

103^D CONGRESS
2^D SESSION

H. R. 4329

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

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1994

Mr. DE LA GARZA (for himself and Mr. STENHOLM) (both by request) introduced the following bill; which was referred to the Committee on Agriculture

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 (a) Section 3 of the Federal Insecticide, Fungicide,
 9 and Rodenticide Act (7 U.S.C. 136a) is amended by add-
 10 ing at the end of 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
 19 the renewal of a registration is the reapplication

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

12 “(2) LIST OF ACTIVE INGREDIENTS.—

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

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

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

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

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

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

19 “(ii) in group 2 if the active ingredi-
20 ent was first contained in a pesticide ini-
21 tially registered after October 31, 1984,
22 but before the date of enactment of the
23 Federal Insecticide, Fungicide, and
24 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 subsections (c)(1) and
12 (c)(2)(D) shall be applicable to requirements
13 for renewal of a registration of a pesticide.

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

1 requirements of subsection (c)(5) of this sec-
2 tion.

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

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

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

21 “(5) EXPIRATION.—

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

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

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

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

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

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

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

4 “(7) FEES.—

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

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

16 “(8) REGISTRATION RENEWAL FUND.—

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

20 “(B) SOURCE AND USE.—All fees collected
21 by the Administrator under paragraph (6) shall
22 be deposited into the fund and shall be available
23 to the Administrator, without fiscal year limita-
24 tion, to carry out the provisions of subsection
25 (g) of this Act.

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

9 **SEC. 3. IMPORTS AND EXPORTS.**

10 (a) EXPORTS.—

11 (1) Section 17 (7 U.S.C. 136o), is amended to
12 read as follows:

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

1 “(b) CERTAIN PESTICIDES PROHIBITED FROM EX-
2 PORT.—

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

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

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

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

20 “(iii) Applications for registration of
21 pesticides containing the active ingredient
22 have been withdrawn by the registrant vol-
23 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 A (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
11 effective for 1 year, except that the Adminis-
12 trator may renew the finding if the importing
13 country informs the administrator annually in
14 writing that it wishes to continue to import the
15 pesticide.

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 about 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 mental 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 KNOWLEDGEMENT 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 the
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 alien 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.”.

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
21 section 17 or to violate any regulation or order
22 issued 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 Safety Reform Act of
4 1994.

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

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

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

15 **SEC. 4. CANCELLATION.**

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

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

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

5 (b) Section 3(d)(2) (7 U.S.C. 136a (d)(2)) is amend-
6 ed 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
6 shall at all times have the burden of showing that
7 the standard for cancellation, denial or change in
8 classification 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 not 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 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 thirty day
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 clause (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 of 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.

1 “(C) After the opportunity for comment on
2 a notice issued pursuant to section 6(b)(8)(B)
3 has expired, the Administrator shall publish a
4 final decision in the Federal Register either de-
5 nying the application or granting
6 reconsideration of the prior final order to the
7 extent necessary to consider the application. A
8 final decision granting reconsideration may, at
9 the Administrator’s discretion, contain a final
10 determination granting or rejecting the applica-
11 tion. If such a final determination is not con-
12 tained in a final decision granting reconsider-
13 ation, the application shall be reviewed accord-
14 ing to the provisions of section 3 or 24 as ap-
15 propriate.

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

1 “(ii) If the Administrator determines, after
2 granting reconsideration, that the application
3 should be granted, he shall publish in the Fed-
4 eral Register a notice granting the application.
5 Such a notice may be contained in a final deci-
6 sion grating reconsideration issued pursuant to
7 section 6(b)(8)(B).

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

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

18 “(d) SCIENTIFIC ADVISORY PANEL.—Prior to issu-
19 ance of a proposed order under section 6(b), the Adminis-
20 trator shall notify an advisory panel of such action and
21 shall provide such panel and opportunity to submit written
22 comments as to the impact on health and the environment
23 of such proposed orders. The Administrator shall submit
24 proposed and final form regulations issued under section
25 25(a) within the same time periods as provided for the

1 comments of the Secretary of Agriculture. The time re-
2 quirements for proposed and final form regulations may
3 not be modified or waived unless in addition to meeting
4 the requirements of section 25(a), the advisory panel has
5 failed to comment on the proposed action within the pre-
6 scribed time period or has agreed to the modification or
7 waiver.”.

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

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

12 “(i) COORDINATION WITH THE FOOD, DRUG, AND
13 COSMETIC ACT.—

14 “(1) The Administrator shall, by order and
15 without a hearing, cancel a pesticide registration, or
16 deny the application for registration or amended
17 registration of a pesticide if the Administrator has
18 revoked a tolerance regulation or denied a petition
19 to establish a tolerance regulation under section 408
20 of title 21 of the United States Code for residues of
21 the pesticide in or on food that could result from the
22 use of the pesticide, unless the Administrator deter-
23 mines that such use is unlikely to result in food that
24 is adulterated within the meaning of section
25 342(a)(2)(B) of title 21 of the United States Code.

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

11 **SEC. 6. SUSPENSION.**

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

14 “(c) SUSPENSION.—

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

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

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

24 “(3) DURATION OF SUSPENSION.—A suspen-
25 sion order issued under this subsection may be ter-

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

15 “(4) PETITION TO RECONSIDER SUSPENSION.—
16 (A) A registrant, or any other interested person with
17 the concurrence of the registrant, may, within thirty
18 days of publication of the suspension order in the
19 Federal Register, petition the Administrator to re-
20 consider the issuance of the suspension order. A pe-
21 titioner must include in the petition specific objec-
22 tions to the suspension order, and must include the
23 specific bases supporting the petitioner’s conclusion
24 that the standard for suspension is not met. A peti-
25 tion must be accompanied by any information the

1 petitioner wishes the Administrator to consider in
2 reviewing the petition. The Administrator shall,
3 within one hundred and twenty days of receipt of the
4 last of such petitions, issue an order granting or de-
5 nying petitions received within thirty days of the
6 publication of a suspension order. Any suspension
7 order issued under this subsection shall expire auto-
8 matically if the Administrator fails to respond to any
9 petition within the time required. Such an order re-
10 sponding to a petition for reconsideration shall be
11 sent to the petitioner and published in the Federal
12 Register, and shall include the factual and legal
13 bases for the Administrator's determination on the
14 petition.

15 “(B) A registrant, or any other interested per-
16 son with the concurrence of the registrant, may file
17 with the Administrator a petition to reconsider the
18 issuance of a suspension order more than thirty days
19 after publication of the suspension order in the Fed-
20 eral Register only if the petition is based upon sub-
21 stantial new information which—

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

24 “(ii) was not available to the Administrator
25 at the time he issued the suspension order or

1 denied any petition submitted under subpara-
2 graph (5)(A) of this paragraph; and

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

7 In addition to demonstrating that the petition is
8 based upon new information which meets the criteria
9 of this subparagraph, a person filing a petition more
10 than thirty days after the publication of a suspen-
11 sion order must include in the petition specific objec-
12 tions to the suspension order and the specific base
13 supporting the petitioner’s conclusion that the
14 standard for suspension is not met. Such a petition
15 must be accompanied by any information the peti-
16 tioner wishes the Administrator to consider in re-
17 viewing the petition. The Administrator shall issue
18 an order granting or denying a petition filed more
19 thirty days after the publication of a suspension
20 order within one hundred and twenty days of receipt
21 of the petition. Such an order shall be sent to the
22 petitioner and published in the Federal Register,
23 and shall include the factual and legal bases for the
24 Administrator’s determination on the petition.”.

1 (b) Section 6(h) (7 U.S.C. 136(h)) is amended to
2 read as follows:

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

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

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

18 “(h) LABEL CALL-IN.—

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

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

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

23 “(A) the change would effectively prohibit
24 or make economically unfeasible substantially
25 all use of the pesticide on one or more use sites;

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

5 “(C) the costs to society of making the
6 proposed change exceed the benefits of the risk
7 reduction associated with making the proposed
8 change.

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

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

1 of registration reflecting the changes as the Admin-
2 istrator deems appropriate.

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

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

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

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

15 “(8) PESTICIDES IN THE CHANNELS OF
16 TRADE.—

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

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

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

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

22 “(B) accept and store at such facility any
23 pesticide distributed or sold by such person in
24 violation of this section that are tendered by
25 any other person who obtained the pesticide di-

1 rectly or indirectly from the person that is sub-
2 ject to such order;

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

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

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

19 “(10) USE SITE.—For purposes of this section,
20 a use site means, for any agricultural use of a pes-
21 ticide, a particular crop or commodity. The Adminis-
22 trator shall identify, by regulation, non-agricultural
23 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 product
5 in violation of any requirement issued by the Admin-
6 istrator pursuant to section 3 (g).”.

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

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

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

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

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

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

22 The Administrator shall, pursuant to paragraphs
23 (2)–(4), restrict, reduce, or eliminate the use or pro-
24 duction of the pesticide, or evaluate other action as
25 may be necessary to address the risk during the pe-

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

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

12 “(3) PROPOSED RULE.—If the Administrator
13 determines that the standard for taking regulatory
14 action under paragraph (1) is met, the Adminis-
15 trator may issue a proposed rule to restrict, reduce
16 or eliminate the use or production of a pesticide.
17 The Administrator shall publish the proposed rule in
18 the Federal Register and shall afford the registrant
19 and any other interested person an opportunity to
20 comment on the proposed rule for at least 60 days
21 after publication in the Federal Register. Any person
22 may submit comments concerning the impact of the
23 proposal on the benefits of the use of the pesticide.
24 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.—(A) If no comments op-
13 posing the proposed rule are submitted by reg-
14 istrants or other interested persons during the com-
15 ment period provided under paragraph (3), and if
16 the registrant does not file a timely application for
17 amendment of registration to implement the
18 changes, if any, specified in the proposed rule, the
19 Administrator may issue a final rule. The Adminis-
20 trator shall publish such final rule in the Federal
21 Register. A final rule issued under this paragraph
22 shall not be subject to judicial review.

23 “(B) If, after reviewing comments submitted
24 pursuant to paragraph (3), the Administrator deter-
25 mines that the standard for taking action under

1 paragraph (1) has been met, the Administrator shall
2 publish a final rule in the Federal Register. The
3 final rule shall include (or incorporate by reference
4 to publicly available documents) the following:

5 “(i) The terms and conditions of the final
6 rule.

7 “(ii) The factual and legal bases for the
8 final rule.

9 “(iii) A summary of the significant com-
10 ments received under paragraph (3) and the
11 Administrator’s responses to those comments.

12 “(iv) A description of the additional infor-
13 mation needed to address the uncertainties of
14 the risk identified in paragraph (1).

15 “(C) If, after reviewing the comments submit-
16 ted under paragraph (3) the Administrator deter-
17 mines not to restrict, reduce, or eliminate pesticide
18 uses or production the Administrator shall publish
19 such determination in the Federal Register. Such
20 decision shall include the factual and legal basis for
21 the determination, a summary of the significant
22 comments submitted under paragraph (3), and the
23 Administrator’s response to those comments. Such a
24 decision shall be effective upon publication.

1 “(D) Section 25(a) of this Act shall not apply
2 to proposed or final rules issued pursuant to this
3 subsection.

4 “(E) Unless otherwise ordered by a court of ap-
5 propriate jurisdiction, a final rule issued under para-
6 graph (4) shall remain in effect pending the resolu-
7 tion of any regulatory action under section 6 or sec-
8 tion 106 or until such time as the Administrator re-
9 vokes or modifies the rule.

10 “(5) REVIEW OF INFORMATION.—

11 “(A) The Administrator shall review
12 promptly upon submission the information iden-
13 tified in the final rule and shall—

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

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

19 “(iii) issue a final determination to
20 maintain in effect the final rule if the in-
21 formation submitted is not sufficient for
22 the Administrator to proceed under clauses
23 (i) and (ii).

24 “(B) A final determination issued pursuant
25 to subparagraph (A)(iii) to maintain in effect a

1 final rule shall be published in the Federal Reg-
2 ister and shall be subject to judicial review pur-
3 suant to section 16(a) of this Act.

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

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

10 (a) REDUCED RISK PESTICIDES.—

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

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

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

19 “(9) REDUCED RISK PESTICIDES.—

20 “(A) Not later than 1 year after the enact-
21 ment of this paragraph, the Administrator shall
22 develop criteria, after opportunity for public
23 comment, for the designation of reduced risk
24 pesticides. Such criteria shall, at a minimum,
25 address potential risks to human health, tox-

1 icity to other non-target organisms, environ-
2 mental persistence, potential to contaminate the
3 environment, and compatibility with integrated
4 pest management strategies.

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

15 “(C) The Administrator, within 30 days
16 after receiving a request for designation, shall
17 notify the applicant or registrant requesting
18 designation whether the request is complete. If
19 it is found to be incomplete, the Administrator
20 shall reject the request. If the request is com-
21 plete, the Administrator shall review the request
22 not later than 120 days after receipt, and shall
23 designate the pesticide as a ‘reduced risk pes-
24 ticide’ if the pesticide meets the criteria for re-
25 duced risk issued pursuant to paragraph (A).

1 The Administrator shall publish a notice of
2 findings regarding such designation in the Fed-
3 eral Register.

4 “(D) If a request for designation is accom-
5 panied by an application for registration or
6 amended registration, the Administrator, within
7 180 days of designating that a pesticide quali-
8 fies for reduced risk status, shall complete re-
9 view of the application and shall notify the ap-
10 plicant or registrant whether the registration or
11 amended registration has been granted or de-
12 nied. If the application is denied, the Adminis-
13 trator shall comply with the procedures under
14 section 3(c)(6).

15 “(E) If at any time after the designation
16 of a pesticide as a reduced risk pesticide the
17 registrant has additional information bearing on
18 the pesticide’s ability to meet the criteria estab-
19 lished under subparagraph (A), the registrant
20 shall immediately submit a report containing
21 such information to the Administrator.

22 “(F) If at any time after the designation
23 of a pesticide as a reduced risk pesticide the
24 Administrator concludes that the determination
25 made under subparagraph (C) can no longer be

1 supported, the Administrator shall revoke the
2 designation, after providing the registrant with
3 an opportunity for comment on the basis of the
4 Agency's conclusion.”.

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

10 “(ii) the period of exclusive data use
11 for data submitted to support the applica-
12 tion for the original registration of a pes-
13 ticide under clause (i) shall be extended by
14 an additional two years if, after the date of
15 enactment of this provision—

16 “(I) the Administrator approves
17 at least three minor uses of the pes-
18 ticide prior to the expiration of the
19 period of exclusive use under clause
20 (i); or

21 “(II) the pesticide has been des-
22 ignated as a reduced risk pesticide
23 pursuant to paragraph (9)(C) of this
24 subsection prior to the expiration of
25 exclusive use under clause (i).

1 Any additional exclusive use period under
2 subclause (I) or (II) shall terminate if the
3 original data submitter voluntarily cancels
4 the original registration of the pesticide
5 supported by data described in clause (i) of
6 this subsection. Any additional exclusive
7 use period under subclause (II) shall ter-
8minate if the Administrator revokes the
9 designation of a pesticide as reduced risk
10 under paragraph (9)(E) of this sub-
11 section.”.

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

15 “(hh) BIOLOGICAL PESTICIDE.—The term ‘biological
16 pesticide’ means a biochemical pesticide, plant pesticide,
17 or any organism that is a biological control agent, includ-
18 ing a microbial pesticide.”.

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

22 “(D) The Administrator may conditionally
23 register a biological pesticide, as that term is
24 defined by section 2 (7 U.S.C. 136) of this Act,
25 or a mixture of biological pesticides not con-

1 tained in any currently registered pesticide
2 prior to the development of all data necessary
3 for the Administrator to determine whether the
4 pesticide meets the requirements of paragraph
5 (5) of this subsection. A conditional registration
6 under this paragraph may be granted for a pe-
7 riod no longer than is necessary for the genera-
8 tion, submission and review of required data
9 and on the condition that by the end of such
10 period the Administrator receives such data and
11 the data do not meet or exceed risk criteria
12 enumerated in regulations issued under this
13 Act, and on such other conditions as the Ad-
14 ministrator may prescribe. A conditional reg-
15 istration under this subparagraph shall be
16 granted only if the Administrator determines,
17 based on available information, that use of the
18 pesticide during such period will not cause any
19 unreasonable adverse effect on the environment,
20 and that use of the pesticide is in the public in-
21 terest.”.

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

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

1 “(A) Applications for registration of any
2 pesticide that would meet pest control needs
3 which are currently being addressed through
4 pesticide use authorized under Section 18 of
5 this Act.

6 “(B) Applications which EPA considers
7 likely to reduce the risk of adverse effects on
8 the environment from the use of currently reg-
9 istered pesticides subject to proceedings under
10 section 6.

11 “(C) Applications for registration of any
12 pesticide that meets reduced risk criteria estab-
13 lished by the Administrator.

14 “(D) Applications for the registration of
15 pesticides for minor uses.

16 “(E) Other applications.”.

17 (f) AMENDMENTS TO CONFORM TO CURRENT REG-
18 ISTRATION PRIORITIES.—

19 (1) Section 3(c)(3)(B)(ii) (7 U.S.C.
20 136a(c)(3)(B)(ii)) is amended as follows:

21 “(ii) In expediting the review of an appli-
22 cation for an action described in clause (i), the
23 Administrator shall, to the extent consistent
24 with the priorities established in subsection
25 (10),—”.

1 (2) RESEARCH AND INVESTIGATION, MONITOR-
2 ING, EDUCATION AND INFORMATION.—Section 20 (7
3 U.S.C. 136r) is amended as follows:

4 (A) By redesignating subsections (b) and
5 (c) as (c) and (d), respectively.

6 (B) By amending subsections (a)–(c) as
7 follows:—

8 **“SEC. 20. RESEARCH AND INVESTIGATION, MONITORING,**
9 **EDUCATION AND INFORMATION.**

10 “(a) COOPERATIVE AGREEMENTS.—The Adminis-
11 trator may enter into cooperative agreements, interagency
12 agreements and contracts with, and issue grants to, Fed-
13 eral, State, tribal and local agencies, other public or pri-
14 vate agencies, institutions, organizations, and individuals
15 for research, investigations, studies, demonstrations or
16 other activities for the purposes of carrying out this Act.
17 Such activities may include, but are not limited to, re-
18 search, investigations, demonstrations, and studies in inte-
19 grated pest management, alternative pest management,
20 and reduced pesticide use. The Administrator shall consult
21 with the Secretary of Agriculture in conducting research,
22 investigations, studies, and demonstrations in integrated
23 pest management, and with the Secretary of State and
24 the Administrator of the Agency for International Devel-
25 opment when international activities are involved.

1 “(b) INFORMATION EXCHANGE.—The Administrator,
2 in cooperation with other Federal, State, Tribal, and local
3 agencies, universities or others, may promote training,
4 education and information exchange for the general public
5 and for pesticide users.”.

6 (C) By adding new subsections (e) and (f)
7 as follows:

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

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

23 (3) STATE AND TRIBAL PROGRAM DEVELOP-
24 MENT, ENFORCEMENT, AND TRAINING.—Section 23
25 (7 U.S.C. 136u) is amended as follows:

1 **“SEC. 23. STATE AND TRIBAL PROGRAM DEVELOPMENT,**
2 **ENFORCEMENT, AND TRAINING.**

3 “(a) The Administrator may enter into cooperative
4 agreements, interagency agreements and contracts with,
5 and issue grants to, States and Indian tribes—

6 “(1) to delegate to any State or Indian tribe
7 the authority to cooperate in the enforcement of this
8 Act through the use of its personnel or facilities, to
9 train personnel of the State or Indian tribe to co-
10 operate in the enforcement of this Act, and to assist
11 States and Indian tribes in implementing cooperative
12 enforcement programs;

13 “(2) to assist States and Indian tribes in devel-
14 oping and administering State and tribal programs,
15 and to train and certify applicators consistent with
16 the standards the Administrator prescribes; and

17 “(3) to cooperate in the development of national
18 pesticide programs, including, but not limited to, ef-
19 forts to protect endangered species, ground water,
20 the public, workers, and users from pesticide con-
21 tamination and exposure, and to assist States and
22 Indian tribes in implementing effective pesticide pro-
23 grams.

24 “(b) The Administrator shall, in cooperation with the
25 Secretary of Agriculture, use the services of the coopera-
26 tive state extension services to inform and educate pes-

1 ticide users about accepted uses and other regulations
2 made under this Act.”.

3 (g) ALTERNATIVE PEST CONTROL STRATEGIES.—

4 Section 28 (7 U.S.C. 136w) is amended to read:

5 “(a) IN GENERAL.—

6 “(1) It shall be the goal of the Secretary, as it
7 relates to research in pest control methods, to sup-
8 port research and development of pest control meth-
9 ods that reduce risks to human health and the envi-
10 ronment. The purpose of such research shall be to
11 achieve pest management in the most environ-
12 mentally sound manner possible, to reduce the inci-
13 dence of pest resistance, and to develop sufficient
14 pest management alternative to ensure economical
15 agricultural production.

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

18 “(A) COMPARATIVE INFORMATION ON PES-
19 TICIDE PROPERTIES.—The Administrator, in
20 consultation with the Secretary of Agriculture,
21 shall develop and make readily available infor-
22 mation that identifies the significant environ-
23 mental properties and potential human health
24 effects of pesticides, provides for comparison
25 and analysis of those properties, and provides

1 information necessary to assist in establishing
2 priorities for research and development of alter-
3 native pest management methods.

4 “(B) EVALUATION OF EFFECTIVENESS OF
5 PEST CONTROL METHODS.—The Secretary of
6 Agriculture, in coordination and cooperation
7 with the Administrator, shall develop a system
8 for evaluating agricultural pest control needs
9 and the effectiveness of available chemical, bio-
10 logical, and non-pesticide methods to control
11 pests. Such system shall identify agricultural
12 pest management needs for which there are in-
13 adequate methods of control including the inci-
14 dence of pest resistance and provide a means to
15 assist in setting priorities for research and de-
16 velopment.

17 “(C) RESEARCH PRIORITIES.—The Sec-
18 retary of Agriculture, after consultation with
19 the Administrator, and taking into account pri-
20 vate, academic, and other public research activi-
21 ties, shall establish priorities for the Depart-
22 ment of Agriculture’s research and development
23 efforts in pest management methods. The Sec-
24 retary shall give highest priority to research
25 and development of methods that would signifi-

1 cantly reduce risks to public health and the en-
2 vironment and would meet agricultural pest
3 management needs for which there are inad-
4 equate methods of control. The highest priority
5 shall be for research and development into
6 methods that would meet the criteria stated
7 above and would provide pest control methods
8 to serve as alternatives to pesticides identified
9 in (b).

10 “(b) SAFER ALTERNATIVE PEST CONTROL PLANS.—
11 The Secretary and the Administrator, in consultation with
12 the Secretary of the Interior, shall develop and implement
13 a process for coordinating environmental risk reduction
14 through identification of pesticides that pose significant
15 risk to human health or the environment, and for which
16 development of use reduction programs and research on
17 safer alternative means of pest control should be high pri-
18 ority for USDA research programs. The Secretary shall
19 give highest priority to research on methods that would
20 significantly reduce risks to public health and the environ-
21 ment, lead to more sustainable agricultural systems, and
22 would meet significant agricultural pest management
23 needs for which there are inadequate methods of pest
24 management.

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

5 “(A) for which the Administrator is consid-
6 ering regulatory action under section 4 or 6
7 that would affect the availability of the pes-
8 ticide. Such list shall include the associated ag-
9 ricultural commodities and pests which may be
10 affected by regulatory action regarding the pes-
11 ticide;

12 “(B) which otherwise pose significant risks
13 to human health and the environment; and

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

16 “(2) DEVELOPMENT OF PLANS.—The Secretary
17 shall review all available alternatives to the pes-
18 ticides contained in the list provided in (b)(1). Not
19 later than 6 months after the Administrator provides
20 the list to the Secretary, the Secretary shall, in con-
21 sultation with the Administrator, develop a research
22 technology transfer plan for each pest-commodity
23 combination on the list for which there are insuffi-
24 cient efficacious alternative pest control techniques
25 that present significantly less risk to human health

1 or the environment. In developing and implementing
2 such plans, the Secretary shall give highest priority
3 to those pesticides identified in subsection (b)(1)(A).

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

5 “(i) to provide alternative pest control
6 methods to growers who will otherwise be
7 limited in the pest control methods avail-
8 able; and

9 “(ii) to significantly reduce risks to
10 humans and the environment.

11 “(B) Each plan shall be developed and im-
12 plemented in a manner consistent with any
13 schedules for regulatory action in sections 4
14 and 6.

15 “(c) RESEARCH.—The research component of each
16 plan shall—

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

20 “(2) provide for the direct involvement of grow-
21 ers in affected regions, educational or research insti-
22 tutions, and other interested persons in the design,
23 implementation, and evaluation of the plan; and

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

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

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

9 “(2) provide for farm level education and tech-
10 nology transfer of successful alternative pest con-
11 trols; and

12 “(3) identify research projects nearing comple-
13 tion which meet the objectives of this subsection and
14 expedite technology transfer of such research to
15 growers.”

16 “(e) COORDINATION WITH REGISTRATION ACTIVI-
17 TIES.—The Administrator shall give priority to applica-
18 tions of any pesticide meeting the criteria for reduced risk
19 under section 9 that may be developed as part of the strat-
20 egy implementation;

21 “(f) IMPLEMENTATION PLAN.—The Secretary and
22 the Administrator shall prepare annually and present to
23 the House Agriculture Committee and the Senate Agri-
24 culture, Nutrition, and Forestry Committee report on the
25 progress of pest management for each agricultural com-

1 modify for which there is a plan under paragraph (2). The
2 report shall include an evaluation of whether the plans are
3 meeting the objectives of paragraph (2). Evaluation shall
4 be conducted by a committee that includes affected grow-
5 ers, researchers, members of the public, and officials of
6 USDA and EPA. The Secretary and the Administrator
7 shall make necessary modifications to the plans, pursuant
8 to such evaluation.

9 “(g) USE OF RESEARCH FUNDS.—

10 “(1) The Secretary shall allocate sufficient ap-
11 propriated funds to carry out the objectives of this
12 section.

13 “(2) The Secretary may provide funds to carry
14 out research and technology transfer plans to which
15 grower funds have been committed, including grower
16 check-off programs, marketing orders, or other
17 grower funded activities. The Secretary shall give
18 priority to research which is partially funded by non-
19 Federal entities. No monies under this section may
20 be made available to persons directly or indirectly
21 engage in the registration of pesticides under this
22 Act for profit.

23 “(h) DUPLICATION OF RESEARCH ACTIVITIES.—The
24 Secretary shall ensure that research conducted under this
25 section does not duplicate research being undertaken by

1 other government agencies, academic institutions, or pri-
2 vate entities.

3 “(i) INTEGRATED PEST MANAGEMENT.—The Sec-
4 retary of Agriculture, in consultation and cooperation with
5 the Administrator, shall establish a national goal for the
6 adoption of integrated pest management techniques. Inte-
7 grated pest management refers to the use of pest manage-
8 ment techniques that includes reliance on field monitoring
9 data, use of economic thresholds in decision-making, con-
10 servation of beneficial and non-target species, utilization
11 of biologically based controls, and other techniques which
12 minimize the environmental and human health risks of
13 pest management practices. The Secretary of Agriculture,
14 in cooperation with the Administrator, shall implement re-
15 search, demonstration, and education programs to support
16 meeting the goals for adoption of integrated pest manage-
17 ment, and shall collect such information as necessary to
18 evaluate the extent to which the goal is being met. The
19 Secretary of Agriculture and the Administrator shall make
20 information on integrated pest management widely avail-
21 able to pesticide users, including Federal agencies. Federal
22 agencies shall use integrated pest management techniques
23 in carrying out pest management activities and shall pro-
24 mote integrated pest management through procurement,
25 regulatory policies, and other activities.

1 “(j) USE REDUCTION.—The Secretary, in coopera-
2 tion with the Administrator, shall initiate pilot programs
3 designed to establish and implement pesticide use reduc-
4 tion goals in selected ecosystems, in cooperation with agri-
5 cultural producers, Federal, State, and local officials, and
6 other appropriate public and private entities.”.

7 **SEC. 10. MINOR USE OF PESTICIDES.**

8 (a) DEFINITION.—Section 2(7 U.S.C. 136) is amend-
9 ed by adding at the end the following:

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

14 “(1) the total United States acreage for the
15 crop is less than 300,000 acres and the average an-
16 nual value of production for the crop for the three
17 calendar years most recently completed does not ex-
18 ceed \$500,000,000 adjusted upward annually for in-
19 flation utilizing the Producer Price Index for Farm
20 Products; or

21 “(2) based on information supplied by the ap-
22 plicant, the use does not provide sufficient economic
23 incentive to support initial or continued registration
24 and one of the following criteria applies:

1 “(A) there are insufficient efficacious alter-
2 native registered pesticides available for the
3 use;

4 “(B) the alternatives to the pesticide pose
5 greater risks to the environment or human
6 health; or

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

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

12 “(m) ADEQUATE TIME FOR SUBMISSION OF MINOR
13 USE DATA.—

14 “(1) If—

15 “(A) A registrant requests a waiver, within
16 time frames and in accordance with the terms
17 established by the Administrator for a minor
18 use waiver of data required under this section
19 or section 3(c)(2)(B); and

20 “(B) The Administrator denies in whole or
21 in part such waiver request;

22 the registrant shall have the time period originally
23 established by the Agency for submission of such
24 data, beginning with the date of the Administrator’s
25 notification of denial.

1 “(2) If a registrant requests additional time,
2 within time frames and in accordance with the terms
3 established by the Administrator, for submission of
4 residue chemistry data for one or more minor food
5 uses, the Administrator may approve a time exten-
6 sion for submission of such data until the final dead-
7 line, established as of the date of the approval of the
8 request, for the submission of the last data required
9 to support reregistration of the pesticide active in-
10 gredient.

11 “(n) CONTINUATION OF UNSUPPORTED MINOR
12 USES.—

13 “(1) Notwithstanding any other provision of
14 this section, the Administrator, on request of a reg-
15 istrant, may delay action to delete a minor food or
16 feed use for which the registrant has not agreed to
17 timely submit residue data necessary for reregistra-
18 tion under this section: *Provided*, That, the Adminis-
19 trator may approve such delay only if the registrant
20 continues to timely submit all other data necessary
21 for reregistration and provided that the delay would
22 not increase the risk of unreasonable adverse effects
23 on the environment or impair the Administrator’s
24 ability to make the determination required by sub-
25 section (g)(2). Such delay shall extend no longer

1 than the final deadline, established as of the date of
2 the approval of the request, for the submission of
3 data for the continued uses of the active ingredient.

4 “(2) The Administrator shall publish in the
5 Federal Register notice of minor uses that are ap-
6 proved for continued use, and the date upon which
7 such will be deleted from the pesticide registrations.
8 Each registrant must cease all distribution and sale
9 of products labeled for the minor use on the estab-
10 lished date.

11 “(3) The Administrator may by order and with-
12 out hearing delete a use continued under this sub-
13 section at any time prior to the established date if
14 no registrant is fulfilling data requirements (other
15 than residue chemistry data) necessary for rereg-
16 istration, or if the Administrator determines that the
17 delay may increase the risk of unreasonable adverse
18 effects on the environment or significantly impair
19 the ability to make the determination required by
20 subsection (g)(2). If the registrant does not comply
21 with the order to remove the use from its product
22 registrations, the Administrator shall cancel reg-
23 istrations containing the use by order without a
24 hearing.

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

3 “(1) For the purposes of this section, Secretary
4 means the Secretary of Health and Human Services,
5 acting through the Public Health Service.

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

18 “(3) The Administrator, after consulting with
19 the Secretary, shall make a determination whether
20 the potential benefits of continued use of the pes-
21 ticide for public health or health protection purposes
22 are of such significance as to warrant a commitment
23 by the Secretary to conduct or to arrange for the
24 conduct of the studies required by the Administrator

1 to support continued registration under section 3 or
2 reregistration under section 4.

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

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

19 “(6) The Secretary may provide for support of
20 the required studies using funds authorized to be ap-
21 propriated under this section, the Public Health
22 Service Act, or other appropriate authorities. After
23 a determination is made under subsection (d), the
24 Secretary shall notify the Committees on Appropria-
25 tions of the House of Representatives and the Sen-

1 ate of the sums required to conduct the necessary
2 studies.

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

7 **SEC. 11. PESTICIDE FEES.**

8 (a) **WAIVER OF FEES FOR BIOLOGICAL PES-**
9 **TICIDES.**—Section 4(i)(4) (U.S.C. 136a-1(i)(4)) is
10 amended by:

11 (1) renumbering subparagraph (C) as subpara-
12 graph (D); and

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

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

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

21 “(E) The authority provided under this
22 paragraph shall terminate on September 30,
23 1999.”.

24 (c) **CONFORMING AMENDMENTS.**—

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

4 (2) Section 4(i) (U.S.C. 136a-1 (4)(i) is
5 amended to add at the end the following:

6 “(7) SUPPLEMENTAL REREGISTRATION FEE.—

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

17 “(B) In addition to fees required pursuant
18 to paragraphs (1)–(5), the registrants of pes-
19 ticides that contain an active ingredient that is
20 listed under subparagraphs (A), (B), (C), or
21 (D) of subsection (c)(2) and that is not an ac-
22 tive ingredient of any pesticide registered for a
23 major food or feed use shall collectively pay a
24 fee of up to \$60,000 at such time as the Ad-

1 administrator shall prescribe subject to the limita-
2 tion of subparagraph (D).

3 “(C) The first half of the total fee due
4 under subparagraph (A) or (B) shall be paid
5 not later than nine months after the effective
6 date of this paragraph and the remaining half
7 not later than 21 months after the effective
8 date of this paragraph.

9 “(D) If 2 or more registrants are required
10 to pay any fee prescribed by subparagraph (A)
11 or (B) with respect to a particular active ingre-
12 dient, the fees for such active ingredient shall
13 be apportioned among such registrants on the
14 basis of the market share in United States sales
15 of the active ingredient for the calendar years
16 1990 through 1992; *Provided*, That no fee shall
17 be collected from registrants owing less than
18 \$100.

19 “(E) The Administrator, by order, may re-
20 quire any registrant to submit such reports as
21 the Administrator determines to be necessary to
22 allow the Administrator to determine and ap-
23 portion fees under subparagraph (A) or (B),
24 and (D), or to determine the registrant eligi-
25 bility for a reduction or waiver of a fee.

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

12 “(G) An active ingredient that is contained
13 only in pesticides that are registered solely for
14 agricultural or non-agricultural minor uses, or a
15 pesticide the value or volume of use of which is
16 small, shall be exempt from the fees prescribed
17 by subparagraph (B).

18 “(H) A biological pesticide shall be exempt
19 from the fees prescribed by subparagraphs (A)
20 and (B).

21 “(8) PESTICIDE PRODUCT REREGISTRATION
22 FEE.—

23 “(A) For all determinations pursuant to
24 subsection (g)(2) that a pesticide is eligible for
25 reregistration, the registrant of that pesticide

1 shall pay a fee of \$750 for each affected prod-
2 uct.

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

9 “(C) If any fee prescribed by this para-
10 graph is not paid within 90 days of the reg-
11 istrant’s receipt of the reregistration eligibility
12 determination specified in section 4(g)(2), or
13 within 270 days after enactment of this sub-
14 paragraph, whichever is later, the Adminis-
15 trator, by order and without hearing, may can-
16 cel the current registration and deny reregistra-
17 tion for the pesticide for which the fee is not
18 paid.

19 “(D) In the case of a pesticide that is reg-
20 istered for a minor agricultural use or the value
21 of volume of use of which is small, the Adminis-
22 trator may reduce or waive the payment of the
23 fee imposed under this paragraph if the Admin-
24 istrator determines that the fee would signifi-

1 cantly reduce the availability of the pesticide for
2 the use.

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

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

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

10 “(ii) If the Administrator classifies a
11 pesticide, or one or more uses of a pes-
12 ticide, for restricted use because of a deter-
13 mination that its use without additional
14 regulatory restriction may cause unreason-
15 able adverse effects on the environment,
16 the pesticide shall be applied only by or
17 under the direct supervision of a certified
18 applicator, or subject to such other restric-
19 tions as the Administrator may provide by
20 regulation. A restricted use classification
21 or a change in classification of any use of
22 a pesticide from general to restricted use
23 established by rule under this clause shall
24 not be subject to the provisions of section
25 6(b).

1 “(iii) The Administrator may include
2 a provision in a rule issued pursuant to
3 subsection (ii) restricting a pesticide to use
4 only by prescription if the Administrator
5 determines that retaining the use of a pes-
6 ticide subject to such restriction is nec-
7 essary for integrated pest management
8 programs, pest resistance programs, or
9 otherwise to reduce risk. If the Adminis-
10 trator includes such a provision in a rule
11 issued pursuant to paragraph (ii), the Ad-
12 ministrators shall (I) prohibit the use of the
13 pesticide in any State for which the State
14 has not developed, in accordance with cri-
15 teria established by the Administrator, an
16 appropriate State prescription use plan, or
17 (II) establish criteria for issuing pesticide
18 use prescriptions, and may authorize per-
19 sons qualified under such criteria to issue
20 prescriptions pursuant to the rule.”.

21 **SEC. 13. JUDICIAL REVIEW.**

22 REVIEW BY COURTS OF APPEALS.—Section 16(b) (7
23 U.S.C. 136n(b)) and section 16(c) (7 U.S.C. 136n(c)) are
24 amended to read as follows:

25 “(b) REVIEW BY COURTS OF APPEALS.—

1 “(1) REVIEW IN THE DISTRICT OF COLUMBIA
2 CIRCUIT.—A petition for review of any of the follow-
3 ing actions of the Administrator may be filed by any
4 adversely affected person only in the United States
5 Court of Appeals for the District of Columbia Cir-
6 cuit:

7 “(A) The promulgation of any regulations
8 by the Administrator under this Act, or a final
9 determination maintaining in effect a final rule
10 under section 6(i)(5)(A(iii) of this Act.

11 “(B) A final order of the Administrator
12 canceling or suspending a pesticide registration
13 in whole or in part or concluding that a pes-
14 ticide registration should not be canceled or
15 suspended.

16 “(C) A final order of the Administrator ap-
17 proving or denying an application for a pes-
18 ticide registration.

19 “(D) A final order of the Administrator
20 changing the classification of any use of a pes-
21 ticide.

22 “(E) A final order of the Administrator re-
23 sponding to objections to a notice requiring
24 changes in the labeling, packaging, or composi-
25 tion of a pesticide.

1 “(F) A final order of the Administrator de-
2 nying a petition seeking to suspend or cancel a
3 pesticide registration, to deny an application for
4 a registration, to reconsider whether a registra-
5 tion should be suspended, or to change the clas-
6 sification of a pesticide.

7 “(G) A final determination of the Adminis-
8 trator to renew a pesticide registration under
9 section 3(g)(4).

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

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

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

22 “(A) A final order following a hearing as-
23 sessing a civil penalty.

24 “(B) A final order of the Administrator de-
25 termining that a State shall have primary en-

1 enforcement authority pursuant to section 26 of
2 this Act.

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

6 “(D) A final order of the Administrator
7 approving or disapproving a State certification
8 plan for pesticide applicators pursuant to sec-
9 tion 11 of this Act.

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

13 “(F) A final order of the Administrator
14 disapproving a State’s registration of a pes-
15 ticide or suspending a State’s authority to reg-
16 ister pesticides pursuant to section 24 of this
17 Act.

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

20 “(3) PROCEDURE.—Except as provided in para-
21 graph (4) of this subsection, any petition for review
22 under paragraph (1) or (2) of this subsection must
23 be filed within sixty days of the final action unless
24 the petition for review is based solely on grounds
25 arising after the sixtieth day. Judicial review shall

1 be in accordance with sections 701 through 706 of
2 title 5 of the United States Code, and the challenged
3 action shall be sustained unless it is found to be ar-
4 bitrary, capricious, an abuse of discretion, or not in
5 accordance with law. Actions of the Administrator
6 with respect to which review could have been ob-
7 tained under this subsection shall not be subject to
8 judicial review in civil or criminal proceedings for
9 enforcement.

10 “(4) IMMEDIATE HAZARD SUSPENSION.—Any pe-
11 tition for review under paragraph (1) of a suspen-
12 sion order or denial of a petition to reconsider sus-
13 pension issued by the Administrator pursuant to sec-
14 tion 6(c) of this Act must be filed within ten (10)
15 days of publication of the suspension order in the
16 Federal Register, or, in the case of a challenge of
17 the denial of a petition to reconsider suspension,
18 within twenty (20) days of publication of the Admin-
19 istrator’s order denying the petition for reconsider-
20 ation. The commencement of proceedings under this
21 paragraph shall not operate as a stay of the suspen-
22 sion order unless otherwise ordered by the court.
23 The effect of any order of the court of appeals will
24 be only either to stay or uphold the effectiveness of
25 the suspension order, pending the Administrator’s

1 final determination with respect to cancellation. Re-
2 view of a suspension order issued pursuant to sec-
3 tion 6(c)(1), or review of the petitioner’s likelihood
4 of success on the merits of the case pursuant to a
5 request for a temporary stay from the suspension
6 order, shall be based solely on the information avail-
7 able to the Agency as of the date the Administrator
8 issued the suspension order. Other information not
9 available to the Administrator in issuing the suspen-
10 sion order under section 6(c)(1) may be introduced
11 solely through the procedures for reconsideration of
12 a suspension order set forth in section 6(c)(4).

13 “(c) JURISDICTION OF DISTRICT COURTS.—The dis-
14 trict courts of the United States are vested with jurisdic-
15 tion over—

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

18 “(2) challenges to any other final actions that
19 are not committed to the Administrator’s discretion
20 by law and which are not subject to review in the
21 courts of appeals under subsection (a) of this sec-
22 tion.”.

23 **SEC. 14. INDEMNIFICATION.**

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

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

5 “(1) 1 year after enactment of this subsection
6 if the pesticide was canceled prior to the enactment
7 of this subsection (date); or

8 “(2) 3 years after cancellation if the pesticide
9 was canceled after the enactment of this sub-
10 section.”.

11 **SEC. 15. CERTIFICATION AND TRAINING.**

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

15 “(c) INSTRUCTION IN INTEGRATED PEST MANAGE-
16 MENT TECHNIQUES.—Standards prescribed by the Ad-
17 ministrator for the certification of applicators of pesticides
18 under subsection (a), and the State plans submitted to the
19 Administrator under subsections (a) and (b), shall include
20 provisions for making instructional materials concerning
21 integrated pest management techniques available to indi-
22 viduals at their request in accordance with the provisions
23 of section 23(c) of this Act. The Administrator and States
24 implementing such plans shall provide that all interested

1 individuals are notified of the availability of such instruc-
2 tional materials.”.

3 **SEC. 16. PESTICIDE RECORDKEEPING.**

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

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

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

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

13 **SEC. 17. ENFORCEMENT.**

14 (a) DEFINITIONS.—

15 (1) Section 2(e) (7 U.S.C. 136e) is amended as
16 follows:

17 “(e) APPLICATOR.—

18 “(1) CERTIFIED APPLICATOR.—The term ‘cer-
19 tified applicator’ means any individual who is cer-
20 tified under section 136b of this title as authorized
21 to use or supervise the use of any pesticide which is
22 classified for restricted use. Any applicator who
23 holds or applies registered pesticides, or uses dilu-
24 tions of registered pesticides consistent with sub-
25 section (ee) of this section, only to provide a service

1 of controlling pests without delivering any unapplied
2 pesticide to any person so served is not deemed to
3 be a seller or distributor of pesticides under this
4 subchapter.

5 “(2) COMMERCIAL APPLICATOR.—

6 “(A) Except as provided in subparagraph
7 (3), the term ‘commercial applicator’ means a
8 person who—

9 “(i) uses or supervises the use, for
10 any purpose or on any property, of any
11 pesticide that is classified for restricted
12 use;

13 “(ii) uses or supervises the use of any
14 pesticide for hire as a principal part of the
15 business or work of the person; or

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

19 “(3) PRIVATE APPLICATOR.—The term ‘private
20 applicator’ means a person who uses or supervises
21 the use of any pesticide that is classified for re-
22 stricted use for purposes of producing any agricul-
23 tural product—

24 “(A) On property owned or rented by such
25 person or the employer of such person; or

1 “(B) On other property if applied without
2 compensation (other than trading of personal
3 services between producers of agricultural prod-
4 ucts).

5 “(4) UNDER THE DIRECT SUPERVISION OF A
6 CERTIFIED APPLICATOR.—Unless otherwise pre-
7 scribed by its labeling, a pesticide shall be consid-
8 ered to be used under the direct supervision of a cer-
9 tified applicator if the pesticide is applied by a per-
10 son acting under the instructions and control of a
11 certified applicator who is available if and when
12 needed, even though such certified applicator is not
13 physically present at the time and place the pesticide
14 is used.”.

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

17 “(jj) PESTICIDE TESTING FACILITY.—The term ‘pes-
18 ticide testing facility’ means any place where any person
19 conducts any test, study, survey, or investigation of the
20 properties, effects, or behavior of any pesticide (or any in-
21 gredient, metabolite, or degradation product thereof), de-
22 vice, or container or packaging of any pesticide or device,
23 on its own behalf or on behalf of any registrant, applicant
24 for registration, or other person who sells or distributes

1 the pesticide. The term does not include any place solely
2 on account of—

3 “(1) the participation of a commercial agricul-
4 tural producer as a cooperator in field testing of a
5 pesticide; or

6 “(2) the conduct of academic research at the
7 facility.

8 “(kk) PESTICIDE DEALER.—the term ‘pesticide deal-
9 er’ means any person who, in the ordinary course of busi-
10 ness, distributes, or sells any pesticide.

11 “(ll) AGRICULTURAL PRODUCER.—The term ‘agricul-
12 tural producer’ as used in this Chapter means a person
13 who produces any plant, or part thereof, or animal, or ani-
14 mal product, primarily for sale, consumption, propagation,
15 or other use by humans or animals, including farmers,
16 ranchers, vineyardists, plant propagators, Christmas tree
17 growers, aquaculturalists, floriculturalists, orchardists,
18 foresters, or other comparable persons, but not including
19 C corporations as defined in 26 U.S.C. 1362(a)(2).”.

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

22 **“SEC. 8. RECORDS.**

23 “(a) AUTHORITY TO REQUIRE RECORDS.—

24 “(1) IN GENERAL.—The Administrator, by reg-
25 ulation, shall require any producer, distributor, im-

1 porter, or exporter of a pesticide, registrant, appli-
2 cant for registration, applicant for or holder of an
3 experimental use permit, pesticide testing facility, or
4 any holder of a pesticide that is the subject of a reg-
5 ulation or order issued under section 19(b) or under
6 subsection 106—

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

11 “(B) to furnish to the Administrator re-
12 ports stating the location where the records are
13 maintained; and

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

16 “(2) RECORDS OF COMMERCIAL APPLICA-
17 TORS.—The Administrator, by regulation, shall re-
18 quire each commercial applicator to maintain, and
19 may require a commercial applicator to provide the
20 Administrator, records of each pesticide application,
21 including the identity and quantity of pesticide ap-
22 plied and the date and location of such application,
23 for a period of 5 years after each such application.

24 “(3) RECORDS OF PESTICIDE DEALERS.—

1 “(A) IN GENERAL.—The Administrator, by
2 regulation, shall require each pesticide dealer to
3 maintain a record of each sale or distribution
4 of—

5 “(i) a pesticide classified for restricted
6 use; and

7 “(ii) any other pesticide designated
8 for purposes of this subsection by order by
9 the Administrator if the Administrator de-
10 termines that such records may be nec-
11 essary to carry out the purposes of this
12 Act.

13 “(B) CONTENTS.—Such records shall in-
14 clude the identity of the pesticide sold or dis-
15 tributed, the identify of the person to whom the
16 pesticide was distributed or sold, the date of the
17 distribution or sale, and the amount of the pes-
18 ticide distributed or sold.

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

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

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

3 “(2) personnel data, except for data concerning
4 exposure of employees to pesticides or ingredients of
5 pesticides, or concerning health effects on employees
6 that could reasonably be attributable to such expo-
7 sure; or

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

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

10 “(B) data relating to any pesticide for
11 which an application for registration or for an
12 experimental use permit has been filed;

13 “(C) data relating to any pesticide for
14 which an exemption pursuant to section 18 has
15 been requested;

16 “(D) data relating to any pesticide for
17 which a regulation has been promulgated pursu-
18 ant to section 3(a);

19 “(E) data relating to testing at a pesticide
20 testing facility; or

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

24 (c) INSPECTION AUTHORITY.—Section 9 (7 U.S.C.
25 136g) is amended to read as follows:

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

6 “(1) to enter and inspect—

7 “(A) any place where any pesticide, active
8 ingredient, or device is produced, sold, distrib-
9 uted, stored, packaged, used, or found;

10 “(B) any place where any records required
11 under this Act are kept;

12 “(C) any pesticide testing facility;

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

16 “(E) any place when the Administrator or
17 States seek information as part of an inquiry
18 into specific environmental or health problems.

19 “(2) to obtain—

20 “(A) samples of any pesticide (or any in-
21 gredient, metabolite, or degradation product
22 thereof) or device, or any container or packag-
23 ing of any pesticide or device;

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

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

6 “(D) copies of any data or samples of any
7 specimens involved in the testing of any pes-
8 ticide (or any ingredient, metabolite, or deg-
9 radation product thereof) or device; or

10 “(E) samples of any places where pesticide
11 residues may be found, including without limi-
12 tation, agricultural commodities, animals, pests,
13 soil, or water:

14 *Provided*, That, nothing in this Act shall be construed as
15 authorizing officers or employees of the United States or
16 of any State to enter and inspect private residences or
17 land, property, and appurtenances used in agricultural
18 production unless there is a suspected violation of this Act
19 or the Administrator or any State is seeking information
20 as part of an inquiry into specific environmental or health
21 problems.

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

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

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

6 “(3) seizure of any pesticide, device, active in-
7 gredient, labeling, or packaging that is in violation
8 of this Act.

9 “(c) PROCEDURE.—

10 “(1) CREDENTIALS AND STATEMENTS.—Before
11 any entry or inspection of any premises not open to
12 the general public is made under this section, the
13 person conducting the inspection shall present to the
14 person in charge of the premises appropriate creden-
15 tials, and written statement of the reason for the
16 entry or inspection and whether a violation of this
17 Act is suspected.

18 “(2) PROMPTNESS.—Each entry or inspection
19 shall be commenced and completed with reasonable
20 promptness.

21 “(3) SAMPLES.—If the person conducting the
22 entry or inspection obtains any samples pursuant to
23 subparagraph 9(a)(2), before leaving the premises
24 such person shall give to the person in charge of the
25 premises a receipt describing the sample and, if re-

1 requested and practicable, a portion of each such sam-
2 ple equal in volume or weight to the portion re-
3 tained. If an analysis is made of any such sample,
4 a copy of the results of such analysis shall be fur-
5 nished on request to the person in charge of the
6 premises.

7 “(d) COORDINATION.—The Administrator shall co-
8 ordinate actions taken under this section with actions
9 taken under other Federal laws for the purpose of avoiding
10 duplication of inspections.”.

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

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

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

22 “(2) the laws of the State allow the submitter
23 of the data or information to recover just compensa-
24 tion in a civil action against the State for losses re-
25 sulting from the disclosure or use of the data or in-

1 formation by the State or its employees or agents in
2 a manner inconsistent with this Act.”.

3 (e) UNLAWFUL ACTS.—

4 (1) Section 12(a)(1) (7 U.S.C. 135j(a)(1)) is
5 amended to read as follows:

6 “(a) IN GENERAL.—

7 “(1) Except as provided in subsection (b), it
8 shall be unlawful for any person in any State to fail
9 or refuse to comply with any rule promulgated or
10 order issued under section 3, 4, or 8 of this Act, or
11 to distribute or sell to any person—”.

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

14 “(B) to refuse to—

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

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

21 “(iii) allow any entry, inspection,
22 copying of records, or sampling authorized
23 by this Act.”.

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

4 “(I) to violate any order or subpoena is-
5 sued under section 13;

6 “(M) to knowingly make any false material
7 statement, representation or certification in, fail
8 to maintain, omit material information from, or
9 alter, conceal, or fail to file, any notice, applica-
10 tion, record, report, or other document or infor-
11 mation required pursuant to this Act to be sub-
12 mitted, filed, or maintained (whether such re-
13 quirement is imposed by the Administrator or
14 by a State);

15 “(N) who is a registrant, wholesaler, deal-
16 er, retailer, or other distributor, commercial ap-
17 plicator, or private applicator, to fail to file re-
18 ports required by this Act;

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

21 (4) Section 12(a)(2) (7 U.S.C. 136j (a)(2)) is
22 amended by adding at the end the following;

23 “(U) who is a registrant, to violate any
24 term or condition of a registration issued pur-
25 suant to this Act;

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

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

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

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

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

1 (g) ENFORCEMENT AUTHORITY.—Section 14 (7
2 U.S.C. 136l) is amended to read as follows:

3 “(a) ENFORCEMENT AUTHORITIES.—

4 “(1) Whenever, on the basis of any information
5 available to the Administrator, the Administrator
6 finds that any person has violated, or is violation of,
7 any requirement of this Act, including, but not lim-
8 ited to, a requirement or prohibition of any rule,
9 order, or registration promulgated, issued, or ap-
10 proved under this Act, the Administrator may—

11 “(A) issue an administrative order in ac-
12 cordance with subsection (b) of this section, re-
13 quiring such person to comply with such re-
14 quirement or prohibition;

15 “(B) issue an administrative penalty order
16 in accordance with subsection (c) of this sec-
17 tion;

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

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

24 “(2) NOTICE TO STATE.—A copy of any (1) ad-
25 ministrative order issued pursuant to subsection (b)

1 of this section, (2) administrative penalty order is-
2 sued pursuant to subsection (c) of this section, or
3 (3) civil judicial complaint filed pursuant to sub-
4 section (d) or subsection (g) of this section shall be
5 sent to the State agency regulating pesticides in the
6 State in which the violation occurs.

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

11 “(b) REQUIREMENTS FOR ADMINISTRATIVE OR-
12 DERS.—

13 “(1) IN GENERAL.—Any person who has vio-
14 lated, or is in violation of, any provision of this Act
15 or a regulation promulgated thereunder, may be or-
16 dered by the Administrator to cease their violative
17 activities or to comply with applicable requirements
18 of this Act or regulations issued under this Act.

19 “(2) CONTENTS OF ORDER.—Any order issued
20 under this subsection shall state with reasonable
21 specificity the nature of the violation and specify a
22 time for compliance which the Administrator deter-
23 mines is reasonable, taking into account the serious-
24 ness of the violation and any good faith efforts to
25 comply with applicable requirements. An order is-

1 sued under this subsection shall require the person
2 to whom it was issued to comply with the require-
3 ment immediately or within a specified time period,
4 but in no event longer than one year after the date
5 the order was issued.

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

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

18 “(5) OTHER REMEDIES AND OBLIGATIONS.—No
19 order issued under this subsection shall prevent the
20 State or the Administrator from assessing any pen-
21 alties nor otherwise affect or limit the State’s or the
22 United States’ authority to enforce under other pro-
23 visions of this Act, nor affect any person’s obliga-
24 tions to comply with any section of this Act or with

1 a term or condition of any registration approved
2 under this Act.

3 “(6) TIMING OF REVIEW.—No Federal court
4 shall have jurisdiction under any Federal or State
5 law to review any order issued under this subsection
6 in any action except an action to enforce an order
7 issued under this subsection or to recover a civil
8 penalty for violation of, or noncompliance with such
9 order.

10 “(c) ADMINISTRATIVE ASSESSMENT OF CIVIL PEN-
11 ALTIES.—

12 “(1) IN GENERAL.—Any person who has vio-
13 lated, or is in violation of, any provision of this Act
14 or regulation promulgated thereunder shall be liable
15 to the United States for a civil penalty in an amount
16 not to exceed \$25,000 or the economic benefit of
17 noncompliance, whichever is higher, for each such
18 violation. Each day such a violation continues shall,
19 for purposes of this subsection, constitute a separate
20 violation of the Act. The Administrator’s authority
21 under this paragraph shall be limited to matters
22 where the total penalty sought does not exceed
23 \$400,000, except where the Administrator and the
24 Attorney General jointly determine that a matter or
25 matters involving a larger penalty amount are ap-

1 appropriate for administrative penalty action. Any such
2 determination by the Administrator and the Attor-
3 ney General shall not be subject to judicial review.

4 “(2) HEARING.—A civil penalty for a violation
5 of this Act shall be assessed by the Administrator by
6 an order made on the record after an opportunity
7 (provided in accordance with this subparagraph) for
8 a hearing in accordance with section 554 of Title 5,
9 United States Code. Before issuing such an order,
10 the Administrator shall give written notice to the
11 person to be assessed a civil penalty under such
12 order by the Administrator, and shall provide such
13 person an opportunity to request, within 15 days of
14 the date the notice is received by such person, such
15 a hearing on the order.

16 “(3) DETERMINATION OF PENALTY.—In deter-
17 mining the amount of a civil penalty, the Adminis-
18 trator shall take into account the nature, cir-
19 cumstances, extent, and gravity of the violation or
20 violations and, with respect to the violator, ability to
21 pay, effect on ability to continue to do business, any
22 history of prior such violations (including whether
23 the violation was a first-time violation), the degree
24 of culpability, the economic benefit of noncompli-
25 ance, and such other matters as justice may require.

1 “(4) The minimum penalty the Administrator
2 must assess under this subsection upon a determina-
3 tion of liability is the amount of the economic benefit
4 resulting from the violation, where such economic
5 benefit, if any, is calculable, provided that nothing in
6 this subsection shall limit the Administrator’s discre-
7 tion to issue warning notices pursuant to section
8 14(a)(3) of the Act.

9 “(5) MODIFICATION OF PENALTY.—The Admin-
10 istrator may compromise, modify, or remit, with or
11 without conditions, any civil penalty which may be
12 imposed under this subsection. The amount of such
13 penalty, or the amount agreed upon in compromise,
14 may be deducted from any sums owing by the Unit-
15 ed States to the person charged.

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

23 “(7) FAILURE TO PAY.—

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

1 “(i) after the order making the assess-
2 ment has become a final order and if such
3 person does not file a petition for judicial
4 review of the order in accordance with
5 paragraph (5), or

6 “(ii) after a court in an action
7 brought under paragraph (5) has entered a
8 final judgment in favor of the Adminis-
9 trator,

10 the Attorney General shall recover the amount
11 assessed (plus interest at currently prevailing
12 rates from the date of the expiration of the 30-
13 day period referred to in paragraph (5) or the
14 date of such final judgment, as the case may
15 be) in an action brought in any appropriate dis-
16 trict court of the United States. In such an ac-
17 tion, the validity, amount, and appropriateness
18 of such penalty shall not be subject to review.

19 “(B) Any person who fails to pay on a
20 timely basis a civil penalty ordered and assessed
21 under this section shall be required to pay, in
22 addition to such penalty and interest, the Unit-
23 ed States enforcement expenses, including but
24 not limited to attorney’s fees and costs incurred
25 by the United States for collection proceedings

1 and a quarterly nonpayment penalty for each
2 quarter during which such failure to pay per-
3 sists. Such nonpayment penalty shall be 10 per-
4 cent of the aggregate amount of such person's
5 outstanding penalties and nonpayment penalties
6 accrued as of the beginning of each quarter.

7 “(8) SUBPOENAS.—The Administrator, in con-
8 nection with administrative proceedings under this
9 subsection, may issue subpoenas compelling the at-
10 tendance and testimony of witnesses and the produc-
11 tion of documents, and may request the Attorney
12 General to bring an action to enforce any subpoena
13 issued under this paragraph. The district courts of
14 the United States shall have jurisdiction to enforce
15 such subpoenas and impose sanctions.

16 “(d) CIVIL JUDICIAL ENFORCEMENT.—

17 “(1) IN GENERAL.—The Administrator may
18 commence a civil action for a temporary or perma-
19 nent injunction, and/or to compel compliance, and/or
20 to assess and recover a civil penalty of not more
21 than \$25,000 or the economic benefit of noncompli-
22 ance, whichever is higher, for each day of violation,
23 whenever such a person has violated or is in viola-
24 tion of a requirement or prohibition of this Act, or
25 a regulation promulgated thereunder.

1 “(2) JURISDICTION.—Any action under this
2 subsection may be brought in the district court for
3 the United States for the district in which the viola-
4 tion is alleged to have occurred, or is occurring, or
5 in which the defendant resides, or where the defend-
6 ant’s principal place of business is located, and such
7 court shall have jurisdiction to restrain such viola-
8 tion, to require compliance, to assess civil penalties,
9 to collect any fees owed the United States under this
10 Act, and to award any other appropriate relief.

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

15 “(4) MINIMUM PENALTY.—The minimum pen-
16 alty the court must assess under this subsection
17 upon a determination of liability is the amount of
18 the economic benefit, if any, resulting from the vio-
19 lation, where such economic benefit is calculable.

20 “(e) CRIMINAL PENALTIES.—

21 “(1) Any person who negligently commits any
22 act prohibited under section 136j of this title shall,
23 upon conviction, be punished by a fine of not more
24 than \$25,000 for each day of violation, or by impris-
25 onment for not more than one year, or both. If the

1 conviction is for a violation committed after a first
2 conviction of such person under this paragraph, the
3 maximum punishment shall be doubled with respect
4 to both fine and imprisonment.

5 “(2) Any person who knowingly commits any
6 act prohibited under section 136j of this title shall,
7 upon conviction, be punished by a fine of not more
8 than \$50,000 for each day of violation, or by impris-
9 onment for not more than 5 years, or both. If the
10 conviction is for a violation committed after a first
11 conviction of such person under this paragraph, the
12 maximum punishment shall be doubled with respect
13 to both fine and imprisonment.

14 “(3)(A) Any person who commits any violation
15 under paragraph (2) of this subsection and in the
16 course of or in connection with committing such vio-
17 lation knows at the time that he places another per-
18 son in imminent danger of death or serious bodily
19 injury, shall, upon conviction, be punished by a fine
20 of not more than \$250,000 or imprisonment of not
21 more than 15 years, or both. A person which is an
22 organization shall, upon conviction of violating this
23 subparagraph, be subject to a fine of not more than
24 \$1,000,000. If a conviction of a person is for a viola-
25 tion committed after a first conviction of such per-

1 son under this subparagraph, the maximum punish-
2 ment shall be doubled with respect to both fine and
3 imprisonment.

4 “(B) For purposes of this subparagraph—

5 “(i) the term “imminent danger” means
6 the existence of a condition or set of conditions
7 that could reasonably be expected to cause
8 death or serious bodily injury unless the condi-
9 tion is remedied; and

10 “(ii) the term “serious bodily injury”
11 means bodily injury which involves a substantial
12 risk of death, unconsciousness, extreme physical
13 pain, protracted and obvious disfigurement, or
14 protracted loss or impairment of the function of
15 a bodily member, organ, or mental faculty.

16 “(4) Notwithstanding any other provision of
17 law, a court may make the following disposition of
18 fines imposed under this Title, in addition to pay-
19 ment, if any, to the United States Treasury:

20 “(A) Upon recommendation of the United
21 States, and in accordance with the terms of
22 such recommendation, the court may pay to an
23 individual who has given information or services
24 leading to a criminal conviction under this Title
25 an amount from the criminal fine assessed as a

1 result of any violation of this subchapter not
2 more than the lesser of one-half the fine im-
3 posed or \$50,000.

4 “(B) Upon recommendation of the United
5 States, and in accordance with the terms of
6 such recommendation, the court may pay to any
7 State, municipality, or other political subdivi-
8 sion of a State, which has given significant sup-
9 port to the prosecution or investigation leading
10 to a conviction under this title, an amount not
11 more than one-half of the fine imposed for that
12 conviction.

13 “(f) EMERGENCY POWERS.—Notwithstanding any
14 other provision of this Act, the Administrator, upon re-
15 ceipt of evidence that a specific use of a pesticide or pes-
16 ticide device is presenting an imminent and substantial
17 endangerment to public health or welfare, or the environ-
18 ment, may request the Attorney General to bring suit on
19 behalf of the United States in the appropriate United
20 States district court to immediately restrain any person
21 using such pesticide or device to stop the activity or to
22 take such other action as may be necessary, provided that
23 relief under this subsection does not include suspension
24 under section 6(c) of the Act and is not available where
25 the Administrator, in his discretion, determines that a sus-

1 pension under section 6(c) is adequate to stop or prevent
2 the imminent and substantial endangerment. If it is not
3 practicable to assure prompt protection of public health
4 or welfare or the environment by commencement of such
5 civil action, the Administrator may issue such orders as
6 may be necessary to protect public health or welfare or
7 the environment. Any order issued by the Administrator
8 under this section shall be effective upon issuance and
9 shall remain in effect for a period of not more than 60
10 days, unless an action is brought pursuant to the first sen-
11 tence of this section before the expiration of that period.
12 Whenever such an action is brought within the 60-day pe-
13 riod, the order shall remain in effect for an additional 14
14 days or for such longer period as may be authorized by
15 the court in which such action is brought. Any order is-
16 sued under this paragraph shall not be subject to judicial
17 review except during judicial enforcement proceedings
18 brought by the Attorney General or his delegate. Nothing
19 herein shall diminish the right of any person subject to
20 a suspension proceeding under section 6(c) of the Act.”.

21 (h) CONTRACTOR LISTING.—Section 32 (7 U.S.C.
22 136 (z)) is added following section 31—

23 **“SEC. 32. FEDERAL PROCUREMENT.—**

24 **“(a) CONTRACTS PROHIBITED WITH CONVICTED**
25 **VIOLATORS.—**No Federal agency may enter into any con-

1 tract, grant, or loan with any person who has been con-
2 victed of any offense under section 1361 of this title, if
3 the contract for the procurement of goods, materials, and
4 services, or the grant or loan is to be performed, in whole
5 or in any part, at any facility at which the violation which
6 gave rise to such conviction occurred, and if such facility
7 is owned, operated, leased, or supervised at the time of
8 the violation by such person. The prohibition in the pre-
9 ceding sentence shall continue until the Administrator cer-
10 tifies that the condition giving rise to such conviction has
11 been corrected.

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

15 “(c) DISCLOSURE.—Each applicant who seeks to par-
16 ticipate in a Federal contract, grant, or loan shall disclose
17 any conviction described in subsection (a) to each appro-
18 priate Federal agency.

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

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

1 **“SEC. 33. CITIZEN SUITS.—**

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

4 “(1) against any person (including any govern-
5 mental instrumentality or agency to the extent per-
6 mitted by the Eleventh Amendment to the Constitu-
7 tion) who is alleged to have violated or to be in vio-
8 lation of any provision of the Act or any rule pro-
9 mulgated thereunder, except that no such action
10 may be brought against any agricultural producer
11 who is alleged to have committed a violation or to
12 be in violation while engaged in the production of
13 any agricultural product; or

14 “(2) against any Federal official where there is
15 alleged a failure of the Federal official to perform
16 any act or duty under this Act which is not discre-
17 tionary with the Federal official.

18 The district courts shall have jurisdiction, without regard
19 to the amount in controversy or the citizenship of the par-
20 ties, to enforce the Act and the regulations promulgated
21 thereunder, to order any appropriate relief under section
22 XX of the Act, and to impose any appropriate civil pen-
23 alties (except for actions under subsection (2)) for viola-
24 tions of the Act. The district court shall have jurisdiction
25 in actions brought under subsection (a)(2) against the

1 Federal official to order the Federal official to perform
2 such act or duty.

3 “(b) No actions may be commenced—

4 “(1) under subsection (a)(1)—

5 “(A) prior to 60 days after the plaintiff
6 has given notice of the violation to the Adminis-
7 trator, to the State in which the violation oc-
8 curs, and to any alleged violator; or

9 “(B) if the Administrator or State with
10 primary enforcement responsibility under sec-
11 tion 26 of the Act has commenced and is dili-
12 gently prosecuting a civil or criminal action in
13 a court of the United States or a State or a
14 Federal administrative penalty action to require
15 compliance with the Act or a regulation promul-
16 gated thereunder, but in any such civil action
17 any person may intervene as a matter of right.

18 “(2) under subsection (a)(2) prior to 60 days
19 after the plaintiff has given notice of such action to
20 the Federal official.

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

23 “(c) Any person may request the Administrator or
24 a State with primary enforcement authority to commence
25 an action against any agricultural producer who is alleged

1 to have violated or to be in violation of any provision of
2 the Act or any rule promulgated thereunder while engaged
3 in the production of any agricultural product. A copy of
4 such a request shall be given to the alleged violator. With-
5 in 60 days after such request is made to the Administrator
6 or a State, the Administrator or State shall either—

7 “(1) commence an action against the alleged vi-
8 olator;

9 “(2) provide to the person making the request
10 a written response that (A) states the Administra-
11 tor’s or the State’s decision not to take enforcement
12 action against the alleged violator, and (B) describes
13 any other action the Administrator or State has
14 taken or intends to take in connection with the al-
15 leged violation.

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

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

23 “(2) Whenever any action is brought under this sec-
24 tion the plaintiff shall serve a copy of the complaint on
25 the Attorney General of the United States and on the Ad-

1 administrator. No consent judgment shall be entered in an
2 action brought under this section in which the United
3 States is not a party prior to 60 days following the receipt
4 of a copy of the proposed consent judgment by the Attor-
5 ney General and the Administrator during which time the
6 Government may submit its comments on the proposed
7 consent judgment to the court and parties or may inter-
8 vene as a matter of right. The court shall not approve
9 a proposed consent judgment that is inappropriate, im-
10 proper, inadequate, or inconsistent with the purposes or
11 requirements of the Act, and shall consider any views ex-
12 pressed by the United States with respect to the consent
13 judgment.

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

22 “(f) Nothing in this section shall restrict any right
23 which any person, or class of persons, may have under
24 any statute or common law to seek enforcement of any

1 requirement or to seek any other relief (including relief
2 against Federal officials or a State agency).

3 “(g) Any action under this section shall be brought
4 in accordance with the provisions of 28 U.S.C. section
5 1391.”.

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

8 **“SEC. 34. INDIAN TRIBES.**

9 “(1) IN GENERAL.—The Administrator shall
10 promulgate regulations to treat Indian tribes in the
11 manner that States are treated under the Act. Such
12 treatment shall be authorized only if—

13 “(A) the Indian tribe is recognized by the
14 Secretary of the Interior and has a governing
15 body carrying out appropriate governmental du-
16 ties and powers; and

17 “(B) the functions to be exercised by the
18 Indian tribe are within the area of the tribe’s
19 jurisdiction.”.

20 **SEC. 18. WHISTLE BLOWER.**

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

23 **“SEC. 35. WHISTLE BLOWER.—**

24 “(a) IN GENERAL.—No employer may discharge any
25 employee or otherwise discriminate against any employee

1 with respect to the employee's compensation, terms, condi-
2 tions, or privileges of employment because the employee
3 (or any persons acting pursuant to a request of the em-
4 ployee) has—

5 “(1) commenced, caused to be commenced, or is
6 about to commence or cause to be commenced a pro-
7 ceeding under this chapter;

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

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

14 “(b) REMEDY.—

15 “(1) Any employee who believes that the em-
16 ployee has been discharged or otherwise discrimi-
17 nated against by any person in violation of sub-
18 section (a) of this section may, within 30 days after
19 such alleged violation occurs, file (or have any per-
20 son file on the employee's behalf) a complaint with
21 the Secretary of Labor (hereafter in this section re-
22 ferred to as the ‘Secretary’) alleging such discharge
23 or discrimination. Upon receipt of such a complaint,
24 the Secretary shall notify the person named in the
25 complaint of the filing of the complaint.

1 “(2)(A) Upon receipt of a complaint filed under
2 paragraph (1), the Secretary shall conduct an inves-
3 tigation of the violation alleged in the complaint.
4 Within 120 days of the receipt of such complaint,
5 the Secretary shall complete such investigation and
6 shall notify in writing the complainant (and any per-
7 son acting on behalf of the complainant) and the
8 person alleged to have committed such violation of
9 the results of the investigation conducted pursuant
10 to this paragraph. Within 90 days of the receipt of
11 such complaint the Secretary shall, unless the pro-
12 ceeding on the complaint is terminated by the Sec-
13 retary on the basis of a settlement entered into by
14 the Secretary and the person alleged to have com-
15 mitted such violation, issue an order either providing
16 the relief prescribed by subparagraph (B) or denying
17 the complaint. An order of the Secretary shall be
18 made on the record after notice and opportunity for
19 agency hearing. The Secretary may not enter into a
20 settlement terminating a proceeding on a complaint
21 without the participation and consent of the com-
22 plainant.

23 “(B) If in response to a complaint filed under
24 paragraph (1) the Secretary determines that a viola-
25 tion of subsection (a) of this section has occurred,

1 the Secretary shall order (i) the person who commit-
2 ted such violation to take affirmative action to abate
3 the violation, (ii) such person to reinstate the com-
4 plainant to the complainant's former position to-
5 gether with compensation (including back pay)
6 terms, condition, and privileges of the complainant's
7 employment, (iii) compensatory damages, and (iv)
8 where appropriate, exemplary damages. If such an
9 order is issued, the Secretary, at the request of the
10 complainant shall assess against the person against
11 whom the order is issued a sum equal to the aggre-
12 gate amount of all costs and expenses (including at-
13 torney's fees), reasonably incurred, as determined by
14 the Secretary, by the complainant for, or in connec-
15 tion with, the bringing of the complaint upon which
16 the order was issued.

17 “(c) REVIEW.—

18 “(1) Any employee or employer adversely af-
19 fected or aggrieved by an order issued under sub-
20 section (b) of this section may obtain review of the
21 order in the United States court of appeals for the
22 circuit in which the violation, with respect to which
23 the order was issued, allegedly occurred. The peti-
24 tion for review must be filed within 60 days from the

1 issuance of the Secretary's order. Review shall con-
2 form to chapter 7 of title 5.

3 “(2) An order of the Secretary, with respect to
4 which review could have been obtained under para-
5 graph (1), shall not be subject to judicial review in
6 any criminal or other civil proceeding.

7 “(d) ENFORCEMENT.—Whenever a person has failed
8 to comply with an order issued under subsection (b)(2)
9 of this section, the Secretary shall file a civil action in
10 the United States district court for the district in which
11 the violation was found to occur to enforce such order.
12 In actions brought under this subsection, the district
13 courts shall have jurisdiction to grant all appropriate re-
14 lief, including injunctive relief and compensatory and ex-
15 emplary damages.

16 “(e) EXCLUSION.—Subsection (a) of this section
17 shall not apply with respect to any employee who, acting
18 without direction from the employee's employer (or any
19 agent of the employer), deliberately causes a violation of
20 any requirement of this chapter.”.

○

HR 4329 IH—2

HR 4329 IH—3

HR 4329 IH—4

HR 4329 IH—5

HR 4329 IH—6

HR 4329 IH—7

HR 4329 IH—8

HR 4329 IH—9