

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 872

To amend the Federal Food, Drug, and Cosmetic Act to revise the authority under that Act to regulate pesticide chemical residues in food.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. WAXMAN introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to revise the authority under that Act to regulate pesticide chemical residues in food.

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; REFERENCE; TABLE OF CON-**  
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Pesticide Food Safety Act of 1993”.

7 (b) REFERENCE.—Whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference  
10 shall be considered to be made to a section or other provi-

1 sion of the Federal Food, Drug, and Cosmetic Act (21  
2 U.S.C. 301 et seq.).

3 (c) TABLE OF CONTENTS.—The table of contents of  
4 this Act is as follows:

Sec. 1. Short title; reference; table of contents.

Sec. 2. Definitions.

Sec. 3. Tolerances and exemptions for pesticide chemical residues.

Sec. 4. Evaluation of existing pesticide chemical residue tolerances and exemp-  
tions.

Sec. 5. Review of existing methods of analysis.

Sec. 6. Fees.

Sec. 7. General definitions.

5 **SEC. 2. DEFINITIONS.**

6 (a) PESTICIDE.—

7 (1) PESTICIDE CHEMICAL.—Section 201(q) (21  
8 U.S.C. 321(q)) is amended to read as follows:

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

10 “(A) any substance that is a pesticide, as de-  
11 fined in section 2(u) of the Federal Insecticide, Fun-  
12 gicide, and Rodenticide Act (7 U.S.C. 136(u)); and

13 “(B) each active ingredient and inert ingredi-  
14 ent, as defined in subsections (a) and (m), respec-  
15 tively, of section 2 of the Federal Insecticide, Fun-  
16 gicide, and Rodenticide Act, of the pesticide.

17 “(2) The term ‘pesticide chemical residue’ means a  
18 residue in or on food of—

19 “(A) any pesticide chemical; or

1           “(B) any other substance that is present in the  
2 commodity or food as a result of the metabolism or  
3 other degradation of a pesticide chemical,  
4 regardless of whether the residue may be detected.”.

5           (2) PERSON.—Section 201(s) (21 U.S.C.  
6 321(s)) is amended—

7           (A) by striking paragraphs (1) and (2) and  
8 inserting the following:

9           “(1) pesticide chemical residue; or”; and

10           (B) by redesignating paragraphs (3), (4),  
11 and (5) as paragraphs (2), (3), and (4), respec-  
12 tively.

13           (b) CONFORMING AMENDMENTS.—

14           (1) Section 201 (21 U.S.C. 321) is amended by  
15 adding at the end the following:

16           “(gg) The term ‘processed food’ means any food that  
17 has been subject to processing from a raw agricultural  
18 commodity.

19           “(hh) The term ‘Administrator’ means the Adminis-  
20 trator of the Environmental Protection Agency.”.

21           (2) Section 402(a)(2) (21 U.S.C. 342(a)(2)) is  
22 amended—

23           (A) in clause (A)(i), to read as follows: “(i)  
24 a pesticide chemical residue”;

1 (B) in clause (B), to read as follows: “(B)  
 2 if it is, or it bears or contains, a pesticide chem-  
 3 ical residue unsafe within the meaning of sec-  
 4 tion 408(a);”; and

5 (C) in clause (C)—

6 (i) by striking “: *Provided*, That  
 7 where a pesticide chemical” and inserting  
 8 “, except that if a pesticide chemical”; and

9 (ii) by striking “sections 406 and  
 10 409” and inserting “section 406”.

11 **SEC. 3. TOLERANCES AND EXEMPTIONS FOR PESTICIDE**  
 12 **CHEMICAL RESIDUES.**

13 (a) TOLERANCES AND EXEMPTIONS.—Section 408  
 14 (21 U.S.C. 346a) is amended to read as follows:

15 **“SEC. 408. TOLERANCES AND EXEMPTIONS FOR PESTICIDE**  
 16 **CHEMICAL RESIDUES.**

17 “(a) REQUIREMENT FOR TOLERANCE OR EXEMP-  
 18 TION.—

19 “(1) GENERAL RULE.—Any pesticide chemical  
 20 residue shall be deemed unsafe for the purpose of  
 21 section 402(a)(2)(B) unless—

22 “(A) a tolerance for such residue is in ef-  
 23 fect under this section and the quantity of such  
 24 residue is within the limits of such tolerance; or

1           “(B) an exemption for such residue is in  
2           effect under this section and such residue com-  
3           plies with such exemption.

4           “(2) EFFECT OF A TOLERANCE OR EXEMP-  
5           TION.—While a tolerance or exemption from the re-  
6           quirement for a tolerance is in effect under this sec-  
7           tion for a pesticide chemical residue with respect to  
8           any food, such food shall not by reason of bearing  
9           or containing any amount of such residue be consid-  
10          ered to be adulterated within the meaning of section  
11          402(a)(1).

12          “(b) TOLERANCES.—

13                 “(1) AUTHORITY.—

14                         “(A) IN GENERAL.—The Administrator  
15                         may promulgate regulations establishing, modi-  
16                         fying, or revoking a tolerance for a pesticide  
17                         chemical residue—

18                                 “(i) in response to a petition filed  
19                                 under subsection (d)(1); or

20                                 “(ii) on the initiative of the Adminis-  
21                                 trator under subsection (d)(4).

22                         “(B) EXPIRATION DATE.—A regulation  
23                         under this paragraph may provide for an expi-  
24                         ration date for the tolerance.

1           “(C) SEPARATE TOLERANCES.—The Ad-  
2           ministrator may establish a separate tolerance  
3           under subparagraph (A) for a pesticide chemi-  
4           cal residue with respect to food at each of the  
5           following times:

6                   “(i) At the time the food is harvested.

7                   “(ii) At the time the food is purchased  
8                   at retail.

9                   “(iii) After the food is processed.

10           “(2) STANDARD.—

11                   “(A) GENERAL RULE.—Except as provided  
12           in subparagraph (F)—

13                   “(i) a tolerance may be established for  
14                   a pesticide chemical residue only if the risk  
15                   to human health from dietary exposure to  
16                   the pesticide chemical residue is negligible;  
17                   and

18                   “(ii) the tolerance for a pesticide  
19                   chemical residue shall be revoked or modi-  
20                   fied unless the risk to human health from  
21                   dietary exposure to the pesticide chemical  
22                   residue is negligible.

23                   “(B) NEGLIGIBLE RISK.—

24                   “(i) GENERAL RULE.—For purposes  
25                   of this paragraph, a risk to human health

1 from dietary exposure to a pesticide chemi-  
2 cal residue is negligible only if dietary ex-  
3 posure to the residue is reasonably certain  
4 to cause no harm to human health and the  
5 tolerance for such residue meets the re-  
6 quirements of clause (ii) or (iii).

7 “(ii) THRESHOLD PESTICIDES.—

8 “(I) IN GENERAL.—If the Ad-  
9 ministrator is able to identify a level  
10 at which a pesticide chemical residue  
11 will not cause or contribute to any  
12 known or anticipated harm to human  
13 health, the Administrator may estab-  
14 lish or leave in effect a level for a tol-  
15 erance for such residue only if the Ad-  
16 ministrator finds that such tolerance  
17 will provide an ample margin of safe-  
18 ty, for each population group set out  
19 in subparagraph (E).

20 “(II) CONSIDERATIONS.—The  
21 level described in subclause (I) shall  
22 be based on consideration of—

23 “(aa) the nature of the toxic  
24 effects caused by such residue  
25 and data regarding the preva-

1                    lence of the same effects caused  
2                    by other chemicals;

3                    “(bb) the validity, complete-  
4                    ness, and the reliability of the  
5                    data about the pesticide chemical  
6                    residue;

7                    “(cc) the variability of indi-  
8                    vidual sensitivities and the sen-  
9                    sitivities of population subgroups  
10                   to the adverse effects from such  
11                   residue; and

12                   “(dd) the possibility that  
13                   human susceptibility to such ad-  
14                   verse effects is significantly  
15                   greater than that of test animals.

16                   “(III) MARGIN OF SAFETY.—For  
17                   purposes of this clause, a margin of  
18                   safety for a level of a pesticide chemi-  
19                   cal residue is not ample unless human  
20                   exposure per unit of body measure-  
21                   ment, to the pesticide chemical resi-  
22                   due and other chemicals that cause  
23                   the same effect, is at least 100 times  
24                   less than the no observable effect level  
25                   in animals on which the pesticide

1 chemical residue was tested, and, if  
2 human data are available, at least 10  
3 times less than the no observable ef-  
4 fect level in humans exposed to such  
5 residue. The no observable effect level  
6 is the level of exposure to a pesticide  
7 chemical that reliable data, derived  
8 from exposure of humans or animals  
9 to the pesticide chemical, demonstrate  
10 will cause no adverse effect.

11 “(iii) NONTHRESHOLD PESTICIDES.—  
12 If the Administrator is not able to identify  
13 a level at which a pesticide chemical resi-  
14 due will not cause or contribute to any  
15 known or anticipated harm to human  
16 health or if the Administrator finds that a  
17 pesticide chemical residue causes cancer in  
18 animals or humans, the Administrator may  
19 establish a level for a tolerance for such  
20 residue or leave a level in effect for such  
21 residue only if the Administrator finds that  
22 such level—

23 “(I) will not cause or contribute  
24 to, in individuals exposed to such pes-  
25 ticide chemical residue, a lifetime risk

1 of an adverse human health effect  
2 that occurs at a rate of one in a mil-  
3 lion or a risk of an adverse human  
4 health effect that occurs at a rate of  
5 one in a million, divided by 70, for  
6 any single year of exposure during the  
7 first 5 years of the life of an exposed  
8 person, using conservative risk assess-  
9 ment models;

10 “(II) is the lowest level reason-  
11 ably required to allow the accomplish-  
12 ment of the physical or other technical  
13 effect for which the use of the pes-  
14 ticide chemical involved is intended;  
15 and

16 “(III) in the case of processed  
17 food, is the lowest level that occurs if  
18 such pesticide chemical residue is re-  
19 moved to the extent possible in ac-  
20 cordance with good manufacturing  
21 practice.

22 “(C) EXPOSURE.—Except as provided in  
23 subparagraph (D), in determining dietary expo-  
24 sure to a pesticide chemical residue for pur-

1 poses of this paragraph, the Administrator  
2 shall—

3 “(i)(I) use only reliable, statistically  
4 significant data regarding the dietary expo-  
5 sure to persons who have consumed the  
6 food for which the tolerance for the residue  
7 is proposed or is in effect;

8 “(II) take into account all other toler-  
9 ances in effect for the same pesticide  
10 chemical residue; and

11 “(III) take into account all other  
12 sources (including drinking water if data  
13 demonstrating widespread or significant  
14 regional contamination in drinking water  
15 are available) of dietary exposure to the  
16 same pesticide chemical residue; and

17 “(ii) consider the exposure to be the  
18 level of exposure that would occur if—

19 “(I) all the food, for which the  
20 tolerance for the pesticide chemical  
21 residue is proposed or in effect, has  
22 amounts of the pesticide chemical res-  
23 idue equal to the tolerance proposed  
24 or in effect;

1           “(II) all other sources of dietary  
2 exposure to such residue described in  
3 clause (i)(III) occur; and

4           “(III) human exposure to the  
5 pesticide chemical residue at the toler-  
6 ance level occurs for a period equal to  
7 a lifetime.

8           “(D) SPECIAL EXPOSURE RULE.—

9           “(i) DATE.—The Administrator may  
10 calculate dietary exposure to a food based  
11 on reliable data that provide the Adminis-  
12 trator with a valid statistical basis to iden-  
13 tify the percentage of the food in which the  
14 pesticide chemical residue actually occurs.

15           “(ii) PERCENTAGE.—Such percentage  
16 shall be not less than the percentage of the  
17 food consumed in an appropriate locality,  
18 identified by the Administrator, which per-  
19 centage represents the highest level of ex-  
20 posure to such residue in the United  
21 States.

22           “(iii) REEVALUATION.—The Adminis-  
23 trator shall reevaluate the determination  
24 under this subparagraph every 2 years  
25 after the date of the determination. If,

1 under such a reevaluation, the Adminis-  
2 trator finds that the determination is not  
3 justified, the Administrator shall promptly  
4 issue a regulation requiring that the toler-  
5 ance involved be set on the basis of the  
6 new determination.

7 “(E) POPULATION COVERED.—In deter-  
8 mining if the dietary exposure to a pesticide  
9 chemical residue is negligible, the Administrator  
10 shall evaluate the risk to—

- 11 “(i) infants of the age 0 to 1;  
12 “(ii) children of the age 1 to 2;  
13 “(iii) children of the age 2 to 3;  
14 “(iv) children of the age 3 to 4;  
15 “(v) children of the age 4 to 5;  
16 “(vi) children of the age 6 to 10;  
17 “(vii) adolescents of the age 11 to 18;  
18 “(viii) other population groups that  
19 have been identified by the Administrator  
20 to have special food consumption patterns  
21 or for which data are sufficient to dem-  
22 onstrate special food consumption patterns;  
23 and  
24 “(ix) the entire population,

1 who consume food with such pesticide chemical  
2 residue.

3 “(F) UNAVOIDABLE PERSISTENCE.—If a  
4 tolerance or an exemption from the requirement  
5 for a tolerance for a pesticide chemical residue  
6 is revoked and the Administrator finds the pes-  
7 ticide chemical residue will unavoidably persist  
8 in the environment and contaminate food, the  
9 Administrator shall establish a new tolerance  
10 under subsection (d)(4) for the pesticide chemi-  
11 cal residue. The level permitted by the tolerance  
12 shall not be greater than the lowest level that  
13 permits only such unavoidable levels to remain  
14 in food. The Administrator shall evaluate any  
15 such tolerance at least once a year to determine  
16 whether modification of such tolerance is nec-  
17 essary so that the tolerance provides only for  
18 the level of the pesticide chemical residue that  
19 is unavoidable.

20 “(G) PRACTICAL METHODS OF ANALY-  
21 SIS.—

22 “(i) GENERAL RULE.—A tolerance for  
23 a pesticide chemical residue shall not be  
24 established or allowed to remain in effect

1 unless the Administrator determines, after  
2 consultation with the Secretary, that—

3 “(I) there is a method for detect-  
4 ing and measuring the levels of such  
5 pesticide chemical residue in or on a  
6 food that will detect the residue at the  
7 level established by the tolerance; and

8 “(II) except as provided in clause  
9 (ii), such method is the best available,  
10 practical method.

11 “(ii) SPECIAL RULE.—If the Adminis-  
12 trator determines that a practical method  
13 of analysis for a pesticide chemical residue  
14 is not available, the Administrator shall  
15 identify the best available method that is  
16 designed to identify the lowest detectable  
17 amount of the pesticide chemical residue.  
18 The Administrator shall, every 2 years  
19 after the date of the determination under  
20 this clause, reevaluate the determination.

21 “(iii) PRACTICAL METHOD.—A meth-  
22 od shall be considered practical for pur-  
23 poses of this subparagraph only if it is a  
24 multiresidue method that can be performed  
25 by the Secretary on a routine basis as part

1 of surveillance and compliance sampling of  
2 foods for pesticide chemical residues with  
3 the personnel, equipment, and other re-  
4 sources available to the Secretary, or, if no  
5 multiresidue method is available, only if it  
6 can be so performed by the Secretary.

7 “(3) CONSISTENT APPLICATION.—The Adminis-  
8 trator shall issue guidelines providing for the con-  
9 sistent application of the requirements of paragraphs  
10 (1) and (2).

11 “(c) EXEMPTIONS.—

12 “(1) AUTHORITY.—

13 “(A) IN GENERAL.—The Administrator  
14 may promulgate regulations establishing or re-  
15 voking an exemption from the requirement for  
16 a tolerance for a pesticide chemical residue—

17 “(i) in response to a petition filed  
18 under subsection (d)(1); or

19 “(ii) on the initiative of the Adminis-  
20 trator under subsection (d)(4).

21 “(B) EXPIRATION DATE.—Such a regula-  
22 tion may provide for an expiration date for the  
23 exemption.

24 “(2) STANDARD.—

25 “(A) AUTHORITY AND RISK STANDARD.—

1           “(i) ESTABLISHMENT.—An exemption  
2           may be established for a pesticide chemical  
3           residue if such residue is not a human or  
4           animal carcinogen and otherwise presents  
5           no risk to human health, including the  
6           health of individuals in the population  
7           groups set out in subsection (b)(2)(E),  
8           from dietary exposure to such residue.

9           “(ii) REVOCATION.—An exemption  
10          shall be revoked unless the residue is not  
11          a human or animal carcinogen and the res-  
12          idue does not present any risk to human  
13          health, including the health of individuals  
14          in the population groups set out in sub-  
15          section (b)(2)(E), from dietary exposure to  
16          such residue.

17          “(iii) TOLERANCE.—No exemption  
18          may be established or allowed to remain in  
19          effect for a pesticide chemical residue for  
20          which there is in effect a tolerance.

21          “(B) EXPOSURE.—For purposes of sub-  
22          paragraph (A), in determining dietary exposure  
23          to a pesticide chemical residue, the Adminis-  
24          trator shall—

1           “(i) use only reliable, statistically sig-  
2 nificant data regarding the dietary expo-  
3 sure resulting from the consumption of the  
4 food for which the exemption for such resi-  
5 due is proposed or is in effect;

6           “(ii) take into account all other ex-  
7 emptions in effect for such residue and all  
8 other sources (including drinking water if  
9 data demonstrating widespread or signifi-  
10 cant regional contamination in drinking  
11 water are available) of dietary exposure to  
12 such residue; and

13           “(iii) consider the exposure to be the  
14 level of exposure that would occur if—

15               “(I) all the food, for which the  
16 tolerance for such residue is proposed  
17 or in effect, has amounts of such resi-  
18 due equal to the tolerance proposed or  
19 in effect, respectively;

20               “(II) all other sources of dietary  
21 exposure to such residue described in  
22 clause (ii) occur; and

23               “(III) human exposure to the  
24 pesticide chemical residue at the toler-

1                   ance level occurs for a period equal to  
2                   a lifetime.

3                   “(C) PRACTICAL METHODS OF ANALY-  
4                   SIS.—An exemption for a pesticide chemical  
5                   residue shall not be established or allowed to re-  
6                   main in effect unless the Administrator deter-  
7                   mines, after consultation with the Secretary,  
8                   that there is a method for detecting and meas-  
9                   uring the levels of such pesticide chemical resi-  
10                  due on a food and that such method is the best  
11                  available, practical method, as defined in sub-  
12                  section (b)(2)(G).

13                  “(3) CONSISTENT APPLICATION.—The Adminis-  
14                  trator shall issue guidelines providing for the con-  
15                  sistent application of the requirements of paragraphs  
16                  (1) and (2).

17                  “(d) PETITIONS AND ACTION ON THE INITIATIVE OF  
18                  THE ADMINISTRATOR.—

19                  “(1) GENERAL RULE FOR PETITIONS.—Any  
20                  person may file with the Administrator a petition  
21                  proposing the issuance of a regulation establishing,  
22                  modifying, or revoking a tolerance or exemption for  
23                  a pesticide chemical residue.

24                  “(2) REQUIREMENTS FOR PETITIONS TO ES-  
25                  TABLISH A TOLERANCE OR EXEMPTION.—

1           “(A) CONTENTS.—A petition under para-  
2 graph (1) to establish a tolerance or exemption  
3 for a pesticide chemical residue shall contain—

4           “(i) an informative summary of the  
5 petition and of the data, information, and  
6 arguments submitted or cited in support of  
7 the petition, including—

8           “(I) a summary of the reports re-  
9 quired under clause (iv) respecting the  
10 safety of the pesticide chemical resi-  
11 due; and

12           “(II) a characterization of—

13           “(aa) the exposure to the  
14 pesticide chemical residue due to  
15 any tolerance or exemption al-  
16 ready granted for such residue;  
17 and

18           “(bb) the additional expo-  
19 sure to such residue that would  
20 result if the requested tolerance  
21 or exemption were granted;

22           “(ii) a proposed tolerance for such  
23 residue, if a tolerance is proposed;

1           “(iii) the name, chemical identity, and  
2           composition of the pesticide chemical that  
3           produces such residue;

4           “(iv) reports of tests and investiga-  
5           tions made with respect to the safety of  
6           such pesticide chemical, including complete  
7           information as to the methods and controls  
8           used in conducting such tests and inves-  
9           tigations;

10          “(v) data showing the amount, fre-  
11          quency, method, and time of application of  
12          such pesticide chemical;

13          “(vi) reports of tests and investiga-  
14          tions made with respect to the nature and  
15          amount of the pesticide chemical residue  
16          that is likely to remain in or on food when  
17          ready for sale to consumers, including a  
18          description of the analytical methods used;

19          “(vii) a description of methods for de-  
20          tecting and measuring the levels of such  
21          pesticide chemical residue in or on the  
22          food, which methods meet the require-  
23          ments of subsection (b)(2)(G) or (c)(2)(C);

24          “(viii) reports of investigations con-  
25          ducted on the effects of processing meth-

1 ods used to produce food on the level and  
2 identity of such pesticide chemical residue;

3 “(ix) if the petition is for a pesticide  
4 chemical residue that is described in sub-  
5 section (b)(2)(B)(iii), all relevant data  
6 bearing on the physical or other technical  
7 effect the pesticide chemical involved is in-  
8 tended to have and the quantity of the pes-  
9 ticide chemical residue required to accom-  
10 plish such effect; and

11 “(x) such other data and information  
12 (including a sample of the pesticide chemi-  
13 cal from which the pesticide chemical resi-  
14 due is derived) as the Administrator may  
15 require to support the petition.

16 “(B) INFORMATION AVAILABLE TO ADMIN-  
17 ISTRATOR.—If information or data required by  
18 this paragraph are available to the Adminis-  
19 trator, the person submitting the petition may,  
20 in lieu of submitting the information or data,  
21 cite the availability of the information or data.

22 “(3) ACTIONS ON PETITIONS.—

23 “(A) NOTICE.—

24 “(i) IN GENERAL.—Within 45 days of  
25 the filing of a petition under paragraph (1)

1 for the establishment of a tolerance or an  
2 exemption, the Administrator shall deter-  
3 mine if the petition complies with the re-  
4 quirements of paragraph (2). If the Ad-  
5 ministrator determines that the petition  
6 complies with such requirements, the Ad-  
7 ministrator shall publish a notice of the fil-  
8 ing of the petition. If the Administrator  
9 determines that the petition does not com-  
10 ply with such requirements, the Adminis-  
11 trator shall notify the petitioner of such  
12 determination.

13 “(ii) CONTENTS.—A notice published  
14 under this subparagraph shall—

15 “(I) announce the availability of  
16 a complete description of the analyt-  
17 ical methods available to the Adminis-  
18 trator for the detection and measure-  
19 ment of the pesticide chemical residue  
20 with respect to which the petition is  
21 filed;

22 “(II) include the summary re-  
23 quired by paragraph (2)(A)(i); and

24 “(III) provide at least 30 days  
25 for comments on the petition.

1           “(B) ACTION.—The Administrator shall,  
2           within 270 days of the publication of a notice  
3           under subparagraph (A) with respect to a peti-  
4           tion, and after giving due consideration to the  
5           petition, any comments on the petition, and any  
6           other information available to the Adminis-  
7           trator—

8                   “(i) issue a final regulation in accord-  
9                   ance with the petition establishing a toler-  
10                  ance or exemption for the pesticide chemi-  
11                  cal residue;

12                  “(ii) issue a proposed regulation es-  
13                  tablishing a tolerance or exemption for the  
14                  pesticide chemical residue, which tolerance  
15                  or exemption is different from the toler-  
16                  ance or exemption requested in the peti-  
17                  tion; or

18                  “(iii) issue an order denying the peti-  
19                  tion.

20           “(C) MODIFICATION OR REVOCATION.—

21                   “(i) NOTICE.—Within 45 days of the  
22                   filing of a petition under paragraph (1) for  
23                   the modification or revocation of a toler-  
24                   ance or exemption, the Administrator shall  
25                   publish a notice of the filing of the peti-

1           tion. Such notice shall contain the full peti-  
2           tion or a summary of the petition and shall  
3           provide at least 30 days for comments on  
4           the petition.

5           “(ii) ACTION.—The Administrator  
6           shall, within 270 days of the publication of  
7           the notice under subparagraph (A) and  
8           after giving due consideration to the peti-  
9           tion, any comments on the petition, and  
10          any other information available to the Ad-  
11          ministrator—

12                 “(I) issue a final regulation in  
13                 accordance with the petition modify-  
14                 ing or revoking a tolerance or exemp-  
15                 tion for the pesticide chemical residue;

16                 “(II) issue a proposed regulation  
17                 modifying or revoking a tolerance or  
18                 exemption for the pesticide chemical  
19                 residue, which tolerance or exemption  
20                 is different from the modification or  
21                 revocation requested in the petition;  
22                 or

23                 “(III) issue an order denying the  
24                 petition.

1           “(D) COMMENTS AND FINAL REGULA-  
2 TIONS.—If the Administrator issues a proposed  
3 regulation under subparagraph (B)(ii) or  
4 (C)(ii)(II), the Administrator shall allow at  
5 least 30 days for comments on such proposed  
6 regulations. The Administrator shall issue a  
7 final decision within 180 days of the date of the  
8 publication of the proposed regulations.

9           “(E) PRIORITIES.—The Administrator  
10 shall give priority to petitions for the establish-  
11 ment of a tolerance for a pesticide chemical res-  
12 idue that appears to pose a significantly lower  
13 risk to human health from dietary exposure  
14 than pesticide chemical residues that have toler-  
15 ances in effect for the same or similar uses.

16           “(4) ACTION ON THE INITIATIVE BY THE AD-  
17 MINISTRATOR.—

18           “(A) GENERAL RULE.—The Administrator  
19 may, on the initiative of the Administrator,  
20 issue a final regulation establishing, modifying,  
21 or revoking a tolerance or exemption for a pes-  
22 ticide chemical residue.

23           “(B) NOTICE.—Before issuing a final reg-  
24 ulation under subparagraph (A), the Adminis-  
25 trator shall issue a notice of proposed rule-

1 making and provide a period of not less than 30  
2 days for public comment on the proposed regu-  
3 lation unless the Administrator finds that it  
4 would be contrary to the public interest to issue  
5 the notice and provide the period and states the  
6 reasons for the finding in the notice of the final  
7 regulation.

8 “(5) EFFECTIVE DATE.—

9 “(A) GENERAL RULE.—Except as provided  
10 in subparagraph (B), a final regulation issued  
11 under paragraph (3) or (4) shall take effect  
12 upon publication.

13 “(B) DELAY.—

14 “(i) GENERAL RULE.—If a regulation  
15 issued under paragraph (3) or (4) revokes  
16 or modifies a tolerance for a pesticide  
17 chemical residue or revokes an exemption  
18 for a pesticide chemical residue, the Ad-  
19 ministrator may, in accordance with clause  
20 (ii), delay the effective date of the regula-  
21 tion to permit the tolerance or exemption  
22 to remain in effect at the level in effect im-  
23 mediately before such regulation is issued  
24 only—

1                   “(I) for foods that, on the date of  
2                   the publication of the regulation, con-  
3                   tain such pesticide chemical residue in  
4                   an amount that is not more than the  
5                   amount that could legally be applied  
6                   on the date the Administrator acted  
7                   under paragraph (3) or (4); and

8                   “(II) if dietary exposure to the  
9                   pesticide chemical residue in or on the  
10                  foods described in subclause (I) meets  
11                  the negligible risk standard prescribed  
12                  by subsection (b)(2) during the period  
13                  of delay of the effective date.

14                  “(ii) PERIOD OF DELAY.—If the Ad-  
15                  ministrator finds that delay of the effective  
16                  date of such a revocation or modification is  
17                  consistent with the public health, the Ad-  
18                  ministrator may delay such date under  
19                  clause (i), for each type of food that con-  
20                  tains such pesticide chemical residue, for  
21                  the period that is required for such food to  
22                  be sold to consumers in the course of the  
23                  usual practice for persons engaged in the  
24                  production, processing, transportation,

1 storage, and distribution of the type of  
2 food.

3 “(e) SPECIAL DATA REQUIREMENTS.—

4 “(1) DETERMINATION OF INADEQUATE DATA.—

5 The Administrator shall take the action described in  
6 paragraph (2) if a tolerance or exemption is in effect  
7 for a pesticide chemical residue and the Adminis-  
8 trator determines that data contained in the peti-  
9 tion, which had been submitted, under subsection  
10 (d)(1) for establishment of the tolerance or exemp-  
11 tion, or under this section, before the date of the en-  
12 actment of the Pesticide Food Safety Act of 1993,  
13 are not adequate to support the continuation of such  
14 tolerance or exemption because—

15 “(A) based on the data contained in the  
16 petition and other data available to the Admin-  
17 istrator, the Administrator determines that die-  
18 tary exposure to such pesticide chemical residue  
19 may present a risk to human health that is  
20 greater than the standard prescribed by sub-  
21 section (b)(2) or (c)(2); or

22 “(B) the data contained in the petition are  
23 insufficient to determine if the tolerance or ex-  
24 emption meets the requirements of subsection

1 (b)(2) or (c)(2) or the requirements of sub-  
2 section (d)(2).

3 “(2) ACTION BY ADMINISTRATOR.—When the  
4 Administrator makes the determination described in  
5 paragraph (1) with respect to a tolerance or exemp-  
6 tion for a pesticide chemical residue, the Adminis-  
7 trator shall—

8 “(A) within 30 days of a determination  
9 under paragraph (1)(A), initiate an action  
10 under subsection (d)(4) to modify or revoke the  
11 tolerance or exemption so that the tolerance or  
12 exemption meets the standard prescribed by  
13 subsection (b)(2) or (c)(2), and within 1 year of  
14 such determination issue a final regulation to  
15 complete such action; and

16 “(B) within 30 days of the date of a deter-  
17 mination under paragraph (1)(B), require the  
18 submission of data to support—

19 “(i) the existing tolerance or exemp-  
20 tion; or

21 “(ii) a new tolerance or exemption for  
22 such residue,  
23 that meets the standard prescribed by sub-  
24 section (b)(2) or (c)(2).

1           “(3) SUBMISSION OF REQUIRED DATA.—When  
2 the Administrator requires the submission of data  
3 under paragraph (2)(B), the Administrator shall  
4 publish an order—

5           “(A) requiring one or more interested per-  
6 sons to notify the Administrator that such per-  
7 son will submit the required data;

8           “(B) describing the type of data required  
9 to be submitted;

10          “(C) describing the reports required to be  
11 made during and after the collection of the  
12 data; and

13          “(D) establishing deadlines for the actions  
14 described in subparagraphs (A) and (C).

15          “(4) DEADLINES.—

16          “(A) GENERAL RULE.—Except as provided  
17 in subparagraphs (B) and (C), if an order is is-  
18 sued under paragraph (3) with respect to a tol-  
19 erance or exemption and a deadline in the order  
20 is not met, the tolerance or exemption is re-  
21 voked, effective 45 days after the date the dead-  
22 line is not met. Immediately after such deadline  
23 is not met, the Administrator shall publish a  
24 notice of the revocation.

25          “(B) EXTENSION REQUEST.—

1           “(i) REQUEST.—Any person may re-  
2           quest the Administrator to issue an order  
3           to extend the deadline established under  
4           paragraph (3)(D) before expiration of the  
5           deadline.

6           “(ii) GRANT OF REQUEST.—The Ad-  
7           ministrator may grant such a request only  
8           if—

9                   “(I) the person submitting the  
10                  request notified the Administrator  
11                  pursuant to paragraph (3)(A) in com-  
12                  pliance with the deadline established  
13                  under paragraph (3)(C); and

14                   “(II) the Administrator finds  
15                  that extraordinary circumstances be-  
16                  yond the control of such person pre-  
17                  vented such person from submitting  
18                  the required data.

19           “(iii) EXTENSION.—If the Adminis-  
20           trator issues an order extending a dead-  
21           line—

22                   “(I) the Administrator may ex-  
23                  tend the deadline for a period no  
24                  longer than such time as is necessary

1 for such person to submit the data;  
2 and

3 “(II) the Administrator shall es-  
4 tablish a new deadline in accordance  
5 with paragraph (3)(D).

6 “(C) DELAY.—If a tolerance or exemption  
7 is revoked under subparagraph (A), the Admin-  
8 istrator may delay the effective date of the rev-  
9 ocation in accordance with subsection (d)(5)(B).

10 “(5) EVALUATION OF DATA.—Within 90 days  
11 of the date of the receipt of data under paragraph  
12 (3), the Administrator shall evaluate such data and  
13 determine whether action is required under sub-  
14 section (d)(4) with respect to the tolerance or ex-  
15 emption for the pesticide chemical residue for which  
16 the data were submitted so that such tolerance  
17 meets the negligible risk standard prescribed under  
18 subsection (b)(2) or (c)(2). If the Administrator de-  
19 termines that action under subsection (d)(4) is re-  
20 quired, the Administrator shall complete such action  
21 within 1 year of the date of such determination.

22 “(f) CONFIDENTIALITY OF DATA.—

23 “(1) GENERAL RULE.—Data submitted to the  
24 Administrator in support of a petition under sub-  
25 section (d)(1), which data have not previously been

1 made available to the public without restriction,  
2 shall, upon request of the petitioner, be considered  
3 as entitled to confidential treatment by the Adminis-  
4 trator until publication of a regulation or order  
5 under subsection (d)(3) in response to the petition  
6 unless disclosure of such data is required by sub-  
7 section (d)(3)(A)(ii)(II) or (g) or is allowed by para-  
8 graph (2).

9 “(2) DISCLOSURE.—Data that are entitled to  
10 confidential treatment under paragraph (1) until  
11 publication of a regulation or order under subsection  
12 (d)(3) may be revealed to—

13 “(A) either House of Congress or any com-  
14 mittee or subcommittee of such House to the  
15 extent of matter within the jurisdiction of the  
16 committee or subcommittee;

17 “(B) any officer or employee of the United  
18 States in connection with the official duties of  
19 such officer or employee under any law for the  
20 protection of health or the environment or for  
21 specific law enforcement purposes;

22 “(C) any officer or employee of a State in  
23 connection with the official duties of such offi-  
24 cer or employee under any law of the State for

1 the protection of health or the environment or  
2 for specific law enforcement purposes; or

3 “(D) contractors with the United States  
4 authorized by the Administrator to examine  
5 such data in the carrying out of contracts under  
6 such statutes under such security requirements  
7 as the Administrator may provide.

8 “(g) ACCESS TO DATA IN SUPPORT OF PETITION.—

9 “(1) GENERAL RULE.—

10 “(A) PUBLIC ACCESS.—If data in support  
11 of a petition are submitted to the Adminis-  
12 trator, the Administrator, before acting on such  
13 petition, shall provide, in accordance with this  
14 subsection, public access to health and safety  
15 data that are submitted or cited in support of  
16 such petition.

17 “(B) REQUEST.—To obtain access to such  
18 data, a person shall, not later than 30 days  
19 after the publication under subsection (d)(3)(A)  
20 of a notice of the filing of a petition, send by  
21 certified mail to the Administrator and to the  
22 petitioner a request for such access and the af-  
23 firmation required by paragraph (2).

24 “(C) GRANT OF REQUEST.—The Adminis-  
25 trator shall grant such request unless, within

1 15 days after the receipt by the Administrator  
2 of such request and affirmation, the petitioner  
3 submits to the Administrator an objection to  
4 the request asserting that the affirmation is in-  
5 accurate and other reasons for the objection.

6 “(D) OBJECTION.—If an objection to a re-  
7 quest is submitted to the Administrator within  
8 such 15-day period, the Administrator shall de-  
9 termine whether to grant the request within 5  
10 days after the receipt of the objection. If the  
11 Administrator determines to grant the request,  
12 access shall not be permitted until 5 days after  
13 the petitioner making the objection has been  
14 notified that access has been granted.

15 “(E) DENIAL OF REQUEST.—If access to  
16 data is denied, comments on the petition for  
17 which such data were submitted or cited shall  
18 be filed within 30 days after the decision of the  
19 Administrator denying access.

20 “(2) RESTRICTION.—

21 “(A) AFFIRMATION.—Data referred to in  
22 paragraph (1) may be made available only to a  
23 person who provides an affirmation (and such  
24 supporting evidence as the Administrator may  
25 require) that—

1           “(i) states that the person is not en-  
2           gaged in, and is neither employed by, nor  
3           acting (directly or indirectly) on behalf of,  
4           any other person, or affiliate of a person,  
5           engaged in, the production, sale, or dis-  
6           tribution of a pesticide chemical;

7           “(ii) identifies any business, employer,  
8           or other person, if any, on whose behalf  
9           the person is requesting access to the data;  
10          and

11          “(iii) states that the person will not  
12          intentionally or recklessly violate this sub-  
13          section.

14          “(B) AFFILIATE.—For purposes of this  
15          paragraph, an affiliate of a person is a person  
16          who directly or indirectly, through one or more  
17          intermediates, controls or is controlled by or is  
18          under common control with the other person.

19          “(C) FRAUD.—Section 1001 of title 18,  
20          United States Code, shall apply to an affirma-  
21          tion made under this paragraph.

22          “(3) COMMENTS.—

23          “(A) GENERAL RULE.—Data supporting a  
24          petition may be made available under para-  
25          graph (1) to a person only for the purpose of

1           permitting the person to comment to the Ad-  
2           ministrator on such petition. Such comments  
3           may reasonably quote data submitted to the  
4           Administrator. No person, including the Admin-  
5           istrator, may make such comments public be-  
6           fore the decision of the Administrator on the  
7           petition for which such data were submitted or  
8           after such decision if the petition is denied.

9           “(B) RESTRICTIONS.—A person who ob-  
10          tains data (directly or indirectly) under para-  
11          graph (1) may not publish, copy, or transfer the  
12          data to any other person to obtain approval to  
13          sell, manufacture, or distribute a pesticide  
14          chemical anywhere in the world.

15          “(4) PROCEDURE.—

16          “(A) IN GENERAL.—Data made available  
17          under paragraph (1) may be examined at an of-  
18          fice of the Environmental Protection Agency or  
19          an appropriate State agency under the condi-  
20          tions prescribed by this subsection and may not  
21          be removed from such office.

22          “(B) RECORD.—The Administrator shall  
23          maintain a record of the persons who inspect  
24          data. A copy of such record shall be sent on re-  
25          quest to the person who submitted the data.

1           “(C) BASIS FOR COMMENTS.—Once access  
2           to data supporting a petition is granted, the  
3           data may be examined and notes may be taken  
4           for use in developing comments on the petition.  
5           Such comments on the petition shall be filed  
6           within 60 days after the decision of the Admin-  
7           istrator granting access, unless the comment  
8           period is extended by the Administrator for an  
9           additional 30 days for good cause.

10          “(h) ACCESS TO DATA AFTER DECISION.—When the  
11         Administrator takes final action on a petition submitted  
12         under subsection (d)(1) or on the initiative of the Adminis-  
13         trator under subsection (d)(4), the Administrator shall  
14         make available to the public the administrative record of  
15         the decision, including the data relied upon for the deci-  
16         sion.

17          “(i) EXISTING PESTICIDE CHEMICAL RESIDUES.—  
18                 “(1) PESTICIDE CHEMICAL RESIDUES UNDER  
19                 REGULATIONS UNDER SECTION 406.—Regulations af-  
20                 fecting pesticide chemical residues promulgated, in  
21                 accordance with sections 701(e) and 406, upon the  
22                 basis of public hearings instituted before January 1,  
23                 1953, shall be deemed to be tolerances issued under  
24                 this section and shall be subject to modification or  
25                 revocation under subsection (d) or (e).

1           “(2) PESTICIDE CHEMICAL RESIDUES UNDER  
2 REGULATIONS.—Regulations establishing tolerances  
3 for pesticide chemical residues under this section  
4 and section 409 or exemptions for pesticide chemical  
5 residues under this section on or before the date of  
6 the enactment of this section shall be deemed to be  
7 tolerances or exemptions issued under this section  
8 and shall be subject to modification or revocation  
9 under subsection (d) or (e).

10           “(3) GENERALLY RECOGNIZED AS SAFE PES-  
11 TICIDE CHEMICAL RESIDUES.—

12           “(A) GENERAL RULE.—Pesticide chemical  
13 residues that, on the day before the date of the  
14 enactment of the Pesticide Food Safety Act of  
15 1993, do not have tolerances or exemptions  
16 from tolerances under this section because the  
17 residues are generally recognized as safe under  
18 this section or section 409 shall, until the expi-  
19 ration of the period prescribed by subparagraph  
20 (C), not be considered unsafe under section  
21 402(a)(2)(B) solely because the chemicals do  
22 not have such a tolerance or exemption.

23           “(B) LIST.—Not later than 90 days after  
24 the date of the enactment of such Act, the Ad-  
25 ministrator shall—

1           “(i) publish a list of all pesticide  
2 chemical residues that the Administrator  
3 has determined are generally recognized,  
4 on the day before the date of the enact-  
5 ment of such Act, as safe under this sec-  
6 tion or section 409; and

7           “(ii) require, by regulation, that any  
8 person who, before the date of the enact-  
9 ment of such Act, distributed in commerce  
10 as a pesticide chemical, a pesticide chemi-  
11 cal that is not on the list described in  
12 clause (i), and that such person deter-  
13 mined is generally recognized as safe under  
14 this section or section 409, shall—

15           “(I) report to the Administrator  
16 the identity of such pesticide chemical;  
17 and

18           “(II) report to the Administrator  
19 the data that supports the claim that  
20 the pesticide chemical is so safe.

21           “(C) DETERMINATION OF THE ADMINIS-  
22 TRATOR.—Not later than 270 days after such  
23 date, the Administrator shall determine if each  
24 pesticide chemical reported to the Adminis-  
25 trator in accordance with subparagraph (B)(ii)

1 is generally recognized as safe. If the Adminis-  
2 trator determines, by order, that such pesticide  
3 chemical is generally recognized as safe, the  
4 residue of such pesticide chemical shall be con-  
5 sidered a pesticide chemical residue subject to  
6 an exemption under this section, which exemp-  
7 tion shall be subject to modification or revoca-  
8 tion under subsection (d) or (e).

9 “(j) FOOD AND DRUG ADMINISTRATION MONITOR-  
10 ING OF PESTICIDE CHEMICAL RESIDUES.—

11 “(1) SAMPLING.—The Secretary shall conduct  
12 surveillance and compliance sampling of food for  
13 pesticide chemical residues to determine if the pes-  
14 ticide chemical residues are in compliance with this  
15 section. In carrying out this paragraph, the Sec-  
16 retary shall give priority to foods that contain pes-  
17 ticide chemical residues included in a notice under  
18 paragraph (2).

19 “(2) NOTIFICATION.—The Administrator shall  
20 notify the Secretary of the pesticide chemical resi-  
21 dues that the Administrator determines, in the ad-  
22 ministration of this section—

23 “(A) are above the standard prescribed by  
24 subsection (b)(2); or

1           “(B) are not above such standard but that  
2           may under certain circumstances reach or ex-  
3           ceed such standard.

4           “(k) FEES.—The Administrator shall by regulation  
5 require the payment of such fees as will in the aggregate,  
6 in the judgment of the Administrator, be sufficient over  
7 a reasonable term to provide, equip, and maintain an ade-  
8 quate service for the performance of the functions of the  
9 Administrator under this section. Under such regulations,  
10 the performance of the services or other functions of the  
11 Administrator under this section may be conditioned upon  
12 the payment of such fees. Such regulations may further  
13 provide that the continuation in effect of a tolerance or  
14 exemption shall be conditioned upon the payment of an  
15 annual fee and for waiver or refund of fees in whole or  
16 in part when, in the judgment of the Administrator, such  
17 waiver or refund is equitable and not contrary to the pur-  
18 poses of this subsection.

19           “(l) JUDICIAL REVIEW.—

20           “(1) REVIEW.—Any person (including a person  
21 without an economic interest) who may be adversely  
22 affected by a final regulation or order issued under  
23 subsection (d)(3), (d)(4), (e)(4), or (i)(3) may obtain  
24 judicial review of such regulation or order by filing  
25 a petition requesting that the regulation or order be

1 set aside in whole or in part in the United States  
2 Court of Appeals for the circuit in which such per-  
3 son resides or has its principal place of business, or  
4 in the United States Court of Appeals for the Dis-  
5 trict of Columbia Circuit, within 60 days after publi-  
6 cation of the regulation or order under such sub-  
7 section.

8 “(2) REVIEW OF DATA.—

9 “(A) IN GENERAL.—Any person (including  
10 a person without an economic interest) may ob-  
11 tain judicial review, of the adequacy of the data  
12 made available by the Administrator under sub-  
13 section (h) to support the issuance of a toler-  
14 ance or exemption for a pesticide chemical resi-  
15 due, by filing a petition for the review of the  
16 data in the United States Court of Appeals for  
17 the circuit in which such person resides or has  
18 its principal place of business, or in the United  
19 States Court of Appeals for the District of Co-  
20 lumbia Circuit.

21 “(B) SCOPE OF REVIEW.—Review in a pro-  
22 ceeding initiated under this paragraph shall be  
23 limited to whether the data under review are  
24 adequate to demonstrate that the tolerance or  
25 exemption supported by such data meets the

1 standards required by subsection (b)(2) or  
2 (c)(2) and interpreted by the guidelines issued  
3 under subsection (b)(3) or (c)(3). Unless the  
4 court determines that such data are adequate,  
5 the court shall revoke the tolerance or exemp-  
6 tion supported by such data.

7 “(C) BURDEN OF PROOF.—In any such  
8 proceeding the Administrator shall have the  
9 burden of proof on all issues.

10 “(3) COURT RESPONSIBILITY.—In any action  
11 seeking judicial review of actions under this section,  
12 the court shall have the principal responsibility for  
13 deciding issues of law.

14 “(4) ATTORNEY FEES.—Any petitioner who  
15 prevails in a proceeding brought under this section  
16 shall be entitled to recover reasonable attorney fees  
17 and expenses (including expert witness fees).

18 “(m) DEFINITIONS.—For purposes of this section,  
19 the terms ‘modify’ and ‘modification’ mean the lowering  
20 of a tolerance for a pesticide chemical residue.”.

21 (b) CONFORMING AMENDMENT.—Section 303 (21  
22 U.S.C. 333) is amended by adding at the end the follow-  
23 ing:

24 “(g) A person who violates a tolerance established  
25 under section 408(b)(2) for a food at the time the food

1 is purchased at retail shall not be subject to any penalty  
2 under this section.”.

3 **SEC. 4. EVALUATION OF EXISTING PESTICIDE CHEMICAL**  
4 **RESIDUE TOLERANCES AND EXEMPTIONS.**

5 (a) EVALUATION.—Within 1 year of the date of the  
6 enactment of this Act, the Administrator of the Environ-  
7 mental Protection Agency shall, for each pesticide chemi-  
8 cal residue that has a tolerance or exemption in effect  
9 under the Federal Food, Drug, and Cosmetic Act, evaluate  
10 all available data with respect to the safety of such pes-  
11 ticide chemical residue and the nature and amount of such  
12 residue remaining in or on foods and determine if—

13 (1) the tolerance or exemption meets the re-  
14 quirements of subsection (b)(2) or (c)(2) of section  
15 408 of such Act;

16 (2) the tolerance or exemption does not meet  
17 such requirements; or

18 (3) the data are insufficient to determine if the  
19 tolerance or exemption meets such requirements.

20 (b) SUFFICIENT DATA.—

21 (1) ACCEPTABLE RISK DATA.—If, with respect  
22 to any pesticide chemical residue that is evaluated  
23 under subsection (a), the Administrator finds that  
24 data for the pesticide chemical residue are sufficient  
25 to determine that the tolerance or exemption for the

1 pesticide chemical residue meets the standard under  
2 section 408(b)(2) or 408(c)(2) of such Act, the Ad-  
3 ministrator shall publish such finding.

4 (2) UNACCEPTABLE RISK DATA.—If, with re-  
5 spect to any pesticide chemical residue that is evalu-  
6 ated under subsection (a), the Administrator finds  
7 that data for the pesticide chemical residue are suffi-  
8 cient to determine that the tolerance or exemption  
9 for the pesticide chemical residue does not meet the  
10 standard under section 408(b)(2) or 408(c)(2) of  
11 such Act, the Administrator shall, within 1 year of  
12 the date of such finding, modify or revoke the toler-  
13 ance.

14 (3) INSUFFICIENT DATA.—

15 (A) GENERAL RULE.—

16 (i) SUBMISSION OF DATA.—If, with  
17 respect to any pesticide chemical residue  
18 that is evaluated under subsection (a), the  
19 Administrator determines that the data are  
20 insufficient to determine whether the toler-  
21 ance or exemption meets the requirements  
22 of section 408(b)(2) or 408(c)(2) of such  
23 Act, the Administrator shall establish a  
24 schedule for the submission of data in ac-  
25 cordance with the requirements of sections

1 408(e)(2)(B) and 408(e)(3) of such Act,  
2 which data shall be the basis for a deter-  
3 mination by the Administrator as to  
4 whether the tolerance or exemption meets  
5 the standard prescribed by section  
6 408(b)(2) or 408(c)(2) of such Act.

7 (ii) DETERMINATIONS.—The Adminis-  
8 trator shall—

9 (I) within 2 years of the date of  
10 the enactment of this Act, make such  
11 a determination respecting a tolerance  
12 or exemption meeting a standard  
13 under section 408 of such Act for at  
14 least 30 percent of the tolerances or  
15 exemptions in effect for pesticide  
16 chemical residues in existence on such  
17 date;

18 (II) within 4 years of the date of  
19 the enactment of this Act, make such  
20 a determination for at least 60 per-  
21 cent of the tolerances or exemptions  
22 in effect for pesticide chemical resi-  
23 dues in existence on such date;

24 (III) within 6 years of the date of  
25 the enactment of this Act, make such

1 a determination for at least 90 per-  
2 cent of the tolerances or exemptions  
3 in effect for pesticide chemical resi-  
4 dues in existence on such date; and

5 (IV) within 7 years of the date of  
6 the enactment of this Act, make such  
7 a determination for 100 percent of the  
8 tolerances or exemptions in effect for  
9 pesticide chemical residues in exist-  
10 ence on such date.

11 (iii) DEADLINES.—Section 408(e)(4)  
12 of such Act shall apply to the deadlines es-  
13 tablished by such schedule.

14 (B) PRIORITIES.—In establishing such  
15 schedule, the Administrator shall give priority  
16 to the consideration of any pesticide chemical  
17 residue for which there is reason to believe that  
18 the tolerance or exemption in effect for such  
19 residue may present a risk greater than the  
20 negligible risk standard prescribed by section  
21 408(b)(2) or 408(c)(2) of such Act.

22 (C) ACTION BY THE ADMINISTRATOR.—If  
23 the Administrator determines under subpara-  
24 graph (A) that a tolerance or exemption does  
25 not meet the standard under section 408(b)(2)

1 or 408(c)(2) of such Act after the submission of  
2 data in accordance with the schedule prescribed  
3 by such subparagraph, the Administrator shall  
4 take the action described in section  
5 408(e)(2)(A) of such Act with respect to such  
6 tolerance or exemption.

7 **SEC. 5. REVIEW OF EXISTING METHODS OF ANALYSIS.**

8 (a) DETERMINATION.—Within 180 days of the date  
9 of the enactment of this Act, the Administrator of the En-  
10 vironmental Protection Agency shall determine, for each  
11 method of detecting and measuring levels of pesticide  
12 chemical residues, whether the requirements of section  
13 408(b)(2)(G) of the Federal Food, Drug, and Cosmetic  
14 Act have been met.

15 (b) NOTICE.—The Administrator shall issue a notice  
16 identifying each pesticide chemical for which there is such  
17 a method that does not meet such requirements. Any such  
18 method that does not meet such requirements shall be re-  
19 vised so that the method meets such requirements within  
20 3 years of the date of the issuance of the notice.

21 (c) REVOCATION.—If upon the expiration of such 3-  
22 year period, a method does not meet such requirements,  
23 then any tolerance or exemption in effect for the pesticide  
24 chemical residue subject to such method shall be consid-  
25 ered revoked.

1 **SEC. 6. FEES.**

2 The Administrator of the Environmental Protection  
3 Agency shall by regulation require the payment of such  
4 fees as will in the aggregate, in the judgment of the Ad-  
5 ministrator, be sufficient over a reasonable term to pro-  
6 vide, equip, and maintain an adequate service for the per-  
7 formance of the functions of the Administrator under this  
8 section and sections 4 and 5 of this Act.

9 **SEC. 7. GENERAL DEFINITIONS.**

10 As used in sections 4 and 5 of this Act:

11 (1) **IN GENERAL.**—The terms that are also used  
12 in section 408 of the Federal Food, Drug, and Cos-  
13 metic Act shall have the meanings given the terms  
14 by sections 201 and 408 of such Act.

15 (2) **DIETARY EXPOSURE.**—The term “dietary  
16 exposure” means dietary exposure as determined  
17 under section 408(b)(2)(C) of the Federal Food,  
18 Drug, and Cosmetic Act.

19 (3) **EXEMPTION.**—The term “exemption”  
20 means an exemption from the requirement for a tol-  
21 erance under section 408 of the Federal Food, Drug,  
22 and Cosmetic Act.

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