

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1166

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 10 (legislative day, JULY 10), 1995

Mr. LUGAR (for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. INOUE, Mr. COCHRAN, Mr. KERREY, Mr. DOLE, Mr. HEFLIN, Mr. GORTON, and Mr. BREAU) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

---

## A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, 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.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Food Quality Protection Act of 1995”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE FEDERAL INSECTICIDE,  
FUNGICIDE, AND RODENTICIDE ACT

Sec. 101. Reference.

Subtitle A—Registration of Pesticides

Sec. 111. Tolerance reevaluation as part of reregistration.

Sec. 112. Scientific advisory panel.

Sec. 113. Coordination of cancellation.

Subtitle B—Minor Use Crop Protection

Sec. 121. Definition of minor use.

Sec. 122. Exclusive use of minor use pesticides.

Sec. 123. Time extensions for development of minor use data.

Sec. 124. Minor use waiver.

Sec. 125. Expedition of minor use registrations.

Sec. 126. Utilization of data for voluntarily canceled chemicals.

Sec. 127. Minor use programs.

Subtitle C—Conforming Amendments

Sec. 131. FIFRA table of contents.

TITLE II—DATA COLLECTION AND IMPROVED PROCEDURES TO  
ENSURE THAT TOLERANCES SAFEGUARD THE HEALTH OF IN-  
FANTS AND CHILDREN

Sec. 201. Implementation of NAS report.

Sec. 202. Collection of pesticide use information.

Sec. 203. Integrated pest management.

TITLE III—AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND  
COSMETIC ACT

Sec. 301. Reference.

Sec. 302. Definitions.

Sec. 303. Prohibited acts.

Sec. 304. Adulterated food.

Sec. 305. Tolerances and exemptions for pesticide chemical residues.

Sec. 306. Authorization for increase monitoring.

1 **TITLE I—AMENDMENTS TO THE**  
2 **FEDERAL INSECTICIDE, FUN-**  
3 **GICIDE, AND RODENTICIDE**  
4 **ACT**

5 **SEC. 101. REFERENCE.**

6 Except as otherwise expressly provided, whenever in  
7 this title an amendment or repeal is expressed in terms  
8 of an amendment to, or repeal of, a section or other provi-  
9 sion, the reference shall be considered to be made to a  
10 section or other provision of the Federal Insecticide, Fun-  
11 gicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

12 **Subtitle A—Registration of**  
13 **Pesticides**

14 **SEC. 111. TOLERANCE REEVALUATION AS PART OF REREG-**  
15 **ISTRATION.**

16 Section 4(g)(2) (7 U.S.C. 136a–1(g)(2)) is amended  
17 by adding at the end the following:

18 “(E) As soon as the Administrator has  
19 sufficient information with respect to the die-  
20 tary risk of a particular active ingredient, but  
21 in any event not later than the date on which  
22 the Administrator makes a determination under  
23 subparagraph (C) or (D) with respect to a pes-  
24 ticide containing a particular active ingredient,  
25 the Administrator shall—

1           “(i) reassess each associated tolerance  
2           and exemption from the requirement for a  
3           tolerance issued under section 408 of the  
4           Federal Food, Drug, and Cosmetic Act (21  
5           U.S.C. 346a), taking into account available  
6           information and reasonable assumptions  
7           concerning the dietary exposure levels of  
8           food consumers (and major identifiable  
9           subgroups of food consumers, including in-  
10          fants and children) to residue of the pes-  
11          ticide in food and available information  
12          and reasonable assumptions concerning the  
13          variability of the sensitivities of major  
14          identifiable groups, including infants and  
15          children;

16          “(ii) determine whether the tolerance  
17          or exemption meets the requirements of  
18          the Act;

19          “(iii) determine whether additional  
20          tolerances or exemptions should be issued;

21          “(iv) publish in the Federal Register a  
22          notice setting forth the determinations  
23          made under this subparagraph; and

24          “(v) commence promptly such pro-  
25          ceedings under this Act and section 408 of

1 the Federal Food, Drug, and Cosmetic Act  
2 (21 U.S.C. 346a) as are warranted by the  
3 determinations.”.

4 **SEC. 112. SCIENTIFIC ADVISORY PANEL.**

5 Section 25(d) (7 U.S.C. 136w(d)) is amended—

6 (1) in the first sentence, by striking “(d) SCI-  
7 ENTIFIC ADVISORY PANEL.—The Administrator  
8 shall” and inserting the following:

9 “(d) SCIENTIFIC ADVISORY PANEL.—

10 “(1) IN GENERAL.—The Administrator shall”;

11 and

12 (2) by adding at the end the following:

13 “(2) SCIENCE REVIEW BOARD.—

14 “(A) There is established a science review  
15 board consisting of 60 scientists who shall be  
16 available to the scientific advisory panel to as-  
17 sist in reviews conducted by the panel.

18 “(B) The scientific advisory panel shall se-  
19 lect the scientists from 60 nominations submit-  
20 ted by each of the National Science Foundation  
21 and the National Institutes of Health.

22 “(C) A member of the board shall be com-  
23 pensated in the same manner as a member of  
24 the panel.”.

1 **SEC. 113. COORDINATION OF CANCELLATION.**

2 Section 2(bb) (7 U.S.C. 136(bb)) is amended—

3 (1) by striking “means any unreasonable risk”

4 and inserting “means—

5 “(1) any unreasonable risk”; and

6 (2) by striking the period at the end and insert-

7 ing “; and”; and

8 (3) by adding at the end the following:

9 “(2) a human dietary risk from residue that re-

10 sults from a use of a pesticide in or on any food in-

11 consistent with the standard the Administrator de-

12 termines is adequate to protect the public health

13 under section 408 of the Federal Food, Drug, and

14 Cosmetic Act (21 U.S.C. 346a).”.

15 **Subtitle B—Minor Use Crop**

16 **Protection**

17 **SEC. 121. DEFINITION OF MINOR USE.**

18 Section 2 (7 U.S.C. 136) is amended by adding at

19 the end the following:

20 “(hh) MINOR USE.—The term ‘minor use’ means the

21 use of a pesticide on an animal, on a commercial agricul-

22 tural crop or site, or for the protection of public health

23 if—

24 “(1)(A) in the case of the use of the pesticide

25 on a commercial agricultural crop or site, the total

26 quantity of acreage devoted to the crop in the Unit-

1       ed States is less than 300,000 acres, as determined  
2       by the Secretary; or

3           “(B) the Administrator, in consultation with  
4       the Secretary of Agriculture, determines that, based  
5       on information provided by an applicant for registra-  
6       tion or a registrant—

7           “(i) the use does not provide a sufficient  
8       economic incentive to support the initial reg-  
9       istration or continuing registration of a pes-  
10      ticide for the use; and

11          “(ii)(I) there are not a sufficient number  
12      of efficacious alternative registered pesticides  
13      available for the use; or

14          “(II) any 1 of the alternatives to the pes-  
15      ticide pose a greater risk to the environment or  
16      human health than the pesticide; or

17          “(III) the pesticide plays, or will play, a  
18      significant part in managing pest resistance; or

19          “(IV) the pesticide plays, or will play, a  
20      significant part in an integrated pest manage-  
21      ment program; and

22          “(2) the Administrator does not determine that,  
23      based on data existing on the date of the determina-  
24      tion, the use may cause unreasonable adverse effects  
25      on the environment.”.

1 **SEC. 122. EXCLUSIVE USE OF MINOR USE PESTICIDES.**

2 Section 3(c)(1)(F) (7 U.S.C. 136a(c)(1)(F)) is  
3 amended—

4 (1) in clause (i)—

5 (A) by striking “(i) With respect” and in-  
6 serting “(i)(I) With respect”;

7 (B) by striking “a period of ten years fol-  
8 lowing the date the Administrator first registers  
9 the pesticide” and inserting “the exclusive data  
10 use period determined under subclause (II)”;  
11 and

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

13 “(II) Except as provided in subclauses  
14 (III) and (IV), the exclusive data use pe-  
15 riod under subclause (I) shall be 10 years  
16 beginning on the date the Administrator  
17 first registers the pesticide.

18 “(III) Subject to subclauses (IV), (V),  
19 and (VI), the exclusive data use period  
20 under subclause (II) shall be extended 1  
21 year for each 3 minor uses registered after  
22 the date of enactment of this subclause  
23 and before the date that is 7 years after  
24 the date the Administrator first registers  
25 the pesticide, if the Administrator in con-  
26 sultation with the Secretary of Agriculture,



determines that, based on information provided by an applicant for registration or a registrant—

“(aa) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

“(bb) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

“(cc) the pesticide plays, or will play, a significant part in managing pest resistance; or

“(dd) the pesticide plays, or will play, a significant part in an integrated pest management program.

“(IV) Notwithstanding subclause (III), the exclusive data use period established under this clause may not exceed 13 years.

“(V) For purposes of subclause (III), the registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered 1 minor

1 use for each representative crop for which  
2 data are provided in the crop grouping.

3 “(VI) An extension under subclause  
4 (III) shall be reduced or terminated if the  
5 applicant for registration or the registrant  
6 voluntarily cancels the pesticide or deletes  
7 from the registration a minor use that  
8 formed the basis for the extension, or if  
9 the Administrator determines that the ap-  
10 plicant or registrant is not actually mar-  
11 keting the pesticide for a minor use that  
12 formed the basis for the extension.”; and

13 (2) by adding at the end the following:

14 “(iv) The period of exclusive use pro-  
15 vided under clause (i)(III) shall not take  
16 effect until 1 year after enactment of this  
17 clause, except where an applicant or reg-  
18 istrant is applying for the registration of a  
19 pesticide containing an active ingredient  
20 not previously registered.

21 “(v) With respect to data submitted  
22 after the date of enactment of this clause  
23 by an applicant or registrant to support an  
24 amendment adding a new use to an exist-  
25 ing registration that does not retain any

1 period of exclusive use, if the data relate  
2 solely to a minor use of a pesticide, the  
3 data shall not, without the written permis-  
4 sion of the original data submitter, be con-  
5 sidered by the Administrator to support an  
6 application for a minor use by another per-  
7 son during the period of 10 years following  
8 the date of submission of the data. The ap-  
9 plicant or registrant at the time at which  
10 the new minor use is requested shall notify  
11 the Administrator that, to the best of the  
12 applicant's or registrant's knowledge, the  
13 exclusive use period for the pesticide has  
14 expired and that the data pertaining solely  
15 to the minor use of a pesticide are eligible  
16 for exclusive use protection under this  
17 paragraph. If the minor use registration  
18 that is supported by data submitted pursu-  
19 ant to this subsection is voluntarily can-  
20 celed or if the data are subsequently used  
21 to support a nonminor use, the data shall  
22 not be subject to the exclusive use protec-  
23 tion provided under this paragraph but  
24 shall instead be considered by the Adminis-

1                   trator in accordance with clause (i), as ap-  
2                   propriate.”.

3 **SEC. 123. TIME EXTENSIONS FOR DEVELOPMENT OF MINOR**  
4 **USE DATA.**

5       (a) IN GENERAL.—Section 3 (7 U.S.C. 136a) is  
6 amended by adding at the end the following:

7       “(g) TIME EXTENSION FOR DEVELOPMENT OF  
8 MINOR USE DATA.—

9               “(1) SUPPORTED USE.—In the case of a minor  
10 use, the Administrator shall, on the request of a reg-  
11 istrant and subject to paragraph (3), extend the  
12 time for the production of residue chemistry data  
13 under subsection (c)(2)(B) and subsections (d)(4),  
14 (e)(2), and (f)(2) of section 4 for data required sole-  
15 ly to support the minor use until the final date  
16 under section 4 for submitting data on any other use  
17 established not later than the date of enactment of  
18 this subsection.

19               “(2) NONSUPPORTED USE.—

20               “(A) If a registrant does not commit to  
21 support a minor use of a pesticide, the Admin-  
22 istrator shall, on the request of the registrant  
23 and subject to paragraph (3), extend the time  
24 for taking any action under subsection  
25 (c)(2)(B) or subsection (d)(6), (e)(3)(A), or

1 (f)(3) of section 4 regarding the minor use until  
2 the final date under section 4 for submitting  
3 data on any other use established not later than  
4 the date of enactment of this subsection.

5 “(B) On receipt of the request from the  
6 registrant, the Administrator shall publish in  
7 the Federal Register a notice of the receipt of  
8 the request and the effective date on which the  
9 uses not being supported will be deleted from  
10 the registration under section 6(f)(1).

11 “(3) CONDITIONS.—Paragraphs (1) and (2)  
12 shall apply only if—

13 “(A) the registrant commits to support  
14 and provide data for—

15 “(i) any use of the pesticide on a food;

16 or

17 “(ii) any other use, if all uses of the  
18 pesticide are for uses other than food;

19 “(B)(i) the registrant provides a schedule  
20 for producing the data referred to in subpara-  
21 graph (A) with the request for an extension;

22 “(ii) the schedule includes interim dates  
23 for measuring progress; and

24 “(iii) the Administrator determines that  
25 the registrant is able to produce the data re-

1           ferred to in subparagraph (A) before a final  
2           date established by the Administrator;

3           “(C) the Administrator determines that  
4           the extension would not significantly delay issu-  
5           ance of a determination of eligibility for rereg-  
6           istration under section 4; and

7           “(D) the Administrator determines that,  
8           based on data existing on the date of the deter-  
9           mination, the extension would not significantly  
10          increase the risk of unreasonable adverse effects  
11          on the environment.

12          “(4) MONITORING.—If the Administrator  
13          grants an extension under paragraph (1) or (2), the  
14          Administrator shall—

15               “(A) monitor the development of any data  
16               the registrant committed to under paragraph  
17               (3)(A); and

18               “(B) ensure that the registrant is meeting  
19               the schedule provided under paragraph (3)(B)  
20               for producing the data.

21          “(5) NONCOMPLIANCE.—If the Administrator  
22          determines that a registrant is not meeting a sched-  
23          ule provided by the registrant under paragraph  
24          (3)(B), the Administrator may—

1           “(A) revoke any extension to which the  
2           schedule applies; and

3           “(B) proceed in accordance with subsection  
4           (c)(2)(B)(iv).

5           “(6) MODIFICATION OR REVOCATION.—The Ad-  
6           ministrator may modify or revoke an extension  
7           under this subsection if the Administrator deter-  
8           mines that the extension could cause unreasonable  
9           adverse effects on the environment. If the Adminis-  
10          trator modifies or revokes an extension under this  
11          paragraph, the Administrator shall provide written  
12          notice to the registrant of the modification or rev-  
13          ocation.”.

14          (b) CONFORMING AMENDMENTS.—

15                 (1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B))  
16          is amended by adding at the end the following:

17                         “(vi) Subsection (g) shall apply to this sub-  
18                         paragraph.”.

19                 (2) Subsections (d)(4), (e)(2), and (f)(2) of sec-  
20          tion 4 (7 U.S.C. 136a–1) are each amended by add-  
21          ing at the end the following:

22                         “(C) Section 3(g) shall apply to this para-  
23                         graph.”.

24                 (3) Subsections (d)(6) and (f)(3) of section 4 (7  
25          U.S.C. 136a–1) are each amended by striking “The

1 Administrator shall” and inserting “Subject to sec-  
2 tion 3(g), the Administrator shall”.

3 (4) Section 4(e)(3)(A) (7 U.S.C. 136a-  
4 1(e)(3)(A)) is amended by striking “If the reg-  
5 istrant” and inserting “Subject to section 3(g), if  
6 the registrant”.

7 **SEC. 124. MINOR USE WAIVER.**

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

10 “(E) In the case of the registration of a  
11 pesticide for a minor use, the Administrator  
12 may waive otherwise applicable data require-  
13 ments if the Administrator determines that the  
14 absence of the data will not prevent the Admin-  
15 istrator from determining—

16 “(i) the incremental risk presented by  
17 the minor use of the pesticide; and

18 “(ii) whether the minor use of the  
19 pesticide would have unreasonable adverse  
20 effects on the environment.”.

21 **SEC. 125. EXPEDITION OF MINOR USE REGISTRATIONS.**

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



1           “(C)(i) As expeditiously as practicable  
2 after receipt, the Administrator shall review and  
3 act on a complete application that—

4           “(I) proposes the initial registration  
5 of a new pesticide active ingredient, if the  
6 active ingredient is proposed to be reg-  
7 istered solely for a minor use, or proposes  
8 a registration amendment to an existing  
9 registration solely for a minor use; or

10          “(II) for a registration or a registra-  
11 tion amendment, proposes a significant  
12 minor use.

13          “(ii) As used in clause (i):

14           “(I) The term ‘as expeditiously as  
15 practicable’ means the Administrator shall,  
16 to the greatest extent practicable, complete  
17 a review and evaluation of all data submit-  
18 ted with the application not later than 1  
19 year after submission of the application.

20           “(II) The term ‘significant minor use’  
21 means—

22           “(aa) 3 or more proposed minor  
23 uses for each proposed use that is not  
24 minor;

1 “(bb) a minor use that the Ad-  
2 ministrator determines could replace a  
3 use that was canceled not earlier than  
4 5 years preceding the receipt of the  
5 application; or

6 “(cc) a minor use that the Ad-  
7 ministrator determines would avoid  
8 the reissuance of an emergency ex-  
9 emption under section 18 for the  
10 minor use.

11 “(iii) Review and action on an application  
12 under clause (i) shall not be subject to judicial  
13 review.

14 “(D) On receipt by the registrant of a de-  
15 nial of a request to waive a data requirement  
16 under paragraph (2)(E), the registrant shall  
17 have the full time period originally established  
18 by the Administrator for submission of the  
19 data, beginning on the date of receipt by the  
20 registrant of the denial.”.

21 **SEC. 126. UTILIZATION OF DATA FOR VOLUNTARILY CAN-**  
22 **CELED CHEMICALS.**

23 Section 6(f) (7 U.S.C. 136d) is amended—

24 (1) in paragraph (1)(C)(ii) by striking “90-  
25 day” and inserting “180-day” each place it appears;

1           (2) in paragraph (3)(A) by striking “90-day”  
2           and inserting “180-day”; and

3           (3) by adding at the end the following:

4           “(4) UTILIZATION OF DATA FOR VOLUNTARILY  
5           CANCELED CHEMICALS.—The Administrator shall  
6           process, review, and evaluate the application for a  
7           voluntarily canceled pesticide as if the registrant had  
8           not canceled the registration, if—

9                   “(A) another application is pending on the  
10                 effective date of the voluntary cancellation for  
11                 the registration of a pesticide that is—

12                           “(i) for a minor use;

13                           “(ii) identical or substantially similar  
14                           to the canceled pesticide; and

15                           “(iii) for an identical or substantially  
16                           similar use as the canceled pesticide;

17                   “(B) the Administrator determines that  
18                   the minor use will not cause unreasonable ad-  
19                   verse effects on the environment; and

20                   “(C) the applicant under subparagraph (A)  
21                   certifies that the applicant will satisfy any out-  
22                   standing data requirement necessary to support  
23                   the reregistration of the pesticide, in accordance  
24                   with any data submission schedule established  
25                   by the Administrator.”.

1 **SEC. 127. MINOR USE PROGRAMS.**

2 The Act is amended—

3 (1) by redesignating sections 30 and 31 (7  
4 U.S.C. 136x and 136y) as sections 33 and 34, re-  
5 spectively; and

6 (2) by inserting after section 29 (7 U.S.C.  
7 136w-4) the following:

8 **“SEC. 30. ENVIRONMENTAL PROTECTION AGENCY MINOR**  
9 **USE PROGRAM.**

10 “(a) ESTABLISHMENT.—The Administrator shall es-  
11 tablish a minor use program in the Office of Pesticide Pro-  
12 grams.

13 “(b) RESPONSIBILITIES.—In carrying out the pro-  
14 gram established under subsection (a), the Administrator  
15 shall—

16 “(1) coordinate the development of minor use  
17 programs and policies; and

18 “(2) consult with growers regarding a minor  
19 use issue, registration, or amendment that is submit-  
20 ted to the Environmental Protection Agency.

21 **“SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PRO-**  
22 **GRAM.**

23 “(a) ESTABLISHMENT.—The Secretary of Agri-  
24 culture shall establish a minor use program.

25 “(b) RESPONSIBILITIES.—In carrying out the pro-  
26 gram established under subsection (a), the Secretary shall

1 coordinate the responsibilities of the Department of Agri-  
2 culture related to the minor use of a pesticide, including—

3 “(1) carrying out the Inter-Regional Research  
4 Project Number 4 established under section 2(e) of  
5 Public Law 89–106 (7 U.S.C. 450i(e));

6 “(2) carrying out the national pesticide resist-  
7 ance monitoring program established under section  
8 1651(d) of the Food, Agriculture, Conservation, and  
9 Trade Act of 1990 (7 U.S.C. 5882(d));

10 “(3) supporting integrated pest management  
11 research;

12 “(4) consulting with growers to develop data for  
13 minor uses; and

14 “(5) providing assistance for minor use reg-  
15 istrations, tolerances, and reregistrations with the  
16 Environmental Protection Agency.

17 **“SEC. 32. MINOR USE MATCHING FUND PROGRAM.**

18 “(a) ESTABLISHMENT.—The Secretary of Agri-  
19 culture, in consultation with the Administrator, shall es-  
20 tablish and administer a minor use matching fund pro-  
21 gram.

22 “(b) RESPONSIBILITIES.—In carrying out the pro-  
23 gram, the Secretary shall—

24 “(1) ensure the continued availability of minor  
25 use pesticides; and

1           “(2) develop data to support minor use pes-  
2           ticide registrations and reregistrations.

3           “(c) ELIGIBILITY.—Any person that desires to de-  
4           velop data to support a minor use registration shall be  
5           eligible to participate in the program.

6           “(d) PRIORITY.—In carrying out the program, the  
7           Secretary shall provide a priority for funding to a person  
8           that does not directly receive funds from the sale of a  
9           product registered for a minor use.

10          “(e) MATCHING FUNDS.—To be eligible for funds  
11          under the program, a person shall match the amount of  
12          funds provided under the program with an equal amount  
13          of non-Federal funds.

14          “(f) OWNERSHIP OF DATA.—Any data developed  
15          through the program shall be jointly owned by the Depart-  
16          ment of Agriculture and the person that receives funds  
17          under this section.

18          “(g) STATEMENT.—Any data developed under this  
19          subsection shall be submitted in a statement that complies  
20          with section 3(c)(1)(F).

21          “(h) COMPENSATION.—Any compensation received  
22          by the Department of Agriculture for the use of data de-  
23          veloped under this section shall be placed in a revolving  
24          fund. The fund shall be available, without fiscal year limi-  
25          tation, to carry out the program.

1       “(i) AUTHORIZATION FOR APPROPRIATIONS.—There  
 2 are authorized to be appropriated to carry out this section  
 3 \$10,000,000 for each fiscal year.”.

## 4                   **Subtitle C—Conforming** 5                   **Amendments**

### 6   **SEC. 131. FIFRA TABLE OF CONTENTS.**

7       The table of contents in section 1(b) (7 U.S.C. prec.  
 8 121) is amended—

9               (1) by adding at the end of the items relating  
 10 to section 2 the following:

“(hh) Minor use.”;

11              (2) by adding at the end of the items relating  
 12 to section 3 the following:

“(g) Time extension for development of minor use data.

“ (1) Supported use.

“ (2) Nonsupported use.

“ (3) Conditions.

“ (4) Monitoring.

“ (5) Noncompliance.

“ (6) Modification or revocation.”;

13              (3) by adding at the end of the items relating  
 14 to section 6(f) the following:

“ (4) Utilization of data for voluntarily canceled chemicals.”;

15              (4) by striking the item relating to section  
 16 25(d) and inserting the following:

“(d) Scientific advisory panel.

“ (1) In general.

“ (2) Science review board.”;

17              and

1 (5) by striking the items relating to sections 30  
 2 and 31 and inserting the following:

“Sec. 30. Environmental Protection Agency minor use program.

“(a) Establishment.

“(b) Responsibilities.

“Sec. 31. Department of Agriculture minor use program.

“(a) Establishment.

“(b) Responsibilities.

“Sec. 32. Minor use matching fund program.

“(a) Establishment.

“(b) Responsibilities.

“(c) Eligibility.

“(d) Priority.

“(e) Matching funds.

“(f) Ownership of data.

“(g) Statement.

“(h) Compensation.

“(i) Authorization for appropriations.

“Sec. 33. Severability.

“Sec. 34. Authorization for appropriations.”.

3 **TITLE II—DATA COLLECTION**  
 4 **AND IMPROVED PROCE-**  
 5 **DURES TO ENSURE THAT**  
 6 **TOLERANCES SAFEGUARD**  
 7 **THE HEALTH OF INFANTS**  
 8 **AND CHILDREN**

9 **SEC. 201. IMPLEMENTATION OF NAS REPORT.**

10 (a) IN GENERAL.—The Administrator of the Envi-  
 11 ronmental Protection Agency, the Secretary of Agri-  
 12 culture, and the Secretary of Health and Human Services  
 13 shall coordinate the development and implementation of  
 14 procedures to ensure that pesticide tolerances adequately  
 15 safeguard the health of infants and children, based on the  
 16 conclusions and recommendations contained in the report  
 17 entitled “Pesticides in the Diets of Infants and Children”



1 of the National Research Council of the National Academy  
2 of Sciences.

3 (b) PROCEDURES.—To the maximum extent prac-  
4 ticable, the procedures referred to in subsection (a) shall  
5 include—

6 (1) collection of data on food consumption pat-  
7 terns of infants and children;

8 (2) improved surveillance of pesticide residues,  
9 including guidelines for the use of comparable ana-  
10 lytical and standardized reporting methods, the in-  
11 creased sampling of foods most likely consumed by  
12 infants and children, and the development of more  
13 complete information on the effects of food process-  
14 ing on levels of pesticide residues;

15 (3) toxicity testing procedures that take into ac-  
16 count the vulnerability of infants and children;

17 (4) methods of risk assessment that take into  
18 account unique characteristics of infants and chil-  
19 dren; and

20 (5) other appropriate measures considered nec-  
21 essary by the Administrator to ensure that pesticide  
22 tolerances adequately safeguard the health of infants  
23 and children.

1 **SEC. 202. COLLECTION OF PESTICIDE USE INFORMATION.**

2 (a) IN GENERAL.—The Secretary of Agriculture shall  
3 collect data of Statewide or regional significance on the  
4 use of pesticides to control pests and diseases of major  
5 crops and crops of dietary significance, including fruits  
6 and vegetables.

7 (b) COLLECTION.—The data shall be collected by sur-  
8 veys of farmers or from other sources offering statistically  
9 reliable data.

10 (c) COORDINATION.—The Secretary shall, as appro-  
11 priate, coordinate with the Administrator of the Environ-  
12 mental Protection Agency in the design of the surveys and  
13 make available to the Administrator the aggregate results  
14 of the surveys to assist the Administrator in developing  
15 exposure calculations and benefits determinations with re-  
16 spect to pesticide regulatory decisions.

17 **SEC. 203. INTEGRATED PEST MANAGEMENT.**

18 (a) DEFINITION.—In this section, the term “inte-  
19 grated pest management” means a sustainable approach  
20 to managing pests by combining biological, cultural, phys-  
21 ical, and chemical tools in a way that minimizes economic,  
22 health, and environmental risks.

23 (b) IMPLEMENTATION.—The Secretary of Agri-  
24 culture, in cooperation with the Administrator of the Envi-  
25 ronmental Protection Agency, shall implement research,

1 demonstration, and education programs to support adop-  
2 tion of integrated pest management.

3 (c) FEDERAL AGENCIES.—Federal agencies shall use  
4 integrated pest management techniques to carry out pest  
5 management activities and shall promote integrated pest  
6 management through procurement and regulatory policy  
7 and through other activities.

8 (d) INFORMATION.—The Secretary of Agriculture  
9 and the Administrator of the Environmental Protection  
10 Agency shall make information on integrated pest man-  
11 agement widely available to pesticide users, including Fed-  
12 eral agencies that use pesticides.

13 **TITLE III—AMENDMENTS TO**  
14 **THE FEDERAL FOOD, DRUG,**  
15 **AND COSMETIC ACT**

16 **SEC. 301. REFERENCE.**

17 Whenever in this title an amendment is expressed in  
18 terms of an amendment to a section or other provision,  
19 or refers to a section or other provision, the reference shall  
20 be considered to be made to a section or other provision  
21 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
22 321 et seq.).

1 **SEC. 302. DEFINITIONS.**

2 (a) PESTICIDE, CHEMICAL; PESTICIDE CHEMICAL  
3 RESIDUE.—Section 201(q) (21 U.S.C. 321(q)) is amended  
4 to read as follows:

5 “(q)(1) The term ‘pesticide chemical’ means—

6 “(A) any substance that is a pesticide within  
7 the meaning of section 2(u) of the Federal Insecti-  
8 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136  
9 (u)),

10 “(B) any active ingredient of a pesticide within  
11 the meaning of section 2(a) of the Federal Insecti-  
12 cide, Fungicide, and Rodenticide Act. (7 U.S.C.  
13 136(a)), or

14 “(C) any inert ingredient of a pesticide within  
15 the meaning of section 2(m) of the Federal Insecti-  
16 cide, Fungicide, and Rodenticide Act. (7 U.S.C. 136  
17 (m)).

18 “(2) The term ‘pesticide chemical residue’ means a  
19 residue in or on raw agricultural commodity or processed  
20 food of—

21 “(A) a pesticide chemical, or

22 “(B) any other added substance that is present  
23 in the commodity or food primarily as a result of the  
24 metabolism or other degradation of a pesticide  
25 chemical.

1       “(3) Notwithstanding subparagraphs (1) and (2), the  
2 Administrator may by regulation except a substance from  
3 the definition of ‘pesticide chemical’ or ‘pesticide chemical  
4 residue’ if—

5               “(A) the substance’s occurrence as a residue on  
6 a raw agricultural commodity or processed food is  
7 attributable primarily to natural causes or to human  
8 activities not involving the use of any substances for  
9 a pesticidal purpose in the production, storage, proc-  
10 essing, or transportation of any raw agricultural  
11 commodity or processed food, and

12              “(B) the Administrator, after consultation with  
13 the Secretary, determines that the substance more  
14 appropriately should be regulated under one or more  
15 provisions of this Act other than sections  
16 402(a)(2)(B) and 408.”.

17       (b) FOOD ADDITIVE.—Subparagraphs (1) and (2) of  
18 section 201(s) (21 U.S.C. 321(s)) are amended to read  
19 as follows:

20              “(1) a pesticide chemical residue in or on a raw  
21 agricultural commodity or processed food; or

22              “(2) a pesticide chemical; or”.

23       (c) PROCESSED FOOD; ADMINISTRATOR.—Section  
24 201 (21 U.S.C. 321) is amended by adding at the end  
25 the following new subsections:

1       “(gg) The term ‘processed food’ means any food  
2 other than a raw agricultural commodity and includes any  
3 raw agricultural commodity that has been subject to proc-  
4 essing, such as canning, cooking, freezing, dehydration, or  
5 milling.

6       “(hh) The term ‘Administrator’ means the Adminis-  
7 trator of the United States Environmental Protection  
8 Agency.”.

9       **SEC. 303. PROHIBITED ACTS.**

10       Section 301(j) (21 U.S.C. 331(j)) is amended by in-  
11 serting before the period at the end of the first sentence  
12 the following: “, or the violation of section 408(g) or any  
13 regulation issued under that subsection”.

14       **SEC. 304. ADULTERATED FOOD.**

15       Section 402(a)(2) (21 U.S.C. 342(a)(2)) is amended  
16 to read as follows: “(2)(A) if it bears or contains any  
17 added poisonous or added deleterious substance (other  
18 than a substance that is a pesticide chemical residue in  
19 or on a raw agricultural commodity or processed food, a  
20 food additive, a color additive, or a new animal drug) that  
21 is unsafe within the meaning of section 406; (B) if it bears  
22 or contains a pesticide chemical residue that is unsafe  
23 within the meaning of section 408(a); or (C) if it is or  
24 if it bears or contains (i) any food additive that is unsafe  
25 within the meaning of section 409 or (ii) a new animal

1 drug (or conversion product thereof) that is unsafe within  
2 the meaning of section 512; or”.

3 **SEC. 305. TOLERANCES AND EXEMPTIONS FOR PESTICIDE**  
4 **CHEMICAL RESIDUES.**

5 Section 408 (21 U.S.C. 346a) is amended to read as  
6 follows:

7 **“SEC. 408. TOLERANCES AND EXEMPTIONS FOR PESTICIDE**  
8 **CHEMICAL RESIDUES.**

9 “(a) REQUIREMENT FOR TOLERANCE OR EXEMP-  
10 TION.—

11 “(1) DEFINITION.—For the purposes of this  
12 section, the term ‘food’, when used as a noun with-  
13 out modification, means a raw agricultural commod-  
14 ity or processed food.

15 “(2) GENERAL RULE.—Except as provided in  
16 paragraph (3) or (4), any pesticide chemical residue  
17 in or on a food shall be deemed unsafe for the pur-  
18 pose of section 402(a)(2)(B) unless—

19 “(A) a tolerance for such pesticide chemi-  
20 cal residue in or on such food is in effect under  
21 this section and the concentration of the residue  
22 is within the limits of the tolerance; or

23 “(B) an exemption from the requirement  
24 of a tolerance is in effect under this section for  
25 the pesticide chemical residue.

1           “(3) PROCESSED FOOD.—Notwithstanding  
2 paragraph (2), the following provisions shall apply  
3 with respect to processed food:

4           “(A) TOLERANCE REQUIREMENT.—If a  
5 tolerance is in effect under this section for a  
6 pesticide chemical residue in or on a raw agri-  
7 cultural commodity, a pesticide chemical residue  
8 that is present in or on a processed food be-  
9 cause the food is made from that raw agricul-  
10 tural commodity shall not be considered unsafe  
11 within the meaning of section 402(a)(2)(B) de-  
12 spite the lack of a tolerance for the pesticide  
13 chemical residue in or on the processed food if  
14 the concentration of the pesticide chemical resi-  
15 due in the processed food when ready for con-  
16 sumption or use is not greater than the toler-  
17 ance prescribed for the pesticide chemical resi-  
18 due in the raw agricultural commodity.

19           “(B) EXEMPTION FROM TOLERANCE RE-  
20 QUIREMENT.—If an exemption from the re-  
21 quirement for a tolerance is in effect under this  
22 section for a pesticide chemical residue in or on  
23 a raw agricultural commodity, a pesticide chem-  
24 ical residue that is present in or on a processed  
25 food because the food is made from that raw



1 agricultural commodity shall not be considered  
2 unsafe within the meaning of section  
3 402(a)(2)(B).

4 “(4) RESIDUES OF DEGRADATION PRODUCTS.—

5 If a pesticide chemical residue is present in or on a  
6 food because the residue is a metabolite or other  
7 degradation product of a precursor substance that  
8 itself is a pesticide chemical or pesticide chemical  
9 residue, the residue shall not be considered to be un-  
10 safe within the meaning of section 402(a)(2)(B) de-  
11 spite the lack of a tolerance or exemption from the  
12 need for a tolerance for the residue in or on the food  
13 if—

14 “(A) the Administrator has not determined  
15 that the degradation product is likely to pose  
16 any potential health risk from dietary exposure  
17 that is of a different type than, or of a greater  
18 significance than, any risk posed by dietary ex-  
19 posure to the precursor substance; and

20 “(B) either—

21 “(i) a tolerance is in effect under this  
22 section for residues of the precursor sub-  
23 stance in or on the food, and the combined  
24 level of residues of the degradation product  
25 and the precursor substance in or on the

1 food is at or below the stoichiometrically  
2 equivalent level that would be permitted by  
3 the tolerance if the residue consisted only  
4 of the precursor substance rather than the  
5 degradation product; or

6 “(ii) an exemption from the need for  
7 a tolerance is in effect under this section  
8 for residues of the precursor substance in  
9 or on the food; and

10 “(C) the tolerance or exemption for resi-  
11 dues of the precursor substance does not state  
12 that the tolerance or exemption applies only to  
13 particular named substances or states that the  
14 tolerance or exemption does not apply to resi-  
15 dues of the degradation product.

16 “(5) EFFECT OF TOLERANCE OR EXEMP-  
17 TION.—While a tolerance or exemption from the re-  
18 quirement for a tolerance is in effect under this sec-  
19 tion for a pesticide chemical residue with respect to  
20 any food, the food shall not by reason of bearing or  
21 containing any amount of such a residue be consid-  
22 ered to be adulterated within the meaning of section  
23 402(a)(1).

24 “(b) AUTHORITY AND STANDARD FOR TOLER-  
25 ANCES.—

1           “(1) AUTHORITY.—The Administrator may  
2           issue regulations establishing, modifying, or revoking  
3           a tolerance for a pesticide chemical residue in or on  
4           a food—

5                   “(A) in response to a petition filed under  
6                   subsection (d); or

7                   “(B) on the Administrator’s initiative  
8                   under subsection (e).

9           “(2) STANDARD.—

10                   “(A) IN GENERAL.—A tolerance may not  
11                   be established for a pesticide chemical residue  
12                   in or on a food at a level that is higher than  
13                   a level that the Administrator determines is  
14                   adequate to protect the public health.

15                   “(B) MODIFICATION OR REVOCATION OF A  
16                   TOLERANCE.—The Administrator shall modify  
17                   or revoke a tolerance if the tolerance is at a  
18                   level higher than the level that the Adminis-  
19                   trator determines is adequate to protect the  
20                   public health.

21                   “(C) DETERMINATION FACTORS.—In mak-  
22                   ing a determination under this paragraph, the  
23                   Administrator shall take into account, among  
24                   other relevant factors, the validity, complete-  
25                   ness, and reliability of the available data from

1 studies of the pesticide chemical residue, the  
2 nature of any toxic effects shown to be caused  
3 by the pesticide chemical in the studies, avail-  
4 able information and reasonable assumptions  
5 concerning the relationship of the results of the  
6 studies to human risk, available information  
7 and reasonable assumptions concerning the die-  
8 tary exposure levels of food consumers (and  
9 major identifiable subgroups of food consumers,  
10 including infants and children) to the pesticide  
11 chemical residue, and available information and  
12 reasonable assumptions concerning the varia-  
13 bility of the sensitivities of major identifiable  
14 subgroups, including infants and children, and  
15 shall consider other factors to the extent re-  
16 quired by subparagraph (F).

17 “(D) NEGLIGIBLE DIETARY RISK STAND-  
18 ARD.—For purposes of subparagraph (A), a tol-  
19 erance level for a pesticide chemical residue in  
20 or on a food shall be deemed to be adequate to  
21 protect the public health if the dietary risk  
22 posed to food consumers by the level of the pes-  
23 ticide chemical residue is negligible. The Ad-  
24 ministrator shall by regulation set forth the fac-  
25 tors and methods, including tests that are ap-

1       appropriate for the determination of dietary risk  
2       and most likely dietary exposure, for the deter-  
3       mination of negligible dietary risk.

4       “(E) INFANTS AND CHILDREN.—Proce-  
5       dures shall be developed and implemented that  
6       ensure that pesticide tolerances adequately safe-  
7       guard the health of infants and children.

8       “(F) CALCULATION OF DIETARY RISK.—  
9       Where reliable data are available, the Adminis-  
10      trator shall calculate the dietary risk posed to  
11      food consumers by a pesticide chemical on the  
12      basis of the percent of food actually treated  
13      with the pesticide chemical and the actual resi-  
14      due levels of the pesticide chemical that occur  
15      in food. In particular, the Administrator shall  
16      take into account aggregate pesticide use and  
17      residue data collected by the Department of Ag-  
18      riculture.

19      “(G) EXCEPTIONS TO THE NEGLIGIBLE DI-  
20      ETARY RISK STANDARD.—For purposes of sub-  
21      paragraph (A), a level of a pesticide chemical  
22      residue in or on a food that poses a greater  
23      than negligible dietary risk to consumers of the  
24      food shall be considered to be adequate to pro-  
25      tect the public health if the Administrator de-

1           termines that the risk is not unreasonable be-  
2           cause—

3                   “(i) use of the pesticide that produces  
4                   the residue protects humans or the envi-  
5                   ronment from adverse effects on public  
6                   health or welfare that would, directly or in-  
7                   directly, result in a greater risk to the pub-  
8                   lic or the environment than the dietary risk  
9                   from the pesticide chemical residue;

10                   “(ii) use of the pesticide avoids  
11                   risks—

12                           “(I) to workers, the public, or the  
13                           environment that would be expected to  
14                           result from the use of another pes-  
15                           ticide or pest control method on the  
16                           same food; and

17                           “(II) that are greater than the  
18                           risks that result from dietary exposure  
19                           to the pesticide chemical residue; or

20                           “(iii) the availability of the pesticide  
21                           would maintain the availability to consum-  
22                           ers of an adequate, wholesome, and eco-  
23                           nomical food supply taking into account  
24                           national and regional effects.

1 In making the determination under this sub-  
2 paragraph, the Administrator shall not consider  
3 the effects on any pesticide registrant, manu-  
4 facturer, or marketer of a pesticide.

5 “(3) LIMITATIONS.—

6 “(A) ISSUANCE OF TOLERANCE.—A toler-  
7 ance may be issued under the authority of para-  
8 graph (2)(G) only if the Administrator has as-  
9 sessed the extent to which efforts are being  
10 made to develop either an alternative method of  
11 pest control or an alternative pesticide chemical  
12 for use on such commodity or food that would  
13 meet the requirements of paragraph (2)(D).

14 “(B) ESTABLISHMENT OF A TOLER-  
15 ANCE.—A tolerance for a pesticide chemical  
16 residue in or on a food shall not be established  
17 by the Administrator unless the Administrator  
18 determines, after consultation with the Sec-  
19 retary, that there is a practical method for de-  
20 tecting and measuring the levels of the pesticide  
21 chemical residue in or on the food.

22 “(C) ESTABLISHMENT OF A TOLERANCE  
23 LEVEL.—A tolerance for a pesticide chemical  
24 residue in or on a food shall not be established  
25 at a level lower than the limit of detection of

1           the method for detecting and measuring the  
2           pesticide chemical residue as determined by the  
3           Administrator under subparagraph (B).

4           “(4) INTERNATIONAL STANDARDS.—In estab-  
5           lishing a tolerance for a pesticide chemical residue in  
6           or on a food, the Administrator shall take into ac-  
7           count any maximum residue level for the chemical in  
8           or on the food that has been established by the  
9           Codex Alimentarius Commission. The Administrator  
10          shall determine whether the Codex maximum residue  
11          level is adequate to protect the health of consumers  
12          in the United States and whether the data support-  
13          ing the maximum residue level are valid, complete,  
14          and reliable. If the Administrator determines not to  
15          adopt a Codex level, the Administrator shall publish  
16          a notice in the Federal Register setting forth the  
17          reasons for the determination.

18          “(c) AUTHORITY AND STANDARD FOR EXEMP-  
19          TIONS.—

20               “(1) AUTHORITY.—The Administrator may  
21           issue a regulation establishing, modifying, or revok-  
22           ing an exemption from the requirement for a toler-  
23           ance for a pesticide chemical residue in or on a  
24           food—



1           “(A) in response to a petition filed under  
2 subsection (d), or

3           “(B) on the Administrator’s initiative  
4 under subsection (e).

5           “(2) STANDARD.—

6           “(A) IN GENERAL.—An exemption from  
7 the requirement for a tolerance for a pesticide  
8 chemical residue in or on a food may be estab-  
9 lished only if the Administrator determines that  
10 a tolerance is not needed to protect the public  
11 health, in view of the levels of dietary exposure  
12 to the pesticide chemical residue that could rea-  
13 sonably be expected to occur.

14           “(B) REVOCATION OF EXEMPTION.—An  
15 exemption from the requirement for a tolerance  
16 for a pesticide chemical residue in or on a food  
17 shall be revoked if the Administrator, in re-  
18 sponse to a petition for the revocation of the ex-  
19 emption, or at the Administrator’s own initia-  
20 tive, determines that the exemption does not  
21 satisfy the criterion of subparagraph (A).

22           “(C) DETERMINATION FACTORS.—In mak-  
23 ing a determination under this paragraph, the  
24 Administrator shall take into account, among

1           other relevant factors, the factors set forth in  
2           subsection (b)(2)(C).

3           “(3) LIMITATION.—An exemption from the re-  
4           quirement for a tolerance for a pesticide chemical  
5           residue in or on a food shall not be established by  
6           the Administrator unless the Administrator deter-  
7           mines, after consultation with the Secretary—

8                   “(A) that there is a practical method for  
9                   detecting and measuring the levels of the pes-  
10                  ticide chemical residue in or on the food; or

11                  “(B) that there is no need for such a  
12                  method, and states the reasons for the deter-  
13                  mination in the order issuing the regulation es-  
14                  tablishing or modifying the regulation.

15           “(d) PETITION FOR TOLERANCE OF EXEMPTION.—

16                  “(1) FILING.—Any person may file with the  
17                  Administrator a petition proposing the issuance of a  
18                  regulation—

19                   “(A) establishing, modifying, or revoking a  
20                   tolerance for a pesticide chemical residue in or  
21                   on a food; or

22                   “(B) establishing or revoking an exemption  
23                   from the requirement of a tolerance for such a  
24                   residue.

25                  “(2) PETITION CONTENTS.—

1           “(A) IN GENERAL.—A petition under para-  
2 graph (1) to establish a tolerance or exemption  
3 for a pesticide chemical residue shall be sup-  
4 ported by such data and information as are  
5 specified in regulations issued by the Adminis-  
6 trator, including—

7           “(i)(I) an informative summary of the  
8 petition and of the data, information, and  
9 arguments submitted or cited in support of  
10 the petition; and

11           “(II) a statement that the petitioner  
12 agrees that the summary or any informa-  
13 tion the summary contains may be pub-  
14 lished as a part of the notice of filing of  
15 the petition to be published under this sub-  
16 section and as part of a proposed or final  
17 regulation issued under this section;

18           “(ii) the name, chemical identity, and  
19 composition of the pesticide chemical resi-  
20 due and of the pesticide chemical that pro-  
21 duces the residue;

22           “(iii) data showing the recommended  
23 amount, frequency, method, and time of  
24 application of that pesticide chemical;

1           “(iv) full reports of tests and inves-  
2           tigations made with respect to the safety of  
3           the pesticide chemical, including full infor-  
4           mation as to the methods and controls  
5           used in conducting the tests and investiga-  
6           tions;

7           “(v) full reports of tests and inves-  
8           tigations made with respect to the nature  
9           and amount of the pesticide chemical resi-  
10          due that is likely to remain in or on the  
11          food, including a description of the analyt-  
12          ical methods used;

13          “(vi) a practical method for detecting  
14          and measuring the levels of the pesticide  
15          chemical residue in or on the food, or a  
16          statement why such a method is not need-  
17          ed;

18          “(vii) practical methods for removing  
19          any amount of the residue that would ex-  
20          ceed any proposed tolerance;

21          “(viii) a proposed tolerance for the  
22          pesticide chemical residue, if a tolerance is  
23          proposed;

24          “(ix) all relevant data bearing on the  
25          physical or other technical effect that the

1 pesticide chemical is intended to have and  
2 the quantity of the pesticide chemical that  
3 is required to produce the effect;

4 “(x) if the petition relates to a toler-  
5 ance for a processed food, reports of inves-  
6 tigations conducted using the processing  
7 method or methods used to produce that  
8 food;

9 “(xi) such information as the Admin-  
10 istrator may require to make the deter-  
11 mination under subsection (b)(2)(E); and

12 “(xii) such other data and information  
13 as the Administrator requires by regulation  
14 to support the petition.

15 If information or data required by this subpara-  
16 graph is available to the Administrator, the per-  
17 son submitting the petition may cite the avail-  
18 ability of the information or data in lieu of sub-  
19 mitting the information or data. The Adminis-  
20 trator may require a petition to be accompanied  
21 by samples of the pesticide chemical with re-  
22 spect to which the petition is filed.

23 “(B) MODIFICATION OR REVOCATION.—

24 The Administrator may by regulation establish  
25 the requirements for information and data to

1 support a petition to modify or revoke a toler-  
2 ance or to revoke an exemption from the re-  
3 quirement for a tolerance.

4 “(3) NOTICE.—A notice of the filing of a peti-  
5 tion that the Administrator determines has met the  
6 requirements of paragraph (2) shall be published by  
7 the Administrator within 30 days after such deter-  
8 mination. The notice shall announce the availability  
9 of a description of the analytical methods available  
10 to the Administrator for the detection and measure-  
11 ment of the pesticide chemical residue with respect  
12 to which the petition is filed or shall set forth the  
13 statement of the petitioner of why such a method is  
14 not needed. The notice shall include the summary  
15 required by paragraph (2)(A)(i).

16 “(4) ACTIONS BY THE ADMINISTRATOR.—The  
17 Administrator shall, after giving due consideration  
18 to a petition filed under paragraph (1) and any  
19 other information available to the Administrator—

20 “(A) issue a final regulation (which may  
21 vary from that sought by the petition) estab-  
22 lishing, modifying, or revoking a tolerance for  
23 the pesticide chemical residue or an exemption  
24 of the pesticide chemical residue from the re-  
25 quirement of a tolerance;

1           “(B) issue a proposed regulation under  
2           subsection (e), and thereafter either issue a  
3           final regulation under subsection (e) or an  
4           order denying the petition; or

5           “(C) issue an order denying the petition.

6           “(5) EFFECTIVE DATE.—A regulation issued  
7           under paragraph (4) shall take effect upon publica-  
8           tion.

9           “(6) FURTHER PROCEEDINGS.—

10           “(A) OBJECTIONS.—Not later than 60  
11           days after a regulation or order is issued under  
12           paragraph (4), subsection (e)(1), or subsection  
13           (f)(1), any person may file objections thereto  
14           with the Administrator, specifying with particu-  
15           larity the provisions of the regulation or order  
16           considered objectionable and stating reasonable  
17           grounds therefore. If the regulation or order  
18           was issued in response to a petition filed under  
19           paragraph (1), a copy of each objection filed by  
20           a person other than the petitioner shall be  
21           served by the Administrator on the petitioner.

22           “(B) PUBLIC EVIDENTIARY HEARING.—An  
23           objection may include a request for a public evi-  
24           dentiary hearing upon the objection. The Ad-  
25           ministrator shall, upon the initiative of the Ad-

1            administrator or upon the request of an interested  
2            person and after due notice, hold a public evi-  
3            dentiary hearing if and to the extent the Ad-  
4            ministrator determines that the public hearing  
5            is necessary to receive factual evidence relevant  
6            to material issues of fact raised by the objec-  
7            tions. The presiding officer in the hearing may  
8            authorize a party to obtain discovery from other  
9            persons and may upon a showing of good cause  
10          made by a party issue a subpoena to compel  
11          testimony or production of documents from any  
12          person. The presiding officer shall be governed  
13          by the Federal Rules of Civil Procedure in mak-  
14          ing any order for the protection of the witness  
15          or the content of documents produced and shall  
16          order the payment of reasonable fees and ex-  
17          penses as a condition to requiring testimony of  
18          the witness. On contest, the subpoena may be  
19          enforced by a Federal district court.

20                “(C) ISSUANCE OF AN ORDER.—After re-  
21          ceiving the arguments of the parties, the Ad-  
22          ministrator shall, as soon as practicable, issue  
23          an order stating the action taken upon each  
24          such objection and setting forth any revision to  
25          the regulation or prior order that the Adminis-



1           trator has found to be warranted. If a hearing  
2           was held under subparagraph (B), the order  
3           and any revision to the regulation or prior order  
4           shall, with respect to questions of fact at issue  
5           in the hearing, be based only on substantial evi-  
6           dence of record at the hearing, and shall set  
7           forth in detail the findings of facts and the con-  
8           clusions of law or policy upon which the order  
9           or regulation is based.

10           “(D) EFFECTIVE DATE OF AN ORDER.—

11           An order issued under this paragraph ruling on  
12           an objection shall not take effect before the  
13           90th day after the publication of the order un-  
14           less the Administrator finds that emergency  
15           conditions exist necessitating an earlier effective  
16           date, in which event the Administrator shall  
17           specify in the order the findings of the Adminis-  
18           trator as to such conditions.

19           “(7) JUDICIAL REVIEW.—

20           “(A) FILING.—In a case of actual con-  
21           troversy as to the validity of any order issued  
22           under paragraph (6) or any regulation that is  
23           the subject of such an order, any person who  
24           will be adversely affected by the order or regu-  
25           lation may obtain judicial review by filing in the

1 United States Court of Appeals for the circuit  
2 wherein that person resides or has its principal  
3 place of business, or in the United States Court  
4 of Appeals for the District of Columbia Circuit,  
5 not later than 60 days after publication of such  
6 order, a petition praying that the order or regu-  
7 lation be set aside in whole or in part.

8 “(B) FILING OF RECORD OF PROCEED-  
9 INGS.—A copy of the petition shall be forthwith  
10 transmitted by the clerk of the court to the Ad-  
11 ministrator, or any officer designated by the  
12 Administrator for that purpose, and thereupon  
13 the Administrator shall file in the court the  
14 record of the proceedings on which the Admin-  
15 istrator based the order or regulation, as pro-  
16 vided in section 2112 of title 28, United States  
17 Code. Upon the filing of the petition, the court  
18 shall have exclusive jurisdiction to affirm or set  
19 aside the order or regulation complained of in  
20 whole or in part. The findings of the Adminis-  
21 trator with respect to questions of fact shall be  
22 sustained only if supported by substantial evi-  
23 dence when considered on the record as a  
24 whole.

1           “(C) ADDITIONAL EVIDENCE.—If a party  
2           applies to the court for leave to adduce addi-  
3           tional evidence, and shows to the satisfaction of  
4           the court that the additional evidence is mate-  
5           rial and that there were reasonable grounds for  
6           the failure to adduce the evidence in the pro-  
7           ceeding before the Administrator, the court may  
8           order that the additional evidence (and evidence  
9           in rebuttal thereof) shall be taken before the  
10          Administrator in the manner and upon the  
11          terms and conditions the court deems proper.  
12          The Administrator may modify prior findings  
13          as to the facts by reason of the additional evi-  
14          dence so taken and may modify the order or  
15          regulation accordingly. The Administrator shall  
16          file with the court any such modified finding,  
17          order, or regulation.

18          “(D) FINAL JUDGMENT.—The judgment of  
19          the court affirming or setting aside, in whole or  
20          in part, any order under paragraph (6) and any  
21          regulation that is the subject of the order shall  
22          be final, subject to review by the Supreme  
23          Court of the United States as provided in sec-  
24          tion 1254 of title 28 of the United States Code.  
25          The commencement of proceedings under this

1 paragraph shall not, unless specifically ordered  
2 by the court to the contrary, operate as a stay  
3 of a regulation or order.

4 “(E) LIMITATIONS ON JUDICIAL RE-  
5 VIEW.—Any issue as to which review is or was  
6 obtainable under paragraph (6) and this para-  
7 graph shall not be the subject of judicial review  
8 under any other provision of law.

9 “(e) ACTION ON ADMINISTRATOR’S OWN INITIA-  
10 TIVE.—

11 “(1) GENERAL RULE.—The Administrator may  
12 issue a regulation—

13 “(A) establishing, modifying, or revoking a  
14 tolerance for a pesticide chemical or a pesticide  
15 chemical residue;

16 “(B) establishing or revoking an exemption  
17 of a pesticide chemical residue from the require-  
18 ment of a tolerance; or

19 “(C) establishing general procedures and  
20 requirements to implement this section.

21 A regulation issued under this paragraph shall be-  
22 come effective upon the publication of the regulation.

23 “(2) NOTICE.—Before issuing a final regulation  
24 under paragraph (1), the Administrator shall issue  
25 a notice of proposed rulemaking and provide a pe-

1       riod of not less than 60 days for public comment on  
2       the proposed regulation, except that a shorter period  
3       for comment may be provided if the Administrator  
4       for good cause finds that it would be in the public  
5       interest to do so and states the reasons for the find-  
6       ing in the notice of proposed rulemaking. The Ad-  
7       ministrator shall provide an opportunity for a public  
8       hearing during the rulemaking under procedures  
9       provided in subsection (d)(6)(B).

10      “(f) SPECIAL DATA REQUIREMENTS.—

11           “(1) REQUIRING SUBMISSION OF ADDITIONAL  
12      DATA.—If the Administrator determines that addi-  
13      tional data or information is reasonably required to  
14      support the continuation of a tolerance or exemption  
15      that is in effect under this section for a pesticide  
16      chemical residue on a food, the Administrator  
17      shall—

18           “(A) issue a notice requiring the persons  
19      holding the pesticide registrations associated  
20      with the tolerance or exemption to submit the  
21      data or information under section 3(c)(2)(B) of  
22      the Federal Insecticide, Fungicide, and  
23      Rodenticide Act (7 U.S.C. 136a(c)(2)(B));

24           “(B) issue a rule requiring that testing be  
25      conducted on a substance or mixture under sec-

tion 4 of the Toxic Substances Control Act (15 U.S.C. 2603); or

“(C) publish in the Federal Register, after first providing notice and an opportunity for comment of not less than 90 days’ duration, an order—

“(i) requiring the submission to the Administrator by one or more interested persons of a notice identifying the person or persons who will submit the required data and information;

“(ii) describing the type of data and information required to be submitted to the Administrator and stating why the data and information could not be obtained under the authority of section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(B)) or section 4 of the Toxic Substances Control Act (15 U.S.C. 2603);

“(iii) describing the reports to the Administrator required to be prepared during and after the collection of the data and information;

1           “(iv) requiring the submission to the  
2           Administrator of the data, information,  
3           and reports referred to in clauses (ii) and  
4           (iii); and

5           “(v) establishing dates by which the  
6           submissions described in clauses (i) and  
7           (iv) must be made.

8           The Administrator may revise any such order to cor-  
9           rect an error.

10          “(2) NONCOMPLIANCE.—If a submission re-  
11          quired by a notice issued in accordance with para-  
12          graph (1)(A) or a rule issued under paragraph  
13          (1)(B) is not made by the time specified in the no-  
14          tice or the rule, the Administrator may by order  
15          published in the Federal Register modify or revoke  
16          the tolerance or exemption in question.

17          “(3) REVIEW.—An order issued under this sub-  
18          section shall be effective upon publication and shall  
19          be subject to review in accordance with paragraphs  
20          (6) and (7) of subsection (d).

21          “(g) CONFIDENTIALITY AND USE OF DATA.—

22          “(1) GENERAL RULE.—Data and information  
23          that are submitted to the Administrator under this  
24          section in support of a tolerance shall be entitled to  
25          confidential treatment for reasons of business con-

1        confidentiality and to exclusive use and data compensa-  
2        tion, to the same extent provided by sections 3 and  
3        10 of the Federal Insecticide, Fungicide and  
4        Rodenticide Act (7 U.S.C. 136a and 136h).

5            “(2) EXCEPTIONS.—Data that are entitled to  
6        confidential treatment under paragraph (1) may  
7        nonetheless be disclosed to the Congress, and may  
8        be disclosed, under such security requirements as  
9        the Administrator may provide by regulation, to—

10           “(A) employees of the United States who  
11           are authorized by the Administrator to examine  
12           the data in the carrying out of their official du-  
13           ties under this Act or other Federal statutes in-  
14           tended to protect the public health; or

15           “(B) contractors with the United States  
16           authorized by the Administrator to examine the  
17           data in the carrying out of contracts under such  
18           statutes.

19           “(3) SUMMARIES.—Notwithstanding any provi-  
20        sion of this subsection or other law, the Adminis-  
21        trator may publish the informative summary re-  
22        quired by subsection (d)(2)(A)(i) and may, in issu-  
23        ing a proposed or final regulation or order under  
24        this section, publish an informative summary of the  
25        data relating to the regulation or order.



1       “(h) STATUS OF PREVIOUSLY ISSUED REGULA-  
2 TIONS.—

3               “(1) REGULATIONS UNDER SECTION 406.—Reg-  
4 ulations affecting pesticide chemical residues in or  
5 on raw agricultural commodities promulgated, in ac-  
6 cordance with section 701(e), under the authority of  
7 section 406(a) upon the basis of public hearings in-  
8 stituted before January 1, 1953, shall be deemed to  
9 be regulations issued under this section and shall be  
10 subject to modification or revocation under sub-  
11 sections (d) and (e).

12              “(2) REGULATIONS UNDER SECTION 409.—Reg-  
13 ulations that established tolerances for substances  
14 that are pesticide chemical residues on or in proc-  
15 essed food, or that otherwise stated the conditions  
16 under which such pesticide chemicals could be safely  
17 used, and that were issued under section 409 on or  
18 before the date of the enactment of this paragraph,  
19 shall be deemed to be regulations issued under this  
20 section and shall be subject to modification or rev-  
21 ocation under subsection (d) or (e).

22              “(3) REGULATIONS UNDER SECTION 408.—Reg-  
23 ulations that established tolerances or exemptions  
24 under this section that were issued on or before the  
25 date of the enactment of this paragraph shall remain

1 in effect unless modified or revoked under subsection  
2 (d) or (e).

3 “(i) TRANSITIONAL PROVISION.—If, on the day be-  
4 fore the date of the enactment of this subsection, a sub-  
5 stance that is a pesticide chemical was, with respect to  
6 a particular pesticidal use of the substance and any result-  
7 ing pesticide chemical residue in or on a particular food—  
8 “(1) regarded by the Administrator or the Sec-  
9 retary as generally recognized as safe for use within  
10 the meaning of the provisions of section 408(a) or  
11 201(s) as then in effect; or

12 “(2) regarded by the Secretary as a substance  
13 described by section 201(s)(4),  
14 such a pesticide chemical residue shall be regarded as ex-  
15 empt from the requirement for a tolerance, as of the date  
16 of enactment of this subsection. The Administrator shall  
17 by regulation indicate which substances are described by  
18 this subsection. An exemption under this subsection may  
19 be revoked or modified as if the exemption had been issued  
20 under subsection (c).

21 “(j) HARMONIZATION WITH ACTION UNDER OTHER  
22 LAWS.—

23 “(1) LIMITATION.—Notwithstanding any other  
24 provision of this Act, a final rule under this section  
25 that revokes, modifies, or suspends a tolerance or

1 exemption for a pesticide chemical residue in or on  
2 a food may be issued only if the Administrator has  
3 first taken any necessary action under the Federal  
4 Insecticide, Fungicide, and Rodenticide Act (7  
5 U.S.C. 136 et seq.) with respect to the registration  
6 of the pesticide or pesticides whose use results in the  
7 residue to ensure that any authorized use of the pes-  
8 ticide in producing, storing, processing, or transport-  
9 ing food that occurs after the issuance of the final  
10 rule under this section will not result in pesticide  
11 chemical residues on the food that are unsafe within  
12 the meaning of subsection (a).

13 “(2) REVOCATION OF TOLERANCE OR EXEMP-  
14 TION FOLLOWING CANCELLATION OF ASSOCIATED  
15 REGISTRATIONS.—

16 “(A) IN GENERAL.—If the Administrator,  
17 acting under the Federal Insecticide, Fungicide,  
18 and Rodenticide Act (7 U.S.C. 136 et seq.),  
19 cancels the registration of each pesticide that  
20 contains a particular pesticide chemical and  
21 that is labeled for use on a particular food, or  
22 requires that the registration of each such pes-  
23 ticide be modified to prohibit the use of the pes-  
24 ticide in connection with the production, stor-  
25 age, or transportation of the food, due in whole

1 or in part to dietary risks to humans posed by  
2 residues of the pesticide chemical on that food,  
3 the Administrator shall revoke any tolerance or  
4 exemption that allows the presence of the pes-  
5 ticide chemical, or any pesticide chemical resi-  
6 due that results from the use of the pesticide  
7 chemical, in or on the food. The Administrator  
8 shall use the procedures set forth in subsection  
9 (e) in taking action under this paragraph.

10 “(B) EFFECTIVE DATE.—A revocation  
11 under this paragraph shall become effective not  
12 later than 180 days after—

13 “(i) the date by which each such can-  
14 cellation of a registration has become effec-  
15 tive; or

16 “(ii) the date on which the use of the  
17 canceled pesticide becomes unlawful under  
18 the terms of the cancellation,

19 whichever is later.

20 “(3) SUSPENSION OF TOLERANCE OR EXEMP-  
21 TION FOLLOWING SUSPENSION OF ASSOCIATED REG-  
22 ISTRATIONS.—

23 “(A) SUSPENSION.—If the Administrator,  
24 acting under the Federal Insecticide, Fungicide,  
25 and Rodenticide Act (7 U.S.C. 136 et seq.),

1 suspends the use of each registered pesticide  
2 that contains a particular pesticide chemical  
3 and that is labeled for use on a particular food,  
4 due in whole or in part to dietary risks to hu-  
5 mans posed by residues of the pesticide chemi-  
6 cal on the food, the Administrator shall suspend  
7 any tolerance or exemption that allows the pres-  
8 ence of the pesticide chemical, or any pesticide  
9 chemical residue that results from the use of  
10 the pesticide chemical, in or on that food. The  
11 Administrator shall use the procedures set forth  
12 in subsection (e) in taking action under this  
13 paragraph. A suspension under this paragraph  
14 shall become effective not later than 60 days  
15 after the date by which each such suspension of  
16 use has become effective.

17 “(B) EFFECT OF SUSPENSION.—The sus-  
18 pension of a tolerance or exemption under sub-  
19 paragraph (A) shall be effective as long as the  
20 use of each associated registration of a pesticide  
21 is suspended under the Federal Insecticide,  
22 Fungicide, and Rodenticide Act (7 U.S.C. 136  
23 et seq.). While a suspension of a tolerance or  
24 exemption is effective the tolerance or exemp-  
25 tion shall not be considered to be in effect. If

1           the suspension of use of the pesticide under  
2           such Act is terminated, leaving the registration  
3           of the pesticide for the use in effect under such  
4           Act, the Administrator shall rescind any associ-  
5           ated suspension of a tolerance or exemption.

6           “(4) TOLERANCES FOR UNAVOIDABLE RESI-  
7           DUES.—In connection with action taken under para-  
8           graph (2) or (3), or with respect to pesticides whose  
9           registrations were canceled prior to the effective date  
10          of this paragraph, if the Administrator determines  
11          that a residue of the canceled or suspended pesticide  
12          chemical will unavoidably persist in the environment  
13          and thereby be present in or on a food, the Adminis-  
14          trator may establish a tolerance for the pesticide  
15          chemical residue at a level that permits such un-  
16          avoidable residue to remain in or on the food. In es-  
17          tablishing such a tolerance, the Administrator shall  
18          take into account the factors set forth in subsection  
19          (b)(2)(C) and shall use the procedures set forth in  
20          subsection (e). The Administrator shall review a tol-  
21          erance established under this paragraph periodically  
22          and modify the tolerance as necessary so that the  
23          tolerance allows only that level of the pesticide chem-  
24          ical residue that is unavoidable.

1           “(5) PESTICIDE RESIDUES RESULTING FROM  
2       LAWFUL APPLICATION OF PESTICIDE.—Notwith-  
3       standing any other provision of this Act, if a toler-  
4       ance or exemption for a pesticide chemical residue in  
5       or on a food has been revoked, suspended, or modi-  
6       fied under this section, an article of the food shall  
7       not be considered unsafe solely because of the pres-  
8       ence of the pesticide chemical residue in or on the  
9       food if it is shown to the satisfaction of the Sec-  
10      retary that—

11           “(A) the residue is present as the result of  
12           an application or use of a pesticide at a time  
13           and in a manner that was lawful under the  
14           Federal Insecticide, Fungicide, and Rodenticide  
15           Act (7 U.S.C. 136 et seq.); and

16           “(B) the residue does not exceed a level  
17           that was authorized at the time of the applica-  
18           tion or use to be present on the food under a  
19           tolerance, exemption, food additive regulation,  
20           or other sanction then in effect under this Act,  
21      unless, in the case of any tolerance or exemption re-  
22      voked, suspended, or modified under this subsection  
23      or subsection (d) or (e), the Administrator has is-  
24      sued a determination that consumption of the legally  
25      treated food during the period of the likely availabil-

1       ity of the food in commerce will pose an unreason-  
2       able dietary risk.

3       “(k) FEES.—The Administrator shall by regulation  
4       require the payment of such fees as will in the aggregate,  
5       in the judgment of the Administrator, be sufficient over  
6       a reasonable term to provide, equip, and maintain an ade-  
7       quate service for the performance of the functions of the  
8       Administrator under this section. Under the regulations,  
9       the performance of the services or other functions of the  
10      Administrator under this section, including—

11           “(1) the acceptance for filing of a petition sub-  
12          mitted under subsection (d);

13           “(2) the promulgation of a regulation establish-  
14          ing, modifying, or revoking a tolerance or establish-  
15          ing or revoking an exemption from the requirement  
16          of a tolerance under this section;

17           “(3) the acceptance for filing of objections  
18          under subsection (d)(6); or

19           “(4) the certification and filing in court of a  
20          transcript of the proceedings and the record under  
21          subsection (d)(7),

22      may be conditioned upon the payment of the fees. The  
23      regulations may further provide for waiver or refund of  
24      fees in whole or in part when in the judgment of the Ad-



1   ministrator the waiver or refund is equitable and not con-  
2   trary to the purposes of this subsection.

3       “(l) NATIONAL UNIFORMITY OF TOLERANCES.—

4           “(1) QUALIFYING PESTICIDE CHEMICAL RESI-  
5       DUE.—For purposes of this subsection, the term  
6       ‘qualifying pesticide chemical residue’ means a pes-  
7       ticide chemical residue resulting from the use, in  
8       production, processing, or storage of a food, of a  
9       pesticide chemical that is an active ingredient and  
10      that—

11           “(A) was first approved for such use in a  
12           registration of a pesticide issued under section  
13           3(c)(5) of the Federal Insecticide, Fungicide,  
14           and Rodenticide Act (7 U.S.C. 136a(c)(5)) on  
15           or after April 25, 1985, on the basis of data de-  
16           termined by the Administrator to meet all ap-  
17           plicable requirements for data prescribed by  
18           regulations in effect under such Act on April  
19           25, 1985; or

20           “(B) was approved for such use in a rereg-  
21           istration eligibility determination issued under  
22           section 4(g) of such Act on or after the date of  
23           enactment of the Food Quality Protection Act  
24           of 1995.

1           “(2) QUALIFYING FEDERAL DETERMINATION.—

2           For purposes of this subsection, the term ‘qualifying  
3           Federal determination’ means—

4                   “(A) a tolerance or exemption from the re-  
5                   quirement for a tolerance for a qualifying pes-  
6                   ticide chemical residue that was—

7                           “(i) issued under this section after the  
8                           date of enactment of the Food Quality  
9                           Protection Act of 1995; or

10                           “(ii) issued (or, pursuant to sub-  
11                           section (h) or (i), deemed to have been is-  
12                           sued) under this section prior to the date  
13                           of enactment of the Food Quality Protec-  
14                           tion Act of 1995, and determined by the  
15                           Administrator to meet the standard under  
16                           subsection (b)(2) (in the case of a toler-  
17                           ance) or (c)(2) (in the case of an exemp-  
18                           tion); and

19                           “(B) any statement, issued by the Sec-  
20                           retary, of the residue level below which enforce-  
21                           ment action will not be taken under this Act  
22                           with respect to any qualifying pesticide chemi-  
23                           cal residue, if the Secretary finds that the pes-  
24                           ticide chemical residue level permitted by the

1 statement during the period to which the state-  
2 ment applies protects human health.

3 “(3) LIMITATION.—The Administrator may  
4 make the determination described in paragraph  
5 (2)(A)(ii) only by issuing a rule in accordance with  
6 the procedure set forth in subsection (d) or (e) and  
7 only if the Administrator issues a proposed rule and  
8 allows a period of not less than 30 days for comment  
9 on the proposed rule. Any such rule shall be  
10 reviewable in accordance with paragraphs (6) and  
11 (7) of subsection (d).

12 “(4) STATE AUTHORITY.—Except as provided  
13 in paragraph (5), no State or political subdivision  
14 may establish or enforce any regulatory limit on a  
15 qualifying pesticide chemical residue in or on any  
16 food if a qualifying Federal determination applies to  
17 the presence of the pesticide chemical residue in or  
18 on the food, unless the State regulatory limit is iden-  
19 tical to the qualifying Federal determination. A  
20 State or political subdivision shall be deemed to es-  
21 tablish or enforce a regulatory limit on a pesticide  
22 chemical residue in or on food if the State or politi-  
23 cal subdivision purports to prohibit or penalize the  
24 production, processing, shipping, or other handling  
25 of a food because the food contains a pesticide resi-

1 due (in excess of a prescribed limit), or if the State  
2 or political subdivision purports to require that a  
3 food containing a pesticide residue be the subject of  
4 a warning or other statement relating to the pres-  
5 ence of the pesticide residue in the food.

6 “(5) PETITION PROCEDURE.—

7 “(A) IN GENERAL.—Any State may peti-  
8 tion the Administrator for authorization to es-  
9 tablish in such State a regulatory limit on a  
10 qualifying pesticide chemical residue in or on  
11 any food that is not identical to the qualifying  
12 Federal determination applicable to the qualify-  
13 ing pesticide chemical residue.

14 “(B) PETITION REQUIREMENTS.—Any pe-  
15 tition made by a State under subparagraph (A)  
16 shall—

17 “(i) satisfy any requirements pre-  
18 scribed, by rule, by the Administrator; and

19 “(ii) be supported by scientific data  
20 about the pesticide chemical residue that is  
21 the subject of the petition or about chemi-  
22 cally related pesticide chemical residues,  
23 data on the consumption within the State  
24 of food bearing the pesticide chemical resi-  
25 due, and data on exposure of humans with-

1 in the State to the pesticide chemical resi-  
2 due.

3 “(C) ORDER.—Subject to paragraph (6),  
4 the Administrator may, by order, grant the au-  
5 thorization described in subparagraph (A) if the  
6 Administrator determines that the proposed  
7 State regulatory limit—

8 “(i) is justified by compelling local  
9 conditions;

10 “(ii) would not unduly burden inter-  
11 state commerce; and

12 “(iii) would not cause any food to be  
13 in violation of Federal law.

14 “(D) CONSIDERATION OF PETITION AS PE-  
15 TITION FOR TOLERANCE OR EXEMPTIONS.—In  
16 lieu of any action authorized under subpara-  
17 graph (C), the Administrator may treat a peti-  
18 tion under this paragraph as a petition under  
19 subsection (d) to revoke or modify a tolerance  
20 or to revoke an exemption. If the Administrator  
21 determines to treat a petition under this para-  
22 graph as a petition under subsection (d), the  
23 Administrator shall thereafter act on the peti-  
24 tion pursuant to subsection (d).

1           “(E) REVIEW OF ORDER.—Any order of  
 2           the Administrator granting or denying the au-  
 3           thorization described in subparagraph (A) shall  
 4           be subject to review in the manner described in  
 5           paragraphs (6) and (7) of subsection (d).

6           “(6) RESIDUES FROM LAWFUL APPLICATION.—  
 7           No State or political subdivision may enforce any  
 8           regulatory limit on the level of a pesticide chemical  
 9           residue that may appear in or on any food if, at the  
 10          time of the application of the pesticide that resulted  
 11          in the residue, the sale of the food with the residue  
 12          level was lawful under this Act and under the law  
 13          of the State, unless the State demonstrates that con-  
 14          sumption of the food containing the pesticide residue  
 15          level during the period of the likely availability of the  
 16          food in the State will pose an unreasonable dietary  
 17          risk to the health of persons within the State.”.

18 **SEC. 306. AUTHORIZATION FOR INCREASE MONITORING.**

19          There are authorized to be appropriated an additional  
 20          \$12,000,000 for increased monitoring by the Secretary of  
 21          Health and Human Services of pesticide residues in im-  
 22          ported and domestic food.

○

S 1166 IS——2

S 1166 IS——3

S 1166 IS—4

S 1166 IS—5