) or (B),
6 and (D), or to determine the registrant eligi-
7 bility for a reduction or waiver of a fee.

8 “(F) If a report required under subpara-
9 graph (E) is not submitted by a registrant by
10 the time prescribed, or if any fee prescribed by
11 subparagraph (A) or (B) for an active ingredi-
12 ent is not paid by a registrant to the Adminis-
13 trator by the time prescribed, the Adminis-
14 trator, by order and without hearing, may can-
15 cel each registration held by such registrant of
16 a pesticide containing the active ingredient with
17 respect to which the reporting requirement or
18 fee is imposed.

19 “(G) An active ingredient that is contained
20 only in pesticides that are registered solely for
21 agricultural or non-agricultural minor uses, or a
22 pesticide the value or volume of use of which is
23 small, shall be exempt from the fees prescribed
24 by subparagraph (B).

1 “(H) A biological pesticide shall be exempt
2 from the fees prescribed by subparagraphs (A)
3 and (B).

4 “(8) PESTICIDE PRODUCT REREGISTRATION
5 FEES.—

6 “(A) For all determinations pursuant to
7 subsection (g)(2) that a pesticide is eligible for
8 reregistration, the registrant of that pesticide
9 shall pay a fee of \$750 for each affected prod-
10 uct.

11 “(B) The amount of the fee prescribed
12 under subparagraph (A) may be adjusted by
13 the Administrator to a level that will result in
14 the collection under this paragraph of, to the
15 extent practicable, an aggregate amount of at
16 least \$4,000,000, over 4 years after enactment.

17 “(C) If any fee prescribed by this para-
18 graph is not paid within 90 days of the reg-
19 istrant’s receipt of the reregistration eligibility
20 determination specified in section 4(g)(2), or
21 within 270 days after enactment of this sub-
22 paragraph, whichever is later, the Adminis-
23 trator, by order and without hearing, may can-
24 cel the current registration and deny reregistra-

1 tion for the pesticide for which the fee is not
2 paid.

3 “(D) In the case of a pesticide that is reg-
4 istered for a minor agricultural use or the value
5 of volume of use of which is small, the Adminis-
6 trator may reduce or waive the payment of the
7 fee imposed under this paragraph if the Admin-
8 istrator determines that the fee would signifi-
9 cantly reduce the availability of the pesticide for
10 the use.

11 “(E) The cumulative maximum fees pay-
12 able by a single registrant under this paragraph
13 shall be \$75,000. A registrant shall be required
14 to pay no more than one fee for each product.”.

15 **SEC. 12. USE-BY-PRESCRIPTION.**

16 Section 3(d)(1)(C)(ii) (7 U.S.C. 136a(d)(1)(C)(ii)) is
17 amended and subsection (iii) is added at the end:

18 “(ii) If the Administrator classifies a
19 pesticide, or one or more uses of a pes-
20 ticide, for restricted use because of a deter-
21 mination that its use without additional
22 regulatory restriction may cause unreason-
23 able adverse effects on the environment,
24 the pesticide shall be applied only by or
25 under the direct supervision of a certified

1 applicator, or subject to such other restric-
2 tions as the Administrator may provide by
3 regulation. A restricted use classification
4 or a change in classification of any use of
5 a pesticide from general to restricted use
6 established by rule under this clause shall
7 not be subject to the provisions of section
8 6(b).

9 “(iii) The Administrator may include
10 a provision in a rule issued pursuant to
11 subsection (ii) restricting a pesticide to use
12 only by prescription if the Administrator
13 determines that retaining the use of a pes-
14 ticide subject to such restriction is nec-
15 essary for integrated pest management
16 programs, pest resistance programs or oth-
17 erwise to reduce risk. If the Administrator
18 includes such a provision in a rule issued
19 pursuant to paragraph (ii), the Adminis-
20 trator shall (I) prohibit the use of the pes-
21 ticide in any state for which the state has
22 not developed, in accordance with criteria
23 establish by the Administrator, an appro-
24 priate state prescription use plan, or (II)
25 establish criteria for issuing pesticide use

1 prescriptions, and may authorize persons
2 qualified under such criteria to issue pre-
3 scriptions pursuant to the rule.”.

4 **SEC. 13. JUDICIAL REVIEW.**

5 (a) REVIEW BY COURTS OF APPEALS.—Sections
6 16(b) (7 U.S.C. 136n(b)) and 16(c) (7 U.S.C. 136n(c))
7 are amended to read as follows:

8 “(b) REVIEW BY COURTS OF APPEALS.—

9 “(1) REVIEW IN THE DISTRICT OF COLUMBIA
10 CIRCUIT.—A petition for review of any of the follow-
11 ing actions of the Administrator may be filed by any
12 adversely affected person only in the United States
13 Court of Appeals for the District of Columbia Cir-
14 cuit:

15 “(A) The promulgation of any regulations
16 by the Administrator under this Act, or a final
17 determination maintaining in effect a final rule
18 under section 6(i)(5)(A)(iii) of this Act.

19 “(B) A final order of the Administrator
20 canceling or suspending a pesticide registration
21 in whole or in part or concluding that a pes-
22 ticide registration should not be canceled or
23 suspended.

1 “(C) A final order of the Administrator ap-
2 proving or denying an application for a pes-
3 ticide registration.

4 “(D) A final order of the Administrator
5 changing the classification of any use of a pes-
6 ticide.

7 “(E) A final order of the Administrator re-
8 sponding to objections to a notice requiring
9 changes in the labeling, packaging, or composi-
10 tion of a pesticide.

11 “(F) A final order of the Administrator de-
12 nying a petition seeking to suspend or cancel a
13 pesticide registration, to deny an application for
14 a registration, to reconsider whether a registra-
15 tion should be suspended, or to change the clas-
16 sification of a pesticide.

17 “(G) A final determination of the Adminis-
18 trator to renew a pesticide registration under
19 section 3(g)(4).

20 “(H) A final determination of the Adminis-
21 trator resulting in the expiration of a registra-
22 tion under section 3(g)(5).

23 “(I) A final order issuing or denying an
24 emergency exemption to a Federal agency.

1 “(2) REVIEW BY OTHER COURTS OF AP-
2 PEALS.—A petition for review of any of the following
3 actions of the Administrator may be filed by any ad-
4 versely affected person only in the United States
5 court of appeals for the circuit in which the State
6 in question is located or in which a hearing assess-
7 ing a civil penalty occurred:

8 “(A) A final order following a hearing as-
9 sessing a civil penalty.

10 “(B) A final order of the Administrator de-
11 termining that a State shall have primary en-
12 forcement authority pursuant to section 26 of
13 this Act.

14 “(C) A final order of the Administrator re-
15 scinding primary enforcement authority pursu-
16 ant to section 27 of this Act.

17 “(D) A final order of the Administrator
18 approving or disapproving a State certification
19 plan for pesticide applicators pursuant to sec-
20 tion 11 of this Act.

21 “(E) A final order approving or disapprov-
22 ing a State plan for the issuance of experi-
23 mental use permits under section 5 of the Act.

24 “(F) A final order of the Administrator
25 disapproving a State’s registration of a pes-

1 ticide or suspending a State's authority to reg-
2 ister pesticides pursuant to section 24 of this
3 Act.

4 “(G) A final order issuing or denying an
5 emergency exemption to a State.

6 “(3) PROCEDURE.—Except as provided in para-
7 graph (4) of this subsection, any petition for review
8 under paragraph (1) or (2) of this subsection must
9 be filed within sixty days of the final action unless
10 the petition for review is based solely on grounds
11 arising after the sixtieth day. Judicial review shall
12 be in accordance with sections 701 through 706 of
13 Title 5 of the United States Code, and the chal-
14 lenged action shall be sustained unless it is found to
15 be arbitrary, capricious, an abuse of discretion, or
16 not in accordance with law. Actions of the Adminis-
17 trator with respect to which review could have been
18 obtained under this subsection shall not be subject
19 to judicial review in civil or criminal proceedings for
20 enforcement.

21 “(4) IMMINENT HAZARD SUSPENSION.—Any pe-
22 tition for review under paragraph (1) of a suspen-
23 sion order or denial of a petition to reconsider sus-
24 pension issued by the Administrator pursuant to sec-
25 tion 6(c) of this Act must be filed within ten (10)

1 days of publication of the suspension order in the
2 Federal Register, or, in the case of a challenge of
3 the denial of a petition to reconsider suspension,
4 within twenty (20) days of publication of the Admin-
5 istrator's order denying the petition for reconsider-
6 ation. The commencement of proceedings under this
7 paragraph shall not operate as a stay of the suspen-
8 sion order unless otherwise ordered by the court.
9 The effect of any order of the court of appeals will
10 be only either to stay or uphold the effectiveness of
11 the suspension order, pending the Administrator's
12 final determination with respect to cancellation. Re-
13 view of a suspension order issued pursuant to sec-
14 tion 6(c)(1), or review of the petitioner's likelihood
15 of success on the merits of the case pursuant to a
16 request for a temporary stay from the suspension
17 order, shall be based solely on the information avail-
18 able to the Agency as of the date the Administrator
19 issued the suspension order. Other information not
20 available to the Administrator in issuing the suspen-
21 sion order under section 6(c)(1) may be introduced
22 solely through the procedures for reconsideration of
23 a suspension order set forth in section 6(c)(4).

1 “(c) JURISDICTION OF DISTRICT COURT.—The dis-
2 trict courts of the United States are vested with jurisdic-
3 tion over—

4 “(1) actions to enforce, and to prevent and re-
5 strain violations of, this Act; and

6 “(2) challenges to any other final actions that
7 are not committed to the Administrator’s discretion
8 by law and which are not subject to review in the
9 courts of appeals under subsection (a) of this sec-
10 tion.”.

11 **SEC. 14. INDEMNIFICATION.**

12 (a) INDEMNIFICATION.—Section 15 (7 U.S.C. 136m)
13 is amended by adding at the end the following:

14 “(d) TIME LIMITATION FOR INDEMNITY PAYMENT.—
15 Any claim for an indemnity payment from the United
16 States under subsection (a) or (b) shall be barred unless
17 it is made no later than—

18 “(1) 1 year after enactment of this subsection
19 if the pesticide was canceled prior to the enactment
20 of this subsection; or

21 “(2) 3 years after cancellation if the pesticide
22 was canceled after the enactment of this section.”.

1 **SEC. 15. CERTIFICATION AND TRAINING.**

2 INSTRUCTION IN INTEGRATED PEST MANAGEMENT
3 TECHNIQUES.—Section 11(c) (7 U.S.C. 136i(c)) is
4 amended to read as follows:

5 “(c) INSTRUCTION IN INTEGRATED PEST MANAGE-
6 MENT TECHNIQUES.—Standards prescribed by the Ad-
7 ministrator for the certification of applicators of pesticides
8 under subsection (a), and the State plans submitted to the
9 Administrator under subsections (a) and (b), shall include
10 provisions for making instructional materials concerning
11 integrated pest management techniques available to indi-
12 viduals at their request in accordance with the provisions
13 of section 23(c) of this Act. The Administrator and States
14 implementing such plans shall provide that all interested
15 individuals are notified of the availability of such instruc-
16 tional materials.”.

17 **SEC. 16. PESTICIDE RECORDKEEPING.**

18 Section 7 U.S.C. 136i–1(a) is amended as follows:

19 (1) In subsection (1), by striking “certified ap-
20 plicators” through “136a(d)(1)(C) of this title” and
21 inserting “users of pesticides when used in agricul-
22 tural production”.

23 (2) In subsection (2), by striking “a commercial
24 certified” and inserting “a pesticide user.”

25 (3) In subsection (b), by striking “individual
26 applicators” and inserting “individual users.”

1 **SEC. 17. ENFORCEMENT.**

2 (a) DEFINITIONS.—

3 (1) Sections 2(e) (7 U.S.C. 136e) is amended
4 as follows:

5 “(e) APPLICATOR.—

6 “(1) CERTIFIED APPLICATOR.—The term ‘cer-
7 tified applicator’ means any individual who is cer-
8 tified under section 136b of this title as authorized
9 to use or supervise the use of any pesticide which is
10 classified for restricted use. Any applicator who
11 holds or applies registered pesticides, or uses dilu-
12 tions of registered pesticides consistent with sub-
13 section (ee) of this section, only to provide a service
14 of controlling pests without delivering any unapplied
15 pesticide to any person so served is not deemed to
16 be a seller or distributor of pesticides under this
17 subchapter.

18 “(2) COMMERCIAL APPLICATOR.—

19 “(A) Except as provided in subparagraph
20 (3), the term ‘commercial applicator’ means a
21 person who—

22 “(i) uses or supervises the use, for
23 any purpose or on any property, of any
24 pesticide that is classified for restricted
25 use;

1 “(ii) uses or supervises the use of any
2 pesticide for hire as a principal part of the
3 business or work of the person; or

4 “(iii) as an employee of a person de-
5 scribed in clause (ii), uses or supervises the
6 use of any pesticide.

7 “(3) PRIVATE APPLICATOR.—The term ‘private
8 applicator’ means a person who uses or supervises
9 the use of any pesticide that is classified for re-
10 stricted use for purposes of producing any agricul-
11 tural product—

12 “(A) on property owned or rented by such
13 person or the employer of such person; or

14 “(B) on other property if applied without
15 compensation (other than trading of personal
16 services between producers of agricultural prod-
17 ucts).

18 “(4) UNDER THE DIRECT SUPERVISION OF A
19 CERTIFIED APPLICATOR.—Unless otherwise pre-
20 scribed by its labeling, a pesticide shall be consid-
21 ered to be used under the direct supervision of a cer-
22 tified applicator if the pesticide is applied by a per-
23 son acting under the instructions and control of a
24 certified applicator who is available if and when
25 needed, even though such certified applicator is not

1 physically present at the time and place the pesticide
2 is used.”.

3 (2) Section 2 (7 U.S.C. 136) is amended by
4 adding at the end the following:

5 “(jj) PESTICIDE TESTING FACILITY.—The term ‘pes-
6 ticide testing facility’ means any place where any person
7 conducts any test, study, survey, or investigation of the
8 properties, effects, or behavior of any pesticide (or any in-
9 gredient, metabolite, or degradation product thereof), de-
10 vice, or container or packaging of any pesticide or device,
11 on its own behalf or on behalf of any registrant, applicant
12 for registration, or other person who sells or distributes
13 the pesticide. The term does not include any place solely
14 on account of—

15 “(1) the participation of a commercial agricul-
16 tural producer as a cooperator in field testing of a
17 pesticide; or

18 “(2) the conduct of academic research at the
19 facility.

20 “(kk) PESTICIDE DEALER.—The term ‘pesticide
21 dealer’ means any person who, in the ordinary course of
22 business, distributes or sells any pesticide.

23 “(ll) AGRICULTURAL PRODUCER.—The term ‘agricul-
24 tural producer’ as used in this Chapter means a person
25 who produces any plant, or part thereof, or animal, or ani-

1 mal product, primarily for sale, consumption, propagation,
2 or other use by humans or animals, including farmers,
3 ranchers, vineyardists, plant propagators, Christmas tree
4 growers, aquaculturalists, floriculturalists, orchardists,
5 foresters, or other comparable persons, but not including
6 C corporations as defined in 26 U.S.C. 1362 (a)(2).”.

7 (b) RECORDKEEPING.—Section 8 (7 U.S.C. 136f) is
8 amended to read as follows:

9 **“SEC. 8. RECORDS.**

10 “(a) AUTHORITY TO REQUIRE RECORDS.—

11 “(1) IN GENERAL.—The Administrator, by reg-
12 ulation, shall require any producer, distributor, im-
13 porter or exporter of a pesticide, registrant, appli-
14 cant for registration, applicant for or holder of an
15 experimental use permit, pesticide testing facility, or
16 any holder of a pesticide that is the subject of a reg-
17 ulation or order issued under section 19(b) or under
18 subsection 106—

19 “(A) to prepare, and to maintain for rea-
20 sonable periods of time, such records as the Ad-
21 ministrator finds to be necessary for the effec-
22 tive implementation or enforcement of this Act;

23 “(B) to furnish to the Administrator re-
24 ports stating the location where the records are
25 maintained; and

1 “(C) to furnish a copy of any such record
2 to the Administrator on written request.

3 “(2) RECORDS OF COMMERCIAL APPLICA-
4 TORS.—The Administrator, by regulation, shall re-
5 quire each commercial applicator to maintain, and
6 may require a commercial applicator to provide the
7 Administrator, records of each pesticide application,
8 including the identity and quantity of pesticide ap-
9 plied and the date and location of such application,
10 for a period of 5 years after each such application.

11 “(3) RECORDS OF PESTICIDE DEALERS.—

12 “(A) IN GENERAL.—The Administrator, by
13 regulation, shall require each pesticide dealer to
14 maintain a record of each sale or distribution
15 of—

16 “(i) a pesticide classified for restricted
17 use; and

18 “(ii) any other pesticide designated
19 for purposes of this subsection by order by
20 the Administrator if the Administrator de-
21 termines that such records may be nec-
22 essary to carry out the purposes of this
23 Act.

24 “(B) CONTENTS.—Such records shall in-
25 clude the identity of the pesticide sold or dis-

1 tributed, the identify of the person to whom the
2 pesticide was distributed or sold, the date of the
3 distribution or sale, and the amount of the pes-
4 ticide distributed or sold.

5 “(C) DURATION.—A pesticide dealer shall
6 maintain the records required under this sub-
7 section for 5 years after the date of the dis-
8 tribution or sale.

9 “(b) LIMITATIONS.—The Administrator may not,
10 under the authority of subsection (a), require any person
11 to maintain records of—

12 “(1) financial data, pricing data, or sales data
13 other than shipment data;

14 “(2) personnel data, except for data concerning
15 exposure of employees to pesticides or ingredients of
16 pesticides, or concerning health effects on employees
17 that could reasonably be attributable to such expo-
18 sure; or

19 “(3) research or test data other than—

20 “(A) data relating to a registered pesticide;

21 “(B) data relating to any pesticide for
22 which an application for registration or for an
23 experimental use permit has been filed;

1 “(C) data relating to any pesticide for
2 which an exemption pursuant to section 18 has
3 been requested;

4 “(D) data relating to any pesticide for
5 which a regulation has been promulgated pursu-
6 ant to section 3(a);

7 “(E) data relating to testing at a pesticide
8 testing facility; or

9 “(F) data relating to the storage or dis-
10 posal of a pesticide whose registration has been
11 suspended or canceled.”.

12 (c) INSPECTION AUTHORITY.—Section 9 (7 U.S.C.
13 136g) is amended to read as follows:

14 “(a) AUTHORITY TO ENTER, INSPECT, COPY, AND
15 OBTAIN SAMPLES.—An officer or employee of the United
16 States or of any State, duly designated by the Adminis-
17 trator, is authorized at reasonable times as provided by
18 this section—

19 “(1) to enter and inspect—

20 “(A) any place where any pesticide, active
21 ingredient, or device is produced, sold, distrib-
22 uted, stores, packaged, used, or found;

23 “(B) any place where any records required
24 under this Act are kept;

25 “(C) any pesticide testing facility;

1 “(D) any place where such officer or em-
2 ployee has reason to believe that this Act has
3 been or is being violated; or

4 “(E) any place when the Administrator or
5 States seek information as part of an inquiry
6 into specific environmental or health problems;
7 and

8 “(2) to obtain—

9 “(A) samples of any pesticide (or any in-
10 gredient, metabolite, or degradation product
11 thereof) or device, or any container or packag-
12 ing of any pesticide or device;

13 “(B) copies of any records required under
14 this Act or of any labels or labeling of a pes-
15 ticide, active ingredient or device;

16 “(C) copies of documents related to com-
17 pliance with the provisions of this Act;

18 “(D) copies of any data or samples of any
19 specimens involved in the testing of any pes-
20 ticide (or any ingredient, metabolite, or deg-
21 radation product thereof) or device; or

22 “(E) samples of any places where pesticide
23 residues may be found, including without limi-
24 tation, agricultural commodities, animals, pests,
25 soil, or water:

1 *Provided*, That, nothing in this Act shall be con-
2 strued as authorizing officers or employees of the
3 United States or of any State to enter and inspect
4 private residences or land, property and appur-
5 tenances used in agricultural production unless there
6 is a suspected violation of this Act or the Adminis-
7 trator or any State is seeking information as part of
8 an inquiry into specific environmental or health
9 problems.

10 “(b) ADMINISTRATIVE WARRANTS.—An officer or
11 employee of the United States or of any State, duly au-
12 thorized by the Administrator, is empowered to obtain and
13 execute warrants authorizing—

14 “(1) entry, inspection, and obtaining of evi-
15 dence for the purposes of this section or section 8;

16 “(2) inspection and copying of all records re-
17 quired under this Act or documents related to com-
18 pliance with the provisions of this Act; and

19 “(3) seizure of any pesticide, device, active in-
20 gredient, labeling, or packaging that is in violation
21 of this Act.

22 “(c) PROCEDURE.—

23 “(1) CREDENTIALS AND STATEMENTS.—Before
24 any entry or inspection of any premises not open to
25 the general public is made under this section, the

1 person conducting the inspection shall present to the
2 person in charge of the premises appropriate creden-
3 tials, and a written statement of the reason for the
4 entry or inspection and whether a violation of this
5 Act is suspected.

6 “(2) PROMPTNESS.—Each entry or inspection
7 shall be commenced and completed with reasonable
8 promptness.

9 “(3) SAMPLES.—If the person conducting the
10 entry or inspection obtains any samples pursuant to
11 subparagraph 9(a)(2), before leaving the premises
12 such person shall give to the person in charge of the
13 premises a receipt describing the sample and, if re-
14 quested and practicable, a portion of each such sam-
15 ple equal in volume or weight to the portion re-
16 tained. If an analysis is made of any such sample,
17 a copy of the results of such analysis shall be fur-
18 nished on request to the person in charge of the
19 premises.

20 “(d) COORDINATION.—The Administrator shall co-
21 ordinate actions taken under this section with actions
22 taken under other Federal laws for the purpose of avoiding
23 duplication of inspections.”.

1 (d) CONFIDENTIAL BUSINESS INFORMATION TO
2 STATES.—Section 10 (7 U.S.C. 136h) is amended by add-
3 ing at the end the following:

4 “(h) DATA DISCLOSURE TO STATES.—The Adminis-
5 trator may disclose to a State any data or information
6 acquired under this Act if the State assures the Adminis-
7 trator, and the Administrator determines, that—

8 “(1) the submitter of the data or information
9 will receive no less protection with respect to the dis-
10 closure and use of the data or information by the
11 State than is otherwise provided by this Act; and

12 “(2) the laws of the State allow the submitter
13 of the data or information to recover just compensa-
14 tion in a civil action against the State for losses re-
15 sulting from the disclosure or use of the data or in-
16 formation by the State or its employees or agents in
17 a manner inconsistent with this Act.”.

18 (e) UNLAWFUL ACTS.—

19 (1) Section 12(a)(1) (7 U.S.C. 136j(a)(1)) is
20 amended to read as follows:

21 “(a) IN GENERAL.—

22 “(1) Except as provided in subsection (b), it
23 shall be unlawful for any person in any state to fail
24 or refuse to comply with any rule promulgated or

1 order issued under Section 3, 4, or 8 of this Act, or
2 to distribute or sell to any person—”.

3 (2) Section 12(a)(2)(B) (7 U.S.C. 136j
4 (a)(2)(B)) is amended to read as follows:

5 “(B) to refuse to—

6 “(i) prepare, maintain, or submit any
7 records required by or under section 5, 7,
8 8, 11, 17, or 19;

9 “(ii) submit any reports required by
10 or under section 5, 6, 7, 8, 11, 17, or 19;
11 or

12 “(iii) allow any entry, inspection,
13 copying of records, or sampling authorized
14 by this Act.”.

15 (3) Sections 12(a)(2) (I), (M), (N), and (O) (7
16 U.S.C. 136j(a)(2) (I), (M), (N), (O)) are amended
17 to read as follows:

18 “(I) to violate any order or subpoena is-
19 sued under section 13.

20 “(M) to knowingly make any false material
21 statement, representation or certification in, fail
22 to maintain, omit material information from, or
23 alter, conceal or fail to file, any notice, applica-
24 tion, record, report or other document or infor-
25 mation required pursuant to this Act to be sub-

1 mitted, filed or maintained (whether such re-
2 quirement is imposed by the Administrator or
3 by a state).

4 “(N) who is a registrant, wholesaler, deal-
5 er, retailer or other distributor, commercial ap-
6 plicator, or private applicator, to fail to file re-
7 ports required by this Act.

8 “(O) to violate any regulation issued pur-
9 suant to this Act.”.

10 (4) Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is
11 amended by adding at the end the following:

12 “(U) who is a registrant, to violate any
13 term or condition of a registration issued pur-
14 suant to this Act.

15 “(V) to violate any administrative order is-
16 sued pursuant to section 14(b) of the Act.”.

17 (5) Section 12 (7 U.S.C. 136(j)) is amended by
18 adding at the end the following:

19 “(c) ACTS OF OFFICERS, AGENTS, ETC.—When con-
20 struing and enforcing the provisions of this Act, the act,
21 omission, or failure of any officer, employee, agent, or
22 other person acting for or employed by any person shall
23 be deemed to be the act, omission, or failure of such per-
24 son as well as that of the person employed.”.

1 (f) SUBPOENAS.—Section 13 (7 U.S.C. 136k) is
2 amended by adding at the end the following:

3 “(e) SUBPOENA AUTHORITY.—In carrying out this
4 Act, the Administrator may by subpoena require the at-
5 tendance and testimony of witnesses and the production
6 of reports, papers, documents, answers to questions, and
7 other information that the Administrator deems necessary.
8 Witnesses shall be paid the same fees and mileage that
9 are paid witnesses in the courts of the United States. In
10 the event of contumacy, failure, or refusal of any person
11 to obey any such subpoena, any district court of the Unit-
12 ed States in which venue is proper shall have jurisdiction
13 to order any such person to comply with such subpoena.
14 Any failure to obey such an order of the court is punish-
15 able by the court as a contempt thereof.”.

16 (g) ENFORCEMENT AUTHORITY.—Section 14 (7
17 U.S.C. 1361) is amended to read as follows:

18 “(a) ENFORCEMENT AUTHORITIES.—

19 “(1) Whenever, on the basis of any information
20 available to the Administrator, the Administrator
21 finds that any person has violated, or is in violation
22 of, any requirement of this Act, including, but not
23 limited to, a requirement or prohibition of any rule,
24 order, or registration promulgated, issued, or ap-
25 proved under this Act, the Administrator may—

1 “(A) issue an administrative order in ac-
2 cordance with subsection (b) of this section, re-
3 quiring such person to comply with such re-
4 quirement or prohibition;

5 “(B) issue an administrative penalty order
6 in accordance with subsection (c) of this sec-
7 tion;

8 “(C) request the Attorney General to com-
9 mence a civil action in accordance with sub-
10 section (d) of this section; or

11 “(D) request the Attorney General to com-
12 mence a criminal action in accordance with sub-
13 section (e) of this section.

14 “(2) NOTICE TO STATE.—A copy of any (1) ad-
15 ministrative order issued pursuant to subsection (b)
16 of this section, (2) administrative penalty order is-
17 sued pursuant to subsection (c) of this section, or
18 (3) civil judicial complaint filed pursuant to sub-
19 section (d) or subsection (g) of this section shall be
20 sent to the State agency regulating pesticides in the
21 State in which the violation occurs.

22 “(3) WARNING NOTICES.—The Administrator
23 may issue a warning notice for a first-time violation
24 of the Act by a private applicator, unless the viola-
25 tion is a knowing violation.

1 “(b) REQUIREMENTS FOR ADMINISTRATIVE OR-
2 DERS.—

3 “(1) IN GENERAL.—Any person who has vio-
4 lated, or is in violation of, any provision of this Act
5 or a regulation promulgated thereunder, may be or-
6 dered by the Administrator to cease their violative
7 activities or to comply with applicable requirements
8 of this Act or regulations issued under this Act.

9 “(2) CONTENTS OF ORDER.—Any order issued
10 under this subsection shall state with reasonable
11 specificity the nature of the violation and specify a
12 time for compliance which the Administrator deter-
13 mines is reasonable, taking into account the serious-
14 ness of the violation and any good faith efforts to
15 comply with applicable requirements. An order is-
16 sued under this subsection shall require the person
17 to whom it was issued to comply with the require-
18 ment immediately or within a specified time period,
19 but in no event longer than one year after the date
20 the order was issued.

21 “(3) VIOLATION OF ORDER.—If a violator fails
22 to take corrective action within the time specified in
23 the order, the Administrator may assess a civil pen-
24 alty of not more than \$25,000 for each day of con-
25 tinued noncompliance with the order.

1 “(4) CONSULTATION WITH ADMINISTRATOR.—
2 The recipient of an order issued under this section
3 (other than an administrative penalty order as de-
4 scribed in subsection (c)), shall have an opportunity,
5 within 10 days of the order’s issuance, to consult
6 with the Administrator or any duly designated rep-
7 resentative concerning the alleged violation.

8 “(5) OTHER REMEDIES AND OBLIGATIONS.—No
9 order issued under this subsection shall prevent the
10 State or the Administrator from assessing any pen-
11 alties nor otherwise affect or limit the State’s or the
12 United States’ authority to enforce under other pro-
13 visions of this Act, nor affect any person’s obliga-
14 tions to comply with any section of this Act or with
15 a term or condition of any registration approved
16 under this Act.

17 “(6) TIMING OF REVIEW.—No Federal court
18 shall have jurisdiction under any Federal or State
19 law to review any order issued under this subsection
20 in any action except an action to enforce an order
21 issued under this subsection or to recover a civil
22 penalty for violation of, or noncompliance with, such
23 order.

24 “(c) ADMINISTRATIVE ASSESSMENT OF CIVIL PEN-
25 ALTIES.—

1 “(1) IN GENERAL.—Any person who has vio-
2 lated, or is in violation of, any provision of this Act
3 or regulation promulgated thereunder shall be liable
4 to the United States for a civil penalty in an amount
5 not to exceed \$25,000 or the economic benefit of
6 noncompliance, whichever is higher, for each such
7 violation. Each day such a violation continues shall,
8 for purposes of this subsection, constitute a separate
9 violation of the Act. The Administrator’s authority
10 under this paragraph shall be limited to matters
11 where the total penalty sought does not exceed
12 \$400,000, except where the Administrator and the
13 Attorney General jointly determine that a matter or
14 matters involving a larger penalty amount are ap-
15 propriate for administrative penalty action. Any such
16 determination by the Administrator and the Attor-
17 ney General shall not be subject to judicial review.

18 “(2) HEARING.—A civil penalty for a violation
19 of this Act shall be assessed by the Administrator by
20 an order made on the record after an opportunity
21 (provided in accordance with this subparagraph) for
22 a hearing in accordance with section 554 of Title 5,
23 United States Code. Before issuing such an order,
24 the Administrator shall give written notice to the
25 person to be assessed a civil penalty under such

1 order by the Administrator, and shall provide such
2 person an opportunity to request, within 15 days of
3 the date the notice is received by such person, such
4 a hearing on the order.

5 “(3) DETERMINATION OF PENALTY.—In deter-
6 mining the amount of a civil penalty, the Adminis-
7 trator shall take into account the nature, cir-
8 cumstances, extent, and gravity of the violation or
9 violations and, with respect to the violator, ability to
10 pay, effect on ability to continue to do business, any
11 history of prior such violations (including whether
12 the violation was a first-time violation), the degree
13 of culpability, the economic benefit of noncompliance
14 and such other matters as justice may require.

15 “(4) The minimum penalty the Administrator
16 must assess under this subsection upon a determina-
17 tion of liability is the amount of the economic benefit
18 resulting from the violation, where such economic
19 benefit, if any, is calculable, provided that nothing in
20 this subsection shall limit the Administrator’s discre-
21 tion to issue warning notices pursuant to section
22 14(a)(3) of the Act.

23 “(5) MODIFICATION OF PENALTY.—The Admin-
24 istrator may compromise, modify, or remit, with or
25 without conditions, any civil penalty which may be

1 imposed under this subsection. The amount of such
2 penalty, or the amount agreed upon in compromise,
3 may be deducted from any sums owing by the Unit-
4 ed States to the person charged.

5 “(6) JUDICIAL REVIEW.—Any person who re-
6 quested in accordance with paragraph (2) a hearing
7 respecting the assessment of a civil penalty and who
8 is aggrieved by an order assessing a civil penalty, or
9 against whom a civil penalty is assessed under para-
10 graph (8) of this subsection, may seek judicial re-
11 view in accordance with section 16(a)(2) of the Act.

12 “(7) FAILURE TO PAY.—

13 “(A) If a person fails to pay an assessment
14 of a civil penalty—

15 “(i) after the order making the assess-
16 ment has become a final order and if such
17 person does not file a petition for judicial
18 review of the order in accordance with
19 paragraph (5), or

20 “(ii) after a court in an action
21 brought under paragraph (5) has entered a
22 final judgment in favor of the Adminis-
23 trator,

24 the Attorney General shall recover the amount
25 assessed (plus interest at currently prevailing

1 rates from the date of the expiration of the 30-
2 day period referred to in paragraph (5) or the
3 date of such final judgment, as the case may
4 be) in an action brought in any appropriate dis-
5 trict court of the United States. In such an ac-
6 tion, the validity, amount and appropriateness
7 of such penalty shall not be subject to review.

8 “(B) Any person who fails to pay on a
9 timely basis a civil penalty ordered and assessed
10 under this section shall be required to pay, in
11 addition to such penalty and interest, the
12 United States enforcement expenses, including
13 but not limited to attorneys fees and costs in-
14 curred by the United States for collection pro-
15 ceedings and a quarterly nonpayment penalty
16 for each quarter during which such failure to
17 pay persists. Such nonpayment penalty shall be
18 10 percent of the aggregate amount of such
19 person’s outstanding penalties and nonpayment
20 penalties accrued as of the beginning of each
21 quarter.

22 “(8) SUBPOENAS.—The Administrator, in con-
23 nection with administrative proceedings under this
24 subsection, may issue subpoenas compelling the at-
25 tendance and testimony of witnesses and the produc-

1 tion of documents, and may request the Attorney
2 General to bring an action to enforce any subpoena
3 issued under this paragraph. The district courts of
4 the United States shall have jurisdiction to enforce
5 such subpoenas and impose sanctions.

6 “(d) CIVIL JUDICIAL ENFORCEMENT.—

7 “(1) IN GENERAL.—The Administrator may
8 commence a civil action for a temporary or perma-
9 nent injunction, and/or to compel compliance, and/or
10 to assess and recover a civil penalty of not more
11 than \$25,000 or the economic benefit of noncompli-
12 ance, whichever is higher, for each day of violation,
13 whenever such person has violated or is in violation
14 of a requirement or prohibition of this Act, or a reg-
15 ulation promulgated thereunder.

16 “(2) JURISDICTION.—Any action under this
17 subsection may be brought in the district court for
18 the United States for the district in which the viola-
19 tion is alleged to have occurred, or is occurring, or
20 in which the defendant resides, or where the defend-
21 ant’s principal place of business is located, and such
22 court shall have jurisdiction to restrain such viola-
23 tion, to require compliance, to assess civil penalties,
24 to collect any fees owed the United States under this
25 Act, and to award any other appropriate relief.

1 “(3) DETERMINATION OF PENALTY.—In deter-
2 mining the amount of a civil penalty, the court shall
3 take into account the factors enumerated in sub-
4 section (c)(3) of this section.

5 “(4) MINIMUM PENALTY.—The minimum pen-
6 alty the court must assess under this subsection
7 upon a determination of liability is the amount of
8 the economic benefit, if any, resulting from the vio-
9 lation, where such economic benefit is calculable.

10 “(e) CRIMINAL PENALTIES.—

11 “(1) Any person who negligently commits any
12 act prohibited under section 136j of this Title shall,
13 upon conviction, be punished by a fine of not more
14 than \$25,000 for each day of violation, or by impris-
15 onment for not more than one year, or both. If the
16 conviction is for a violation committed after a first
17 conviction of such person under this paragraph, the
18 maximum punishment shall be doubled with respect
19 to both fine and imprisonment.

20 “(2) Any person who knowingly commits any
21 act prohibited under section 136j of this Title shall,
22 upon conviction, be punished by a fine of not more
23 than \$50,000 for each day of violation, or by impris-
24 onment for not more than 5 years, or both. If the
25 conviction is for a violation committed after a first

1 conviction of such person under this paragraph, the
2 maximum punishment shall be doubled with respect
3 to both fine and imprisonment.

4 “(3)(A) Any person who commits any violation
5 under paragraph (2) of this subsection and in the
6 course of or in connection with committing such vio-
7 lation knows at the time that he places another per-
8 son in imminent danger of death or serious bodily
9 injury, shall, upon conviction, be punished by a fine
10 of not more than \$250,000 or imprisonment of not
11 more than 15 years, or both. A person which is an
12 organization shall, upon conviction of violating this
13 subparagraph, be subject to a fine of not more than
14 \$1,000,000. If a conviction of a person is for a viola-
15 tion committed after a first conviction of such per-
16 son under this subparagraph, the maximum punish-
17 ment shall be doubled with respect to both fine and
18 imprisonment.

19 “(B) For purposes of this subparagraph—

20 “(i) the term ‘imminent danger’ means the
21 existence of a condition or set of conditions that
22 could reasonably be expected to cause death or
23 serious bodily injury unless the condition is
24 remedied; and

1 “(ii) the term ‘serious bodily injury’ means
2 bodily injury which involves a substantial risk
3 of death, unconsciousness, extreme physical
4 pain, protracted and obvious disfigurement, or
5 protracted loss or impairment of the function of
6 a bodily member, organ, or mental faculty.

7 “(4) Notwithstanding any other provision of
8 law, a court may make the following disposition of
9 fines imposed under this Title, in addition to pay-
10 ment, if any, to the United States Treasury.

11 “(A) Upon recommendation of the United
12 States, and in accordance with the terms of
13 such recommendation, the court may pay to an
14 individual who has given information or services
15 leading to a criminal conviction under this Title
16 an amount from the criminal fine assessed as a
17 result of any violation of this subchapter not
18 more than the lesser of one-half the fine im-
19 posed or \$50,000.

20 “(B) Upon recommendation of the United
21 States, and in accordance with the terms of
22 such recommendation, the court may pay to any
23 state, municipality or other political subdivision
24 of a state, which has given significant support
25 to the prosecution or investigation leading to a

1 conviction under this Title, an amount not more
2 than one-half of the fine imposed for that con-
3 viction.

4 “(f) EMERGENCY POWERS.—Notwithstanding any
5 other provision of this Act, the Administrator, upon re-
6 ceipt of evidence that a specific use of a pesticide or pes-
7 ticide device is presenting an imminent and substantial
8 endangerment to public health or welfare, or the environ-
9 ment, may request the Attorney General to bring suit on
10 behalf of the United States in the appropriate United
11 States district court to immediately restrain any person
12 using such pesticide or device to stop the activity or to
13 take such other action as may be necessary, provided that
14 relief under this subsection does not include suspension
15 under Section 6(c) of the Act and is not available where
16 the Administrator, in his discretion, determines that a sus-
17 pension under Section 6(c) is adequate to stop or prevent
18 the imminent and substantial endangerment. If it is not
19 practicable to assure prompt protection of public health
20 or welfare or the environment by commencement of such
21 civil action, the Administrator may issue such orders as
22 may be necessary to protect public health or welfare or
23 the environment. Any order issued by the Administrator
24 under this section shall be effective upon issuance and
25 shall remain in effect for a period of not more than 60

1 days, unless an action is brought pursuant to the first sen-
2 tence of this section before the expiration of that period.
3 Whenever such an action is brought within the 60-day pe-
4 riod, the order shall remain in effect for an additional 14
5 days or for such longer period as may be authorized by
6 the court in which such action is brought. Any order is-
7 sued under this paragraph shall not be subject to judicial
8 review except during judicial enforcement proceedings
9 brought by the Attorney General or his delegate. Nothing
10 herein shall diminish the right of any person subject to
11 a suspension proceeding under Section 6(c) of the Act.”.

12 (h) CONTRACTOR LISTING.—Section 32 (7 U.S.C.
13 136 (z)) is added following Section 31:

14 **“SEC. 32. FEDERAL PROCUREMENT.**

15 “(a) CONTRACTS PROHIBITED WITH CONVICTED
16 VIOLATORS.—No federal agency may enter into any con-
17 tract, grant, or loan with any person who has been con-
18 victed of any offense under SECTION 1361 of this Title,
19 if the contract for the procurement of goods, materials,
20 and services, or the grant or loan is to be performed, in
21 whole or in any part, at any facility at which the violation
22 which gave rise to such conviction occurred, and if such
23 facility is owned, operated, leased, or supervised at the
24 time of the violation by such person. The prohibition in
25 the preceding sentence shall continue until the Adminis-

1 trator certifies that the condition giving rise to such con-
2 viction has been corrected.

3 “(b) NOTIFICATION.—The Administrator shall estab-
4 lish procedures to provide all Federal agencies with the
5 notification necessary for the purposes of subsection (a).

6 “(c) DISCLOSURE.—Each applicant who seeks to par-
7 ticipate in a federal contract, grant, or loan shall disclose
8 any conviction described in subsection (a) to each appro-
9 priate Federal agency.

10 “(d) EXEMPTIONS.—The President may exempt any
11 contract, loan, or grant from all or part of the provisions
12 of this section where he determines such exemption is nec-
13 essary in the paramount interest of the United States and
14 he shall notify the Congress of such exemption.”.

15 (i) CITIZEN SUITS.—Section 33 (7 U.S.C. 136aa) is
16 added following Section 32 to read as follows:

17 **“SEC. 33. CITIZEN SUITS.**

18 “(a) Except as provided in subsection (b), any person
19 may commence a civil action on his own behalf—

20 “(1) against any person (including any govern-
21 mental instrumentality or agency to the extent
22 permitted by the Eleventh Amendment to the Con-
23 stitution) who is alleged to have violated or to be in
24 violation of any provision of the Act or any rule pro-
25 mulgated thereunder, except that no such action

1 may be brought against any agricultural producer
2 who is alleged to have committed a violation or to
3 be in violation while engaged in the production of
4 any agricultural product; or

5 “(2) against any federal official where there is
6 alleged a failure of the federal official to perform
7 any act or duty under this Act which is not discre-
8 tionary with the federal official.

9 The district courts shall have jurisdiction, without regard
10 to the amount in controversy or the citizenship of the par-
11 ties, to enforce the Act and the regulations promulgated
12 thereunder, to order any appropriate relief under Section
13 XX of the Act, and to impose any appropriate civil pen-
14 alties (except for actions under subsection (2)) for viola-
15 tions of the Act. The district court shall have jurisdiction
16 in actions brought under subsection (a)(2) against the fed-
17 eral official to order the federal official to perform such
18 act or duty.

19 “(b) No actions may be commenced—

20 “(1) under subsection (a)(1)—

21 “(A) prior to 60 days after the plaintiff
22 has given notice of the violation to the Adminis-
23 trator, to the State in which the violation oc-
24 curs, and to any alleged violator; or

1 “(B) if the Administrator or State with
2 primary enforcement responsibility under Sec-
3 tion 26 of the Act has commenced and is dili-
4 gently prosecuting a civil or criminal action in
5 a court of the United States or a State or a
6 federal administrative penalty action to require
7 compliance with the Act or a regulation promul-
8 gated thereunder, but in any such civil action
9 any person may intervene as a matter of right;
10 and

11 “(2) under subsection (a)(2) prior to 60 days
12 after the plaintiff has given notice of such action to
13 the federal official.

14 Notices under this subsection shall be given in such man-
15 ner as the Administrator shall prescribe by regulation.

16 “(c) Any person may request the Administrator or
17 a State with primary enforcement authority to commence
18 an action against any agricultural producer who is alleged
19 to have violated or to be in violation of any provision of
20 the Act or any rule promulgated thereunder while engaged
21 in the production of any agricultural product. A copy of
22 such a request shall be given to the alleged violator. With-
23 in 60 days after such request is made to the Administrator
24 or a State, the Administrator or State shall either—

1 “(1) commence an action against the alleged vi-
2 olator; or

3 “(2) provide to the person making the request
4 a written response that ((A) state the Administra-
5 tor’s or the State’s decision not to take enforcement
6 action against the alleged violator and (B) describes
7 any other action the Administrator or State has
8 taken or intends to take in connection with the al-
9 leged violation.

10 The response of the Administrator or State under sub-
11 section (c)(2) shall not be subject to judicial review.

12 “(d)(1) In any action under this section, the United
13 States may intervene as a matter of right at any time in
14 the proceeding. A judgment in an action under this section
15 to which the United States is not a party shall not have
16 any binding effect upon the United States.

17 “(2) Whenever any action is brought under this sec-
18 tion the plaintiff shall serve a copy of the complaint on
19 the Attorney General of the United States and on the Ad-
20 ministrator. No consent judgment shall be entered in an
21 action brought under this section in which the United
22 States is not a party prior to 60 days following the receipt
23 of a copy of the proposed consent judgement by the Attor-
24 ney General and the Administrator during which time the
25 Government may submit its comments on the proposed

1 consent judgement to the court and parties or may inter-
2 vene as a matter of right. The court shall not approve
3 a proposed consent judgment that is inappropriate, im-
4 proper, inadequate, or inconsistent with the purposes or
5 requirements of the Act, and shall consider any views ex-
6 pressed by the United States with respect to the consent
7 judgment.

8 “(e) The court, in issuing any final order in any ac-
9 tion brought pursuant to subsection (a) of this section,
10 may award costs of litigation (including reasonable attor-
11 ney and expert witness fees) to any prevailing or substan-
12 tially prevailing party. The court may, if a temporary re-
13 straining order or preliminary injunction is sought, require
14 the filing of a bond or equivalent security in accordance
15 with the Federal Rules of Civil Procedure.

16 “(f) Nothing in this section shall restrict any right
17 which any person, or class of persons, may have been
18 under any statute or common law to seek enforcement of
19 any requirement or to seek any other relief (including re-
20 lief against federal officials or a State agency).

21 “(g) Any action under this Section shall be brought
22 in accordance with the provisions of 28 U.S.C. Section
23 1391.”.

24 (j) INDIAN TRIBES.—Section 34 (7 U.S.C. 136bb) is
25 added following Section 33 to read as follows:

1 **“SEC. 34. INDIAN TRIBES.**

2 “(a) IN GENERAL.—The Administrator shall promul-
3 gate regulations to treat Indian Tribes in the manner that
4 States are treated under the Act. Such treatment shall
5 be authorized only if—

6 “(1) the Indian Tribe is recognized by the Sec-
7 retary of the Interior and has a governing body car-
8 rying out appropriate governmental duties and pow-
9 ers; and

10 “(2) the functions to be exercised by the Indian
11 Tribe are within the area of the Tribe’s jurisdic-
12 tion.”.

13 **SEC. 18. WHISTLE BLOWER.**

14 Section 35 (7 U.S.C. 136cc) is added following sec-
15 tion 34 to read as follows:

16 **“SEC. 35. WHISTLE BLOWER.**

17 “(a) IN GENERAL.—No employer may discharge any
18 employee or otherwise discriminate against any employee
19 with respect to the employee’s compensation, terms, condi-
20 tions, or privileges of employment because the employee
21 (or any persons acting pursuant to a request of the em-
22 ployee) has—

23 “(1) commenced, caused to be commenced, or is
24 about to commence or cause to be commenced a pro-
25 ceeding under this chapter;

1 “(2) testified or is about to testify in any such
2 proceeding; or

3 “(3) assisted or participated or is about to as-
4 sist or participate in any manner in such a proceed-
5 ing or in any other action to carry out the purposes
6 of this chapter.

7 “(b) REMEDY.—

8 “(1) Any employee who believes that the em-
9 ployee has been discharged or otherwise discrimi-
10 nated against by any person in violation of sub-
11 section (a) of this section may, within 30 days after
12 such alleged violation occur, file (or have any person
13 file on the employee’s behalf) a complaint with the
14 Secretary of Labor (hereafter in this section referred
15 to as the ‘Secretary’) alleging such discharge or dis-
16 crimination. Upon receipt of such a complaint, the
17 Secretary shall notify the person named in the com-
18 plaint of the filing of the complaint.

19 “(2)(A) Upon receipt of a complaint filed under
20 paragraph (1), the Secretary shall conduct an inves-
21 tigation of the violation alleged in the complaint.
22 Within 120 days of the receipt of such complaint,
23 the Secretary shall complete such investigation and
24 shall notify in writing the complainant (and any per-
25 son acting on behalf of the complainant) and the

1 person alleged to have committed such violation of
2 the results of the investigation conducted pursuant
3 of this paragraph. Within ninety days of the receipt
4 of such complaint the Secretary shall, unless the
5 proceeding on the complaint is terminated by the
6 Secretary on the basis of a settlement entered into
7 by the Secretary and the person alleged to have com-
8 mitted such violation, issue an order either providing
9 the relief prescribed by subparagraph (B) or denying
10 the complaint. An order of the Secretary shall be
11 made on the record after notice and opportunity for
12 agency hearing. The Secretary may not enter into a
13 settlement terminating a proceeding on a complaint
14 without the participation and consent of the com-
15 plainant.

16 “(B) If in response to a complaint filed under
17 paragraph (1) the Secretary determines that a viola-
18 tion of subsection (a) of this section has occurred,
19 the Secretary shall order (i) the person who commit-
20 ted such violation to take affirmative action to abate
21 the violation, (ii) such person to reinstate the com-
22 plainant to the complainant’s former position to-
23 gether with compensation (including back pay)
24 terms, condition, and privileges of the complainant’s
25 employment, (iii) compensatory damages and (iv)

1 where appropriate, exemplary damages. If such an
2 order is issued, the Secretary, at the request of the
3 complainant shall assess against the person against
4 whom the order is issued a sum equal to the aggregate
5 amount of all costs and expenses, (including attorney's
6 fees) reasonably incurred, as determined by
7 the Secretary, by the complainant for, or in connection
8 with, the bringing of the complaint upon which
9 the order was issued.

10 “(c) REVIEW.—

11 “(1) Any employee or employer adversely affected
12 or aggrieved by an order issued under subsection
13 (b) of this section may obtain review of the
14 order in the United States Court of Appeals for the
15 circuit in which the violation, with respect to which
16 the order was issued, allegedly occurred. The petition
17 for review must be filed within sixty days from
18 the issuance of the Secretary's order. Review shall
19 conform to chapter 7 of Title 5.

20 “(2) An order of the Secretary, with respect to
21 which review could have been obtained under paragraph
22 (1), shall not be subject to judicial review in
23 any criminal or other civil proceeding.

24 “(d) ENFORCEMENT.—Whenever a person has failed
25 to comply with an order issued under subsection (b)(2)

1 of this section, the Secretary shall file a civil action in
 2 the United States district court for the district in which
 3 the violation was found to occur to enforce such order.
 4 In actions brought under this subsection, the district
 5 courts shall have jurisdiction to grant all appropriate re-
 6 lief, including injunctive relief and compensatory and ex-
 7 emplary damages.

8 “(e) EXCLUSION.—Subsection (a) of this section
 9 shall not apply with respect to any employee who, acting
 10 without direction from the employee’s employer (or any
 11 agent of the employer), deliberately causes a violation of
 12 any requirement of this chapter.”.

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