

103D CONGRESS
1ST SESSION

H. R. 967

To amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use pesticides.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. DE LA GARZA (for himself, Mr. ROBERTS, Mr. STENHOLM, Mr. SMITH of Oregon, Mr. THOMAS of California, Mr. ROWLAND, Mr. INSLEE, Mr. KOPETSKI, Mr. LEHMAN, Mr. FAZIO, Mr. DOOLEY, and Mr. CONDIT) introduced the following bill; which was referred to the Committee on Agriculture

JULY 9, 1993

Additional Sponsors: Mr. LAROCO, Mr. HENRY, Mr. RAVENEL, Mr. STUMP, Mr. PAXON, Mr. SWIFT, Mr. BARRETT of Nebraska, Mr. CAMP, Mr. ALLARD, Mr. UPTON, Mr. GEKAS, Mr. MCHUGH, Mr. LEWIS of Florida, Mr. LEWIS of California, Mr. GALLEGLY, Mr. BOEHNER, Mr. EMERSON, Mr. DOOLITTLE, Mr. KINGSTON, Mr. GILLMOR, Mr. KANJORSKI, Mr. MCDADE, Mr. HOLDEN, Mr. QUILLEN, Mr. HUGHES, Mr. KYL, Mr. JOHNSON of South Dakota, Mr. ROTH, Mr. SMITH of Michigan, Mr. ORTON, Mr. PACKARD, Mr. EWING, Mr. PASTOR, Mr. SPRATT, Mr. POMEROY, Mr. BARCIA of Michigan, Ms. SLAUGHTER, Mr. NUSSLE, Mr. BACCUS of Florida, Mr. BONILLA, Mr. HOEKSTRA, Mr. BLILEY, Mr. SHAW, Mr. CRAPO, Mr. KOLBE, Mr. HOUGHTON, Mr. ENGLISH of Oklahoma, Mr. CANADY, Mr. MCCANDLESS, Mr. DORNAN, Mr. BEREUTER, Mr. SARPALIUS, Mr. MOORHEAD, Mr. SISISKY, Mr. POMBO, Mr. WALSH, Mr. DICKEY, Mr. PETERSON of Minnesota, Mr. RIDGE, Mr. HANSEN, Mr. WALKER, Mr. OLVER, Mr. DREIER, Mr. MATSUI, Mr. SANTORUM, Mr. HERGER, Mr. BAKER of Louisiana, Mr. BISHOP, Mr. CLYBURN, Mr. GUNDERSON, Mr. DARDEN, Mrs. THURMAN, Mr. TRAFICANT, Mrs. FOWLER, Mr. BATEMAN, Mr. CALVERT, Mr. GILMAN, Mr. MCCOLLUM, Ms. SNOWE, Mr. BEVILL, Mr. FIELDS of Texas, Mr. ANDREWS of New Jersey, Mr. ZELIFF, Mr. JOHNSTON of Florida, Mr. BAKER of California, Mr. JOHNSON of Georgia, Mr. CASTLE, Mr. GOODLING, and Mr. STEARNS

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use pesticides.

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 AND REFERENCE.**

4 (A) SHORT TITLE.—This Act may be cited as the
5 “Minor Crop Pesticides Act of 1993 ”.

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

12 **SEC. 2. MINOR USE OF PESTICIDES.**

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

15 “(hh) MINOR USE.—The term ‘minor use’
16 means the use of a pesticide on an animal, on a
17 commercial agricultural crop or site, or for the pro-
18 tection of public health where—

19 “(1) the Administrator, in consultation
20 with the Secretary of Agriculture, determines
21 that, based on information provided by an ap-
22 plicant, the use does not provide sufficient eco-

1 nomic incentive to support the initial registra-
2 tion or continuing registration of a pesticide for
3 such use; and

4 “(2) the Administrator has not determined
5 that, based on existing data, such use presents
6 a risk of an unreasonable adverse effect on the
7 environment.”.

8 (b) EXCLUSIVE DATA USE.—Section 3(c)(1)(F) (7
9 U.S.C. 136a(c)(1)(F)) is amended by redesignating clause
10 (iii) as clause (iv) and by inserting after clause (ii) the
11 following:

12 “(iii) With respect to data submitted
13 after the date of the enactment of this
14 clause by an applicant or registrant to sup-
15 port an amendment adding a new use to
16 an existing registration, to support or
17 maintain in effect an existing registration,
18 to support a new application for registra-
19 tion, or to support a reregistration, if such
20 data relates solely to a minor use of a pes-
21 ticide, such data shall not, without the
22 written permission of the original data
23 submitter, be considered by the Adminis-
24 trator to support an application for a
25 minor use by another person during a pe-

1 riod of 10 years following the date of sub-
2 mission of such data. If the minor use reg-
3 istration which is supported by data sub-
4 mitted pursuant to this subsection is vol-
5 untarily canceled or if such data are subse-
6 quently used to support a non-minor use,
7 the data shall no longer be subject to the
8 exclusive use provisions of this clause but
9 shall instead be considered by the Adminis-
10 trator in accordance with the provisions of
11 clauses (i) or (ii), as appropriate.”.

12 (c) TIME EXTENSIONS FOR DEVELOPMENT OF
13 MINOR USE DATA.—

14 (1) DATA CALL-IN.—Subparagraph (B) of sec-
15 tion 3(c)(2) (7 U.S.C. 136a(c)(2)(B)) is amended by
16 adding at the end the following:

17 “(vi) Upon the request of a registrant, the
18 Administrator shall, in the case of a minor use,
19 extend the deadline for the production of resi-
20 due chemistry data under this subsection for
21 data required solely to support that minor use
22 until 2 years after the final deadline for submis-
23 sion of data for the other uses of the pesticide
24 if—

1 “(I) the data to support other uses of
2 the pesticide are being provided;

3 “(II) the registrant, in submitting a
4 request for such an extension, provides a
5 schedule, including interim dates to meas-
6 ure progress, to assure that the data pro-
7 duction will be completed before the expi-
8 ration of the extension period;

9 “(III) the Administrator has deter-
10 mined that such extension will not signifi-
11 cantly delay the Administrator’s schedule
12 for issuing a reregistration eligibility deter-
13 mination required under section 4; and

14 “(IV) the Administrator has deter-
15 mined in writing that based on existing
16 data, such extension would not signifi-
17 cantly increase the risk of any unreason-
18 able adverse effect on the environment.

19 If the Administrator grants an extension under
20 this clause, the Administrator shall monitor the
21 development of the data and shall ensure that
22 the registrant is meeting the schedule for the
23 production of the data. If the Administrator de-
24 termines that the registrant is not meeting the
25 schedule for the production of such data, the

1 Administrator may proceed in accordance with
2 clause (iv) regarding the continued registration
3 of the minor use and shall inform the public of
4 such action. If, during the extension period, the
5 Administrator is furnished data which are suffi-
6 cient to determine that an unreasonable adverse
7 effect exists involving the minor use of the pes-
8 ticide, the Administrator shall provide, in writ-
9 ing, to the registrant, a notice revoking the ex-
10 tension of time for submission of data. Such
11 data shall instead be due within 30 days of re-
12 ceipt of such notice by the registrant. Nothing
13 in this clause shall preclude the Administrator
14 from proceeding in accordance with the provi-
15 sion of section 6.”.

16 (2) REREGISTRATION.—Sections 4(d)(4)(B),
17 4(e)(2)(B), and 4(f)(2)(B) (7 U.S.C. 136a-
18 1(d)(4)(B), (e)(2)(B), and (f)(2)(B)) are each
19 amended by adding at the end the following: “Upon
20 the request of a registrant, the Administrator shall,
21 in the case of a minor use, extend the deadline for
22 the production of residue chemistry data under this
23 subsection for data required solely to support that
24 minor use until 2 years after the final deadline for

1 submission of data for the other uses of the pesticide
2 if—

3 “(i) the data to support other uses of
4 the pesticide are being provided;

5 “(ii) the registrant, in submitting a
6 request for such an extension provides a
7 schedule, including interim dates to meas-
8 ure progress, to assure that the data pro-
9 duction will be completed before the expi-
10 ration of the extension period;

11 “(iii) the Administrator has deter-
12 mined that such extension will not signifi-
13 cantly delay the Administrator’s schedule
14 for issuing a reregistration eligibility deter-
15 mination required under this section; and

16 “(iv) the Administrator has deter-
17 mined in writing that based on existing
18 data, such extension would not signifi-
19 cantly increase the risk of any unreason-
20 able adverse effect on the environment.

21 If the Administrator determines that the reg-
22 istrant is not meeting the schedule for the pro-
23 duction of such data, the Administrator may
24 proceed in accordance with section
25 3(c)(2)(B)(iv) regarding the continued registra-

1 tion of the minor use and shall inform the pub-
2 lic of such action. If, during the extension pe-
3 riod, the Administrator is furnished data which
4 are sufficient to determine that an unreasonable
5 adverse effect exists involving the minor use of
6 the pesticide, the Administrator shall provide,
7 in writing, to the registrant, a notice revoking
8 the extension of time for submission of data.
9 Such data shall instead be due within 30 days
10 of receipt of such notice by the registrant.
11 Nothing in this subparagraph shall preclude the
12 Administrator from proceeding in accordance
13 with the provisions of section 6.”.

14 (d) MINOR USE WAIVER.—Section 3(c)(2) (7 U.S.C.
15 136a(c)(2)) is amended—

16 (1) by inserting “IN GENERAL” after “(A)”, by
17 inserting “ADDITIONAL DATA” after “(B)”, and by
18 inserting “SIMPLIFIED PROCEDURES” after “(C)”,
19 and

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

21 “(E) MINOR USE WAIVER.—In handling
22 the registration of a pesticide for a minor use,
23 the Administrator may waive otherwise applica-
24 ble data requirements if the Administrator de-

1 termines that the absence of such data will not
2 prevent the Administrator from determining—

3 “(i) the incremental risk presented by
4 the minor use of the pesticide, and

5 “(ii) that such risk, if any, would not
6 be an unreasonable adverse effect on the
7 environment.”.

8 (e) EXPEDITING MINOR USE REGISTRATIONS.—Sec-
9 tion 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended—

10 (1) by inserting after “(A)” the following: “IN
11 GENERAL.—,

12 (2) by inserting after “(B)” the following:
13 “IDENTICAL OR SUBSTANTIALLY SIMILAR”.—, and

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

15 “(C) MINOR USE REGISTRATION.—

16 “(i) The Administrator shall, as expe-
17 ditiously as possible, review and act on any
18 application (I) that proposes the initial
19 registration of a new pesticide active ingre-
20 dient if the active ingredient is proposed to
21 be registered solely for minor uses or for
22 non-minor uses and significant minor uses,
23 or (II) for a registration amendment that
24 proposes a new minor use for an existing
25 pesticide.

1 “(ii) For the purposes of clause (i)—

2 “(I) the term ‘as expeditiously as
3 possible’ means that the Adminis-
4 trator shall complete a review and
5 evaluation of all data submitted with
6 the application, to the greatest extent
7 practicable, no later than 6 months
8 after the submission of the applica-
9 tion, and

10 “(II) the term ‘significant minor
11 uses’ means 3 or more minor uses
12 proposed for every non-minor use, a
13 minor use that would, in the judgment
14 of the Administrator, serve as a re-
15 placement for any use which has been
16 canceled in the 5 years preceding the
17 receipt of the application, or a minor
18 use that in the opinion of the Admin-
19 istrator would avoid the reissuance of
20 an emergency exemption under section
21 18 for that minor use.

22 “(D) ADEQUATE TIME FOR SUBMISSION
23 OF MINOR USE DATA.—If a registrant makes
24 a good faith request for a minor use waiver re-
25 garding data required by the Administrator

1 pursuant to paragraph (2)(B), and if the Ad-
2 ministrators denies in whole or in part such data
3 waiver request, the registrant shall have a full
4 time period for providing such data. Such full
5 time period extension shall not be available if
6 the Administrator determines that the data
7 waiver request was not made in good faith. Any
8 determination by the Administrator that a data
9 waiver request was not submitted in good faith
10 shall be made in writing to the registrant and
11 shall be subject to judicial review under the pro-
12 cedures prescribed by section 16(b).”.

13 (f) CONDITIONAL REGISTRATION FOR MINOR
14 USES.—Section 3(c)(7) (7 U.S.C. 136a(c)(7)) is amended
15 by inserting “IN GENERAL” after “(A)”, by inserting
16 “CONDITIONAL AMENDMENT” after “(B)”, by inserting
17 “CONDITIONAL REGISTRATION” after “(C)”, and by add-
18 ing at the end the following:

19 “(D) ADDITIONAL MINOR USES.—

20 “(i) The Administrator shall condi-
21 tionally amend the registration of a pes-
22 ticide to permit additional minor uses of
23 such pesticide notwithstanding that data
24 concerning the pesticide may be insuffi-
25 cient to support an unconditional registra-

1 tion amendment, if the Administrator de-
2 termines that—

3 “(I) the applicant has submitted
4 satisfactory data pertaining to the
5 proposed additional minor use, and

6 “(II) amending the registration
7 in the manner proposed by the appli-
8 cant would not significantly increase
9 the risk of any unreasonable adverse
10 effect on the environment.

11 “(ii) Notwithstanding clause (i), no
12 registration of a pesticide may be amended
13 to permit an additional minor use of such
14 pesticide if the Administrator has issued a
15 notice stating that such pesticide, or any
16 ingredient thereof, meets or exceeds risk
17 criteria associated in whole or in part with
18 human dietary exposure enumerated in
19 regulations issued under this Act, and dur-
20 ing the pendency of any risk-benefit eval-
21 uation initiated by such notice, if—

22 “(I) the additional minor use of
23 such pesticide involves a major food or
24 feed crop, or

1 “(II) the additional minor use of
2 such pesticide involves a minor food
3 or feed crop and the Administrator
4 determines, with the concurrence of
5 the Secretary of Agriculture, there is
6 available an effective alternative pes-
7 ticide that does not meet or exceed
8 such risk criteria.

9 “(iii) An applicant seeking amended
10 registration under this subparagraph shall
11 submit such data as would be required to
12 obtain registration of a similar pesticide
13 under paragraph (5). If the applicant is
14 unable to submit an item of data (other
15 than data pertaining to the proposed addi-
16 tional minor use) because it has not yet
17 been generated, the Administrator shall
18 amend the registration under such condi-
19 tions as will require the submission of such
20 data not later than the time such data are
21 required to be submitted with respect to
22 similar pesticides already registered under
23 this Act. The determinations required
24 under this clause shall be made by the Ad-
25 ministrator in writing to the registrant and

1 shall be subject to judicial review under the
2 procedures prescribed by section 16(b).”.

3 (g) EXPEDITED CONDITIONAL REGISTRATION TO
4 REPLACE PREVIOUSLY CANCELED REGISTRATIONS OR
5 DELETED USES ON A ONE-TIME BASIS.—Section 3(c)(7)
6 (7 U.S.C. 136a(c)(7)), as amended by subsection (f), is
7 amended by adding at the end the following:

8 “(E) CONDITIONAL MINOR USE REGISTRA-
9 TION.—The Administrator may conditionally
10 register or amend the registration of a pesticide
11 for a minor use if the registrant establishes
12 that—

13 “(i) the active ingredient is being sup-
14 ported for reregistration as required by
15 section 4 of this Act;

16 “(ii) the minor use proposed for reg-
17 istration was a registered use of a product
18 that has been canceled, proposed for can-
19 cellation, or deleted as a use under section
20 4 or section 6 of this Act after December
21 24, 1988; and

22 “(iii) the use directly requires only
23 residue chemistry data for reregistration.

24 Before granting the conditional registration, the
25 Administrator must determine that approval of

1 the registration or amendment in the manner
2 proposed by the applicant would not signifi-
3 cantly increase the risk of an unreasonable ad-
4 verse effect on the environment, and that there
5 is an existing tolerance for the use. The appli-
6 cant shall either commit to the submission of
7 data required for reregistration of the pesticide
8 or use by the final deadline, established as of
9 the date of the approval of the application, for
10 the submission of the last data needed to sup-
11 port registration of the pesticide active ingredi-
12 ent, or agree to cease distribution and sale of
13 the pesticide by this date. In cases where the
14 registrant has committed to the submission of
15 data, the Administrator may extend the expira-
16 tion date for the conditional registration to a
17 date 6 months past the scheduled data submis-
18 sion date to allow time for Agency review of the
19 application. Distribution and sale by the reg-
20 istrant of pesticides registered for the use must
21 cease on the expiration date. The Administrator
22 shall provide expedited review of any application
23 under this section in accordance with the provi-
24 sions in paragraph (3). The Administrator may
25 take action at any time prior to the established

1 date to order deletion of uses approved under
2 this subsection, if no registrant is fulfilling
3 commitments for other uses, or if the Adminis-
4 trator becomes aware that the delay may result
5 in a risk of an unreasonable adverse effect on
6 the environment. If the registrant does not vol-
7 untarily comply with the order by requesting
8 deletion of use, the Administrator may cancel
9 registrations with the use by order without a
10 hearing. All applications for such conditional
11 registration or amendment must be submitted
12 to the Administrator within 1 year after the
13 date of enactment of this provision.”.

14 (h) TEMPORARY EXTENSION OF REGISTRATION FOR
15 UNSUPPORTED MINOR USES.—

16 (1) REREGISTRATION.—

17 (A) Sections 4(d)(6) and 4(f)(3) (7 U.S.C.
18 136a–1(d)(6) and (f)(3)) are each amended by
19 adding at the end the following: “If the reg-
20 istrant is not supporting a specific minor use of
21 the pesticide, but is supporting and providing
22 data in a timely fashion to support other food
23 uses the Administrator, at the written request
24 of the registrant, shall not take any action pur-
25 suant to this paragraph in regard to such un-

1 supported minor use until the final deadline for
2 the submission of data for the supported uses
3 under this paragraph. Upon receipt of the re-
4 quest from the registrant, the Administrator
5 shall publish in the Federal Register a notice of
6 the receipt of the request and the effective date
7 upon which the uses not being supported will be
8 voluntarily deleted from the registration. Not-
9 withstanding the provisions of this paragraph,
10 the Administrator may take action to cancel or
11 suspend such minor use, pursuant to section 6,
12 if the Administrator determines that the con-
13 tinuation of the minor use may cause an unrea-
14 sonable adverse effect on the environment.”.

15 (B) Section 4(e)(3)(A) (7 U.S.C. 136a-
16 1(e)(3)(A)) is amended by adding at the end
17 the following: “If the registrant is not support-
18 ing a specific minor use of the pesticide, but is
19 supporting and providing data in a timely fash-
20 ion to support other uses, the Administrator, at
21 the written request of the registrant, shall not
22 take any action pursuant to this subparagraph
23 in regard to such unsupported minor use until
24 the final deadline for the submission of data for
25 the supported uses under this subparagraph.

1 Upon receipt of the request from the registrant,
2 the Administrator shall publish in the Federal
3 Register a notice of the receipt of the request
4 and the effective date upon which the uses not
5 being supported will be voluntarily deleted from
6 the registration. Notwithstanding the provisions
7 of this subparagraph, the Administrator may
8 take action to cancel or suspend such minor
9 use, pursuant to section 6, if the Administrator
10 determines that the continuation of the minor
11 use may cause an unreasonable adverse effect
12 on the environment .”.

13 (2) DATA.—Section 3(c)(2)(B) (7 U.S.C.
14 136a(c)(2)(B)), as amended by subsection (c), is
15 further amended by adding at the end the following:

16 “(vii) If the registrant is not supporting a
17 specific minor use of the pesticide, but is sup-
18 porting and providing data in a timely fashion
19 to support other uses, the Administrator, at the
20 written request of the registrant, shall not take
21 any action pursuant to this subparagraph in re-
22 gard to such unsupported minor use until the
23 final deadline for the submission of data for the
24 supported uses under this paragraph. Upon re-
25 ceipt of the request from the registrant, the Ad-

1 administrator shall publish in the Federal Reg-
2 ister a notice of the receipt of the request and
3 the effective date upon which the uses not being
4 supported will be voluntarily deleted from the
5 registration. Notwithstanding the provisions of
6 this subparagraph, the Administrator may take
7 action to cancel or suspend such minor use,
8 pursuant to section 6, if the Administrator de-
9 termines that the continuation of the minor use
10 would violate the criteria contained in section
11 6.”.

12 (i) UTILIZATION OF DATA FOR VOLUNTARILY CAN-
13 CELED CHEMICALS.—Section 6(f) (7 U.S.C. 136d) is
14 amended by adding at the end the following:

15 “(4) UTILIZATION OF DATA FOR VOLUNTARILY
16 CANCELED CHEMICALS.—When an application is
17 filed with the Administrator for the registration of
18 a pesticide for a minor use not later than 2 years
19 after another registrant voluntarily cancels its reg-
20 istration for an identical or substantially similar pes-
21 ticide for an identical or substantially similar use,
22 the Administrator shall process, review, and evaluate
23 the pending application as if the voluntary cancella-
24 tion had not yet taken place for purposes of the use
25 of data from such registration, except that the Ad-

1 **“SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PRO-**
2 **GRAM.**

3 “(a) PROGRAM.—The Department of Agriculture
4 shall assure coordination through establishment of a
5 minor use program, of its responsibilities, including ad-
6 ministering the IR-4 Program and the National Agricul-
7 tural Pesticide Impact Assessment Program, supporting
8 IPM research, consulting with growers to develop data for
9 minor uses, and assisting minor use registrations, toler-
10 ances, and reregistrations with the Environmental Protec-
11 tion Agency.

12 “(b) MATCHING FUND PROGRAM.—

13 “(1) ESTABLISHMENT.—The Secretary of Agri-
14 culture shall establish a minor use matching fund
15 program. The matching fund program shall be uti-
16 lized to ensure the continued availability of minor
17 use crop protection chemicals, including the develop-
18 ment of data to support minor use pesticide registra-
19 tions and reregistrations. Access to the matching
20 fund program shall be available to any entity which
21 desires to develop data to support minor use reg-
22 istrations. Priority for access to the fund shall be
23 given those entities that do not directly receive funds
24 from the sale of products registered on minor uses.
25 Any entity that seeks such matching funds shall be
26 required to match such matching funds with an

1 equal amount of its own funds. Any data developed
2 through the matching fund program shall be jointly
3 owned by the Department of Agriculture and by the
4 entity that receives such funding. Such data may be
5 utilized by other entities for the purpose of seeking
6 registrations and tolerances, if such entities receive
7 written permission from the Department of Agri-
8 culture and the entity that produced the data. All
9 fees received by the Department of Agriculture in
10 return for the use of such data under the matching
11 fund program shall be returned to a revolving fund
12 which will support the matching fund program.

13 “(2) AUTHORIZATION.— There is authorized to
14 be appropriated for the revolving fund for the
15 matching fund program an annual sum not to ex-
16 ceed \$10,000,000.”.

○

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