

111TH CONGRESS  
1ST SESSION

# H. R. 4159

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management programs to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2009

Mr. HOLT (for himself, Mr. ELLISON, Mr. VAN HOLLEN, Mr. GRIJALVA, Mr. BACA, Mr. RANGEL, Ms. JACKSON-LEE of Texas, Mr. ISRAEL, Mr. PAYNE, Mr. PRICE of North Carolina, Ms. MCCOLLUM, Mr. GRAYSON, Mrs. CHRISTENSEN, Ms. SCHAKOWSKY, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management programs to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “School Environment  
3 Protection Act of 2009”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) in 1992, the National Parent Teacher Asso-  
7 ciation passed a resolution calling for the reduced  
8 use of pesticides in schools and calling on policy-  
9 makers to consider all possible alternatives before  
10 using any pesticides;

11 (2) the Centers for Disease Control and Preven-  
12 tion, the National Education Association, and many  
13 other national public interest organizations have an-  
14 nounced support for reducing or eliminating pes-  
15 ticide use in schools;

16 (3) childhood cancer is continuing to increase at  
17 the alarming rate of 1 percent per year;

18 (4) the overall incidence of childhood cancer has  
19 increased over the past 30 years, making cancer the  
20 leading cause of childhood death from disease;

21 (5) approximately 6,500,000 (or nearly 9 per-  
22 cent of) children in the United States under the age  
23 of 18 have asthma, the most common chronic illness  
24 in children, double the percentage who were reported  
25 to have the illness in 1980, and the incidence of  
26 asthma continues to rise;

1           (6) children are more susceptible to hazardous  
2           impacts from pesticides than are adults due to their  
3           physiological and behavioral characteristics;

4           (7) numerous scientific studies have linked can-  
5           cer, neurological problems, and asthma to pesticide  
6           exposure;

7           (8) the Department of Agriculture states that  
8           current pest management practices in schools are in  
9           need of improvement and full implementation of in-  
10          tegrated pest management practices is affordable  
11          and cost effective;

12          (9) the Environmental Protection Agency and  
13          the Centers for Disease Control and Prevention rec-  
14          ommend the use of an integrated pest management  
15          program by local educational agencies, which empha-  
16          sizes nonchemical ways of reducing pests, such as  
17          sanitation and maintenance and good soil health;

18          (10) integrated pest management—

19                 (A) promotes nonchemical methods of pest  
20                 prevention and management using least toxic  
21                 pesticides only after all other nontoxic methods  
22                 have been exhausted; and

23                 (B) will eliminate or significantly reduce  
24                 the use of and exposure to pesticides in the

1 management of buildings, playing fields, land-  
2 scapes;

3 (11) an integrated pest management program  
4 provides long-term health and economic benefits as  
5 well as complements other important goals of school  
6 maintenance and administration, including energy  
7 conservation, food safety, and security; and

8 (12) parents and guardians wish to and have a  
9 right to be notified of any use of a pesticide in their  
10 children’s schools.

11 **SEC. 3. INTEGRATED PEST MANAGEMENT PROGRAM FOR**  
12 **SCHOOLS.**

13 (a) SYSTEM REQUIRED.—The Federal Insecticide,  
14 Fungicide, and Rodenticide Act is amended—

15 (1) by redesignating sections 34 and 35 (7  
16 U.S.C. 136x, 136y) as sections 35 and 36, respec-  
17 tively; and

18 (2) by inserting after section 33 (7 U.S.C.  
19 136w–8) the following:

20 **“SEC. 34. INTEGRATED PEST MANAGEMENT PROGRAM FOR**  
21 **SCHOOLS.**

22 “(a) DEFINITIONS.—In this section:

23 “(1) ADMINISTRATOR.—The term ‘Adminis-  
24 trator’ means the Administrator of the Environ-  
25 mental Protection Agency.

1           “(2) BOARD.—The term ‘Board’ means the Na-  
2           tional School Integrated Pest Management Advisory  
3           Board established under subsection (c).

4           “(3) CRACK AND CREVICE TREATMENT.—The  
5           term ‘crack and crevice treatment’ means the appli-  
6           cation of small quantities of a pesticide into open-  
7           ings in a building such as those commonly found at  
8           expansion joints, between levels of construction, and  
9           between equipment and floors.

10           “(4) EPA.—The term ‘EPA’ means the Envi-  
11           ronmental Protection Agency.

12           “(5) FUND.—The term ‘Fund’ means the Inte-  
13           grated Pest Management Trust Fund established  
14           under subsection (i).

15           “(6) INTEGRATED PEST MANAGEMENT.—The  
16           term ‘integrated pest management’ means a man-  
17           aged pest control program that—

18                   “(A) eliminates or mitigates economic and  
19           health damage caused by pests;

20                   “(B) uses—

21                           “(i) integrated methods;

22                           “(ii) site or pest inspections;

23                           “(iii) pest population monitoring and  
24           prevention strategies;

1           “(iv) an evaluation of the need for  
2           pest control; and

3           “(v) 1 or more pest prevention and  
4           management methods that incorporate ex-  
5           clusion techniques, such as habitat modi-  
6           fications, sanitation practices, entryway  
7           closures, structural repair, mechanical and  
8           biological controls, other nonchemical  
9           methods, and (if nontoxic options have  
10          been exhausted) least toxic pesticides; and

11          “(C) minimizes—

12                 “(i) the use of pesticides; and

13                 “(ii) the hazards to human health and  
14                 the environment associated with pesticide  
15                 applications.

16          “(7) IPM COORDINATOR.—The term ‘IPM co-  
17          ordinator’ means an individual who is designated by  
18          a local educational agency to carry out implementa-  
19          tion of the school integrated pest management plan  
20          of a school district.

21          “(8) LEAST TOXIC LIST.—The term ‘least toxic  
22          list’ means the list of least toxic pesticides estab-  
23          lished under subsection (c)(12)(B).

24          “(9) LEAST TOXIC PESTICIDE.—

1           “(A) IN GENERAL.—The term ‘least toxic  
2 pesticide’ means any pesticide product or ingre-  
3 dient that, at a minimum, has not been classi-  
4 fied as, or found to have, any of the following  
5 characteristics or ingredients:

6           “(i) Toxicity Category I or II by the  
7 EPA (pesticides identified by the words  
8 ‘DANGER’ or ‘WARNING’ on the label).

9           “(ii) A developmental or reproductive  
10 toxicant as defined by the State of Cali-  
11 fornia Proposition 65 Chemicals Known to  
12 Cause Developmental or Reproductive  
13 Harm.

14           “(iii) A carcinogen, as designated  
15 by—

16           “(I) EPA’s List of Chemicals  
17 Evaluated for Carcinogenic Potential  
18 (chemicals classified as a human car-  
19 cinogen, likely to be carcinogenic to  
20 humans, a known or likely carcinogen,  
21 a probable human carcinogen, sugges-  
22 tive evidence or a possible human car-  
23 cinogen);

24           “(II) the International Agency  
25 for Research on Cancer (IARC)

1 (chemicals classified as carcinogenic  
2 to humans or probably or possibly  
3 carcinogenic to humans);

4 “(III) the United States National  
5 Toxicology Program (NTP) (chemi-  
6 cals classified as known or reasonably  
7 anticipated to be human carcinogens);  
8 or

9 “(IV) the State of California’s  
10 Proposition 65.

11 “(iv) Neurologic cholinesterase inhibi-  
12 tors, as designated by California Depart-  
13 ment of Pesticide Regulation or the Mate-  
14 rials Safety Data Sheet (MSDS) for the  
15 particular chemical.

16 “(v) Known groundwater contami-  
17 nants, as designated by the state of Cali-  
18 fornia (for actively registered pesticides).

19 “(vi) Pesticides formulated or applied  
20 as dusts, powder or aerosols, unless used  
21 in a way that virtually eliminates inhala-  
22 tion hazard, such as when applied to  
23 cracks or crevices and sealed after the ap-  
24 plication, or used as a directed spray into  
25 the entrance of an insect nest.

1           “(vii) Nervous system toxicants, in-  
2           cluding chemicals such as cholinesterase  
3           inhibitors or chemicals associated with  
4           neurotoxicity by a mechanism other than  
5           cholinesterase inhibition, or listed or iden-  
6           tified in or on any of the following lists:

7                   “(I) Toxics Release Inventory  
8                   (TRI), EPA EPCRA section 313.

9                   “(II) EPA Reregistration Eligi-  
10                   bility Decisions (RED).

11                   “(III) Insecticide Resistance Ac-  
12                   tion Committee (IRAC) Mode of Ac-  
13                   tion Classification: Acetylcholine ester-  
14                   ase inhibitors; GABA-gated chloride  
15                   channel antagonists; Sodium channel  
16                   modulators; Nicotinic Acetylcholine  
17                   receptor agonists or antagonists; Nie-  
18                   otinic Acetylcholine receptor agonists;  
19                   Chloride channel activators; Octopa-  
20                   minergic agonists; Voltage-dependent  
21                   sodium channel blockers; or Neuronal  
22                   inhibitors (unknown mode of action).

23           “(viii) Endocrine disruptors, which in-  
24           clude chemicals that are known to or likely  
25           to interfere with the endocrine system in

1 humans or wildlife, based on the European  
2 Commission (EC) List of 146 substances  
3 with endocrine disruption classifications,  
4 Annex 13 (and any subsequent lists issued  
5 as follow-up, revisions, or extensions or  
6 based on any list created by the EPA that  
7 identifies endocrine disruptors).

8 “(ix) Regarding outdoor use: Ad-  
9 versely affects the environment or wildlife,  
10 based on any of the following:

11 “(I) Label precautionary state-  
12 ments including ‘toxic’ or ‘extremely  
13 toxic’ to bees, birds, fish, aquatic in-  
14 vertebrates, wildlife or other nontarget  
15 organisms, unless environmental expo-  
16 sure can be virtually eliminated.

17 “(II) Pesticides with ingredients  
18 with moderate or high mobility in soil,  
19 or with a soil half-life of 30 days or  
20 more (except for mineral products).

21 “(x) Has data gaps or missing infor-  
22 mation in EPA registration documents, in-  
23 cluding pesticide fact sheets, or EPA re-  
24 registration eligibility decisions, which  
25 EPA is requiring the registrant to provide.

1           “(xi) Contaminants and metabolites  
2           recognized by EPA that violate any of the  
3           above criteria.

4           “(B) AUTHORIZED CONTENTS.—A least  
5           toxic pesticide may include—

6                   “(i) containerized boric acid and diso-  
7                   dium octoborate tetrahydrate;

8                   “(ii) silica gels;

9                   “(iii) diatomaceous earth;

10                   “(iv) nonvolatile insect and rodent  
11                   baits in tamper resistant containers or for  
12                   crack and crevice treatment only;

13                   “(v) microbe-based insecticides;

14                   “(vi) botanical insecticides (not in-  
15                   cluding synthetic pyrethroids) without toxic  
16                   synergists; and

17                   “(vii) biological, living control agents.

18           “(10) LOCAL EDUCATIONAL AGENCY.—The  
19           term ‘local educational agency’ has the meaning  
20           given the term in section 9101 of the Elementary  
21           and Secondary Education Act of 1965 (20 U.S.C.  
22           7801).

23           “(11) NATURAL ORGANIC FERTILIZER.—

24                   “(A) IN GENERAL.—The term ‘natural or-  
25                   ganic fertilizer’ means fertilizers that contain

1           nutrients naturally derived solely from the re-  
2           mains or a by-product of an organism, or from  
3           a mineral.

4           “(B) INCLUSIONS.—The term includes cot-  
5           tonseed meal, fish emulsion, compost, and  
6           composted manure.

7           “(C) EXCLUSIONS.—The terms does not  
8           include any fertilizer containing biosolids or  
9           synthetic ingredients, natural minerals, or sub-  
10          stances that are reacted with acids or produced  
11          in a petro-chemical process.

12          “(12) OFFICIAL.—The term ‘official’ means the  
13          official for school pest management appointed by the  
14          Administrator within the Office of Pesticide Pro-  
15          grams of the EPA to coordinate the development  
16          and implementation of integrated pest management  
17          systems in schools.

18          “(13) PESTICIDE.—

19                 “(A) IN GENERAL.—The term ‘pesticide’  
20                 means any substance or mixture of substances  
21                 intended for—

22                         “(i) preventing, destroying, repelling,  
23                         or mitigating any pest;

24                         “(ii) use as a plant regulator, defo-  
25                         liant, or desiccant; or

1                   “(iii) use as a spray adjuvant such as  
2                   a wetting agent or adhesive.

3                   “(B) EXCLUSION.—The term ‘pesticide’  
4                   does not include cleaning products, other than  
5                   those that contain pesticidal agents.

6                   “(14) PUBLIC HEALTH EMERGENCY.—The  
7                   term ‘public health emergency’ means an urgent  
8                   need to mitigate or eliminate a pest that threatens  
9                   the health or safety of a student or staff member.

10                  “(15) SCHOOL.—The term ‘school’ means a  
11                  school that—

12                   “(A) is a public school or is receiving Fed-  
13                   eral funding; and

14                   “(B) is—

15                   “(i) an elementary school (as defined  
16                   in section 9101 of the Elementary and  
17                   Secondary Education Act of 1965 (20  
18                   U.S.C. 7801));

19                   “(ii) a secondary school (as defined in  
20                   such section); or

21                   “(C) a kindergarten or nursery school.

22                  “(16) SCHOOL GROUNDS.—

23                   “(A) IN GENERAL.—The term ‘school  
24                   grounds’ means the area outside of the school

1 buildings controlled, managed, leased, or owned  
2 by the school or school district.

3 “(B) INCLUSIONS.—The term ‘school  
4 grounds’ includes a lawn, playground, sports  
5 field, and any other property or facility con-  
6 trolled, managed, leased, or owned by a school.

7 “(17) STAFF MEMBER.—

8 “(A) IN GENERAL.—The term ‘staff mem-  
9 ber’ means an employee of a school or local  
10 educational agency.

11 “(B) INCLUSIONS.—The term ‘staff mem-  
12 ber’ includes an administrator, teacher, and  
13 other person that is regularly employed by a  
14 school or local educational agency.

15 “(C) EXCLUSIONS.—The term ‘staff mem-  
16 ber’ does not include—

17 “(i) an employee hired by a school,  
18 local educational agency, or State to apply  
19 a pesticide; or

20 “(ii) a person assisting in the applica-  
21 tion of a pesticide.

22 “(18) STATE EDUCATIONAL AGENCY.—The  
23 term ‘State educational agency’ has the meaning  
24 given the term in section 9101 of the Elementary

1 and Secondary Education Act of 1965 (20 U.S.C.  
2 7801).

3 “(19) STATE AGENCY.—The term ‘State agen-  
4 cy’ means an agency of a State, or an agency of an  
5 Indian tribe or tribal organization (as those terms  
6 are defined in section 4 of the Indian Self-Deter-  
7 mination and Education Assistance Act (25 U.S.C.  
8 16450b)), that exercises primary jurisdiction over  
9 matters relating to pesticide regulation.

10 “(20) SYNTHETIC FERTILIZER.—

11 “(A) IN GENERAL.—The term ‘synthetic  
12 fertilizer’ means a substance containing a plant  
13 nutrient created by a synthetic, chemical proc-  
14 ess, including triple super phosphate made by  
15 treating rock phosphate with phosphoric acid,  
16 potassium chloride, urea quick release synthetic  
17 fertilizers, and petroleum-based fertilizers.

18 “(B) EXCLUSIONS.—The term does not in-  
19 clude natural organic fertilizers that are made  
20 from naturally occurring materials, such as  
21 blood meal, fish or kelp, or manure-based or-  
22 ganic compost.

23 “(21) UNIVERSAL NOTIFICATION.—The term  
24 ‘universal notification’ means notice provided by a  
25 local educational agency or school to—

1           “(A) all parents or guardians of children  
2 attending the school; and

3           “(B) staff members of the school or local  
4 educational agency.

5       “(b) INTEGRATED PEST MANAGEMENT COMPO-  
6 NENTS.—

7           “(1) IN GENERAL.—Each local educational  
8 agency of a school district shall implement an inte-  
9 grated pest management program, that at a min-  
10 imum—

11           “(A) applies to school buildings and school  
12 grounds;

13           “(B) establishes an IPM coordinator with-  
14 in the local education agency responsible for  
15 carrying out the integrated pest management  
16 plan in schools in the school district; and

17           “(C) follows an integrated pest manage-  
18 ment plan for addressing school pest problems.

19       “(2) DUTIES OF IPM COORDINATOR.—The IPM  
20 coordinator of a school district shall—

21           “(A) oversee the implementation of the in-  
22 tegrated pest management plan;

23           “(B) act as a contact for inquiries about  
24 the integrated pest management plan;

1           “(C) maintain and make available to par-  
2           ents, guardians, school staff, and any person  
3           upon request material safety data sheets, labels,  
4           and fact sheets or other official information re-  
5           lated to the pesticides (including least toxic pes-  
6           ticides), as approved by the Administrator for  
7           all pesticides that may be used in the school  
8           district;

9           “(D) be informed of Federal and State  
10          chemical health and safety information and con-  
11          tact information;

12          “(E) maintain scheduling of all pesticide  
13          usage for schools in the school district;

14          “(F) maintain contact with Federal and  
15          State integrated pest management system ex-  
16          perts;

17          “(G) obtain periodic updates and training  
18          from State integrated pest management system  
19          experts;

20          “(H) pre-approve any public health emer-  
21          gency pesticide applications; and

22          “(I) maintain all pesticide use data for  
23          each pesticide used at the school for at least 3  
24          years after the date on which the pesticide is  
25          applied.

1           “(3) USE OF PESTICIDES.—Except as set forth  
2           in paragraph (6), a local educational agency or  
3           school—

4                   “(A) may not use pesticides other than  
5                   nontoxic or least toxic pesticides as provided in  
6                   subparagraph (B); and

7                   “(B) may only use a least toxic pesticide  
8                   as part of the integrated pest management pro-  
9                   gram, under which the least toxic pesticide is  
10                  only used as a last resort and only if the area  
11                  or room treated is unoccupied or not in use by  
12                  students or staff members.

13           “(4) USE OF FERTILIZERS.—A local edu-  
14           cational agency or school may only use natural or-  
15           ganic fertilizers. The use of a synthetic fertilizer is  
16           prohibited.

17           “(5) NOTICE OF INTEGRATED PEST MANAGE-  
18           MENT PROGRAM.—

19                   “(A) IN GENERAL.—At the beginning of  
20                   each school year, each local educational agency  
21                   or school of a school district shall include a no-  
22                   tice of the integrated pest management plan of  
23                   the school district in school calendars, hand-  
24                   books, or other forms of universal notification.

1           “(B) CONTENTS.—The notice shall include  
2 a description of—

3           “(i) the integrated pest management  
4 plan of the school district;

5           “(ii) the name, address, and telephone  
6 number of the IPM coordinator of the  
7 school district;

8           “(iii) a statement that—

9           “(I) the IPM coordinator main-  
10 tains the product label and material  
11 safety data sheet of each pesticide (in-  
12 cluding each least toxic pesticide) that  
13 may be used by a school in buildings  
14 or on school grounds;

15           “(II) the label and data sheet is  
16 available for review by a parent,  
17 guardian, staff member, student or  
18 any other interested person upon re-  
19 quest; and

20           “(III) the IPM coordinator is  
21 available to parents, guardians, and  
22 staff members for information and  
23 comment; and

24           “(iv) the time and place of any meet-  
25 ings that will be held under paragraph (7).

1           “(C) NEW EMPLOYEES AND STUDENTS.—  
2           After the beginning of each school year, a local  
3           educational agency or school of a school district  
4           shall provide the notice required under this sub-  
5           section to—

6                   “(i) each new staff member who is  
7                   employed during the school year; and

8                   “(ii) the parent or guardian of each  
9                   new student enrolled during the school  
10                  year.

11          “(6) PUBLIC HEALTH EMERGENCY.—

12                  “(A) IN GENERAL.—If a local educational  
13                  agency or school determines that a pest in the  
14                  school or on school grounds cannot be con-  
15                  trolled after having used the integrated pest  
16                  management program and least toxic pesticides  
17                  and it is a public health emergency, the school  
18                  may use a pesticide in accordance with this sub-  
19                  section.

20                  “(B) IPM COORDINATOR APPROVAL RE-  
21                  QUIRED.—The IPM Coordinator shall approve,  
22                  after identifying the pesticide product ingredi-  
23                  ents and acute and chronic adverse health ef-  
24                  fects, the pesticide product before any public  
25                  health emergency application can be made.

1           “(C) AREA USE LIMITATION.—The use of  
2           an area or room treated by a pesticide (other  
3           than a least toxic pesticide) in response to a  
4           public health emergency shall not be occupied  
5           or used at the time of application or during the  
6           24-hour period beginning at the end of the ap-  
7           plication.

8           “(D) AUTHORIZED APPLICATOR.—The pes-  
9           ticide application shall only be made by a State  
10          certified pesticide applicator.

11          “(E) NOTIFICATION OF PARENTS, GUARD-  
12          IANS, AND STAFF MEMBERS.—The school shall  
13          provide to a parent or guardian of each student  
14          enrolled at the school and each staff member of  
15          the school notice of the application of the pes-  
16          ticide in response to a public health emergency.  
17          Notification shall be provided at least 24 hours  
18          prior to the application. The notification shall  
19          include the following:

20                 “(i) The common name, trade name,  
21                 and EPA registration number of the pes-  
22                 ticide.

23                 “(ii) A description of the location of  
24                 the application of the pesticide.

1           “(iii) A description of the date and  
2 time of application.

3           “(iv) The statement ‘The EPA cannot  
4 guarantee that registered pesticides do not  
5 pose risks, and unnecessary exposure to  
6 pesticides should be avoided’.

7           “(v) A description of potential adverse  
8 effects of the pesticide based on the mate-  
9 rial safety data sheet of the pesticide any  
10 additional warning information related to  
11 the pesticide.

12           “(vi) The name and telephone number  
13 of the IPM coordinator of the school dis-  
14 trict.

15           “(vii) A description of the problem  
16 and the factors that qualified the problem  
17 as a public health emergency.

18           “(viii) A description of the steps the  
19 school will take in the future to avoid ap-  
20 plication of a pesticide in response to a  
21 public health emergency.

22           “(F) METHOD OF UNIVERSAL NOTIFICA-  
23 TION.—The school may provide the notice by—

24           “(i) written notice sent home with the  
25 student and provided to staff members;

1           “(ii) a notice delivered electronically  
2 (such as through electronic mail or fac-  
3 simile);

4           “(iii) a telephone call; or

5           “(iv) direct contact.

6           “(G) POSTING OF SIGNS.—

7           “(i) IN GENERAL.—A school applying  
8 a pesticide under this paragraph shall post  
9 a sign warning of the application of the  
10 pesticide—

11           “(I) in a prominent place that is  
12 in or adjacent to the location to be  
13 treated; and

14           “(II) at each entrance to the  
15 building or school ground to be treat-  
16 ed.

17           “(ii) ADMINISTRATION.—A sign re-  
18 quired under clause (i) for the application  
19 of a pesticide shall—

20           “(I) remain posted for at least  
21 72 hours after the end of the treat-  
22 ment;

23           “(II) be at least 8½ inches by 11  
24 inches; and

1                   “(III) state the same information  
2                   as that required for prior notification  
3                   of the application under subparagraph  
4                   (E).

5                   “(H) TIME OF YEAR.—Subparagraphs (E)  
6                   and (G) shall apply—

7                   “(i) during the school year; and

8                   “(ii) during holidays and the summer  
9                   months, if the school is in use, with notice  
10                  provided to all staff members and the par-  
11                  ents and guardians of the students that  
12                  are using the school in an authorized man-  
13                  ner.

14                  “(I) MODIFICATION OF INTEGRATED PEST  
15                  MANAGEMENT PLANS.—If a school in a school  
16                  district applies a pesticide under this para-  
17                  graph, the local educational agency of the  
18                  school district shall modify the integrated pest  
19                  management plan of the school district to mini-  
20                  mize the future applications of pesticides under  
21                  this paragraph.

22                  “(7) MEETINGS.—

23                  “(A) IN GENERAL.—Before the beginning  
24                  of a school year, at the beginning of each new  
25                  calendar year, and at a regularly scheduled

1 meeting of a school board, each local edu-  
2 cational agency shall provide an opportunity for  
3 the IPM coordinator designated this subsection  
4 to receive and address public comments regard-  
5 ing the integrated pest management program of  
6 the school district.

7 “(B) EMERGENCY MEETINGS.—An emer-  
8 gency meeting of a school board to address a  
9 pesticide application may be called under locally  
10 appropriate procedures for convening emer-  
11 gency meetings.

12 “(c) NATIONAL SCHOOL INTEGRATED PEST MAN-  
13 AGEMENT ADVISORY BOARD.—

14 “(1) IN GENERAL.—The Administrator, in con-  
15 sultation with the Secretary of Education, shall es-  
16 tablish a National School Integrated Pest Manage-  
17 ment Advisory Board to—

18 “(A) establish uniform standards and cri-  
19 teria for developing integrated pest manage-  
20 ment;

21 “(B) develop standards for the use of least  
22 toxic pesticides in schools; and

23 “(C) advise the Administrator on any other  
24 aspects of the implementation of this section.

1           “(2) COMPOSITION OF BOARD.—The Board  
2 shall be composed of 12 members and include 1 rep-  
3 resentative from each of the following groups:

4           “(A) Parents.

5           “(B) Public health care professionals.

6           “(C) Medical professionals.

7           “(D) State integrated pest management  
8 program coordinators.

9           “(E) Independent integrated pest manage-  
10 ment specialists that have carried out school in-  
11 tegrated pest management programs.

12           “(F) Environmental and children’s health  
13 advocacy groups.

14           “(G) Organic lawn care professionals.

15           “(H) Trade organizations for pest manage-  
16 ment.

17           “(I) Teachers and staff members.

18           “(J) School maintenance staff.

19           “(K) School administrators.

20           “(L) School board members.

21           “(3) APPOINTMENT.—Not later than 90 days  
22 after the date of enactment of this section, the Ad-  
23 ministrator shall appoint members of the Board  
24 from nominations received from Parent Teacher As-

1       sociations, school districts, States, and other inter-  
2       ested persons and organizations.

3               “(4) CONFLICT OF INTEREST.—Board members  
4       shall not have a conflict of interest or have an affili-  
5       ation with or a financial interest in the sale or use  
6       of a pesticide.

7               “(5) TERM.—

8                       “(A) IN GENERAL.—A member of the  
9       Board shall serve for a term of 5 years, except  
10      that the Administrator may randomly shorten  
11      the terms of the original members of the Board  
12      in order to provide for a staggered term of ap-  
13      pointment for all members of the Board.

14                      “(B) CONSECUTIVE TERMS.—Subject to  
15      subparagraph (C), a member of the Board shall  
16      not serve consecutive terms unless the term of  
17      the member has been reduced by the Adminis-  
18      trator.

19                      “(C) MAXIMUM TERM.—In no event may a  
20      member of the Board serve for more than 6  
21      consecutive years.

22               “(6) MEETINGS.—The Administrator shall con-  
23      vene—

1           “(A) an initial meeting of the Board not  
2 later than 90 days after the appointment of the  
3 members; and

4           “(B) subsequent meetings on a periodic  
5 basis, but not less often than 2 times each year.

6           “(7) COMPENSATION.—A member of the Board  
7 shall serve without compensation, but may be reim-  
8 bursed by the Administrator for expenses (in accord-  
9 ance with section 5703 of title 5, United States  
10 Code) incurred in performing duties as a member of  
11 the Board.

12           “(8) CHAIRPERSON.—The Board shall select a  
13 Chairperson for the Board.

14           “(9) QUORUM.—A majority of the members of  
15 the Board shall constitute a quorum for the purpose  
16 of conducting business.

17           “(10) DECISIVE VOTES.—Two-thirds of the  
18 votes cast at a meeting of the Board at which a  
19 quorum is present shall be decisive for any motion.

20           “(11) ADMINISTRATION.—The Administrator—

21           “(A) shall—

22                   “(i) authorize the Board to hire a  
23 staff director; and

24                   “(ii) detail EPA staff or allow for the  
25 hiring of staff for the Board; and

1           “(B) subject to the availability of appro-  
2           priations, may pay necessary expenses incurred  
3           by the Board in carrying out this subtitle, as  
4           determined appropriate by the Administrator.

5           “(12) RESPONSIBILITIES OF THE BOARD.—

6           “(A) INTEGRATED PEST MANAGEMENT  
7           PLANS.—Not later than one year after the ini-  
8           tial meeting of the Board, the Board shall de-  
9           velop uniform standards and criteria for inte-  
10          grated pest management in schools and provide  
11          them to each State Agency.

12          “(B) LIST OF LEAST TOXIC PESTICIDES.—  
13          Not later than 1 year after the initial meeting  
14          of the Board, the Board shall—

15                 “(i) submit to the Administrator an  
16                 initial list of products containing least  
17                 toxic pesticides and any restrictions on the  
18                 use of the listed pesticides, beginning with  
19                 the list provided in subsection (a)(8)(B);

20                 “(ii) screen additional products to be  
21                 included in the least toxic list on a bi-an-  
22                 nual basis; and

23                 “(iii) evaluate all public comments re-  
24                 ceived concerning the proposed least toxic  
25                 list and restrictions, but not later than 90

1 days after the close of the period during  
2 which public comments are accepted, and  
3 establish a final least toxic list for the Ad-  
4 ministrator to publish in the Federal Reg-  
5 ister.

6 “(C) TECHNICAL ADVISORY PANELS.—

7 “(i) IN GENERAL.—The Board shall  
8 convene technical advisory panels to pro-  
9 vide scientific evaluations of the materials  
10 considered for inclusion on the least toxic  
11 list.

12 “(ii) COMPOSITION.—A panel de-  
13 scribed in clause (i) shall include experts  
14 on integrated pest management, children’s  
15 health, entomology, health sciences, and  
16 other relevant disciplines.

17 “(13) REQUIREMENTS.—In establishing the  
18 proposed least toxic list, the Board shall—

19 “(A) review available information from the  
20 EPA, the National Institute of Environmental  
21 Health Sciences, medical and scientific lit-  
22 erature, and such other sources as appropriate,  
23 concerning the potential for adverse human and  
24 environmental effects of substances considered  
25 for inclusion in the proposed least toxic list; and

1           “(B) cooperate with manufacturers of sub-  
2           stances considered for inclusion in the proposed  
3           least toxic list to obtain a complete list of ingre-  
4           dients and determine that such substances con-  
5           tain inert ingredients that are included on the  
6           EPA’s List 4 (Inerts of Minimal Concern).

7           “(14) PETITIONS.—The Board shall establish  
8           procedures under which individuals may petition the  
9           Board for the purpose of evaluating substances for  
10          inclusion on, or rescission from, the least toxic list.

11          “(15) PERIODIC REVIEW.—

12           “(A) IN GENERAL.—The Board shall re-  
13           view each substance included on the least toxic  
14           list at least once during each 5-year period be-  
15           ginning on—

16                   “(i) the date that the substance was  
17                   initially included on the least toxic list; or

18                   “(ii) the date of the last review of the  
19                   substance under this subsection.

20           “(B) SUBMISSION TO ADMINISTRATOR.—  
21           The Board shall submit the results of a review  
22           under subparagraph (A) to the Administrator  
23           regarding the issue of whether the substance  
24           should continue to be included on the least toxic  
25           list.

1           “(16) CONFIDENTIALITY.—Any information re-  
2           garding the formulation of the pesticides obtained by  
3           the Board in carrying out this section shall be treat-  
4           ed as public information by the Board and shall be  
5           made available to the public.

6           “(d) OFFICE OF PESTICIDE PROGRAMS.—

7           “(1) ESTABLISHMENT.—The Administrator  
8           shall appoint an official for school pest management  
9           within the Office of Pesticide Programs of the EPA  
10          to coordinate the development and implementation of  
11          integrated pest management programs in schools.

12          “(2) DUTIES.—The official shall—

13                 “(A) coordinate the development of school  
14                 integrated pest management plans;

15                 “(B) consult with schools concerning—

16                         “(i) issues related to school integrated  
17                         pest management programs;

18                         “(ii) the use of least toxic pesticides;

19                         and

20                         “(iii) the registration of pesticides,  
21                         and amendments to the registrations, as  
22                         the registrations and amendments relate to  
23                         the use of integrated pest management  
24                         programs in schools;

1           “(C) support and provide technical assist-  
2           ance to the Board; and

3           “(D) work in consultation with the Sec-  
4           retary of Education.

5           “(3) PUBLICATION IN FEDERAL REGISTER.—  
6           After receiving the integrated pest management plan  
7           and the least toxic list and any restrictions from the  
8           Board, the Administrator shall—

9           “(A) publish the proposed plan and least  
10          toxic list and any restrictions in the Federal  
11          Register with a 90-day public comment period  
12          on the proposals; and

13          “(B) publish the final plan and least toxic  
14          list and restrictions developed by the Board in  
15          subsection (c)(12)(B) in the Federal Register,  
16          together with a discussion of comments re-  
17          ceived.

18          “(4) AMENDMENTS.—

19          “(A) IN GENERAL.—The Administrator  
20          shall publish any proposed amendments to the  
21          plan or least toxic list in the Federal Register  
22          and seek public comment on the proposals.

23          “(B) RECOMMENDATIONS.—The Adminis-  
24          trator shall include in any publication described  
25          in subparagraph (A) any changes or amend-

1           ments to the proposed plan or least toxic list  
2           that are recommended to the Administrator.

3           “(C) PUBLICATION OF PLAN AND LIST.—  
4           After evaluating all comments received con-  
5           cerning the proposed least toxic list or proposed  
6           amendments to the list, the Administrator shall  
7           publish the final least toxic list in the Federal  
8           Register, together with a description of com-  
9           ments received no later than 24 months after  
10          the date of enactment of this section.

11          “(e) SCHOOL INTEGRATED PEST MANAGEMENT  
12          PLANS.—Each local educational agency shall have an inte-  
13          grated pest management plan that guides the school dis-  
14          trict’s integrated pest management program in accordance  
15          with this subsection.

16          “(1) STATE PLANS.—Not later than 30 months  
17          after the date of enactment of this subsection, each  
18          State Agency shall—

19                  “(A) develop an integrated pest manage-  
20                  ment plan for local educational agencies in the  
21                  State; and

22                  “(B) submit the plan to the Administrator  
23                  for approval as part of the State cooperative  
24                  agreement under section 23.

1           “(2) APPROVAL BY ADMINISTRATOR.—Not later  
2 than 3 months after receiving the integrated pest  
3 management plan submitted by a State agency  
4 under paragraph (1), the Administrator shall—

5           “(A) determine whether the integrated pest  
6 management plan, at a minimum, meets the re-  
7 quirements of subsection (b); and

8           “(B) if the Administrator determines  
9 that—

10           “(i) the integrated pest management  
11 plan meets the requirements, approve the  
12 integrated pest management plan as part  
13 of the State cooperative agreement under  
14 section 23; or

15           “(ii) the integrated pest management  
16 plan does not meet the requirements—

17           “(I) disapprove the integrated  
18 pest management plan;

19           “(II) provide the State Agency  
20 with recommendations for and assist-  
21 ance in revising the integrated pest  
22 management plan to meet the require-  
23 ments; and

24           “(III) provide a 3-month deadline  
25 by which the State Agency shall re-

1 submit the revised school pest man-  
2 agement plan to obtain approval of  
3 the plan, in accordance with the State  
4 cooperative agreement under section  
5 23.

6 “(3) DISTRIBUTION OF STATE PLAN TO  
7 SCHOOLS.—On approval of the integrated pest man-  
8 agement plan of a State Agency, the State Agency  
9 shall make the school integrated pest management  
10 plan available to each local educational agency in the  
11 State.

12 “(4) IMPLEMENTATION.—Not later than 42  
13 months after the date of enactment of this section,  
14 each local educational agency of a school district  
15 shall develop and implement in each of the schools  
16 in the school district an integrated pest management  
17 plan that meets the standards and requirements  
18 under the integrated pest management plan of the  
19 State agency.

20 “(5) STATE PROGRAMS.—If, on the date of en-  
21 actment of this section, a State maintains an inte-  
22 grated pest management plan that, at a minimum,  
23 meets the standards and criteria established under  
24 subsection (b) (as determined by the Board), a local  
25 educational agency in the State may continue to im-

1       plement the system in a school or in the school dis-  
2       trict.

3       “(f) DRIFT OF PESTICIDES ONTO SCHOOL  
4       GROUND.—Each local educational agency, State pesticide  
5       lead agency, and the Administrator shall—

6               “(1) identify sources of pesticides that drift  
7       from treated land to school grounds of the edu-  
8       cational agency; and

9               “(2) take steps necessary to create an indoor  
10      and outdoor school environment that are protected  
11      from pesticides described in paragraph (1).

12      “(g) INVESTIGATIONS AND ORDERS.—

13              “(1) IN GENERAL.—Not later than 60 days  
14      after receiving a complaint of a violation of this sec-  
15      tion, the Administrator shall—

16                      “(A) conduct an investigation of the com-  
17                      plaint;

18                      “(B) determine whether it is reasonable to  
19                      believe the complaint has merit; and

20                      “(C) notify the complainant and the per-  
21                      son alleged to have committed the violation of  
22                      the findings of the Administrator.

23              “(2) PRELIMINARY ORDER.—If the Adminis-  
24      trator determines it is reasonable to believe a viola-  
25      tion occurred, the Administrator shall issue a pre-

1       liminary order (that includes findings) to impose the  
2       penalty described in subsection (h).

3               “(3) OBJECTIONS TO PRELIMINARY ORDER.—

4                       “(A) IN GENERAL.—Not later than 30  
5       days after the preliminary order is issued under  
6       paragraph (2), the complainant and the person  
7       alleged to have committed the violation may—

8                               “(i) file objections to the preliminary  
9       order (including findings); and

10                              “(ii) request a hearing on the record.

11               “(B) FINAL ORDER.—If a hearing is not  
12       requested within 30 days after the preliminary  
13       order is issued, the preliminary order shall be  
14       final and not subject to judicial review.

15               “(4) HEARING.—A hearing under this sub-  
16       section shall be conducted expeditiously.

17               “(5) FINAL ORDER.—Not later than 120 days  
18       after the end of the hearing, the Administrator shall  
19       issue a final order.

20               “(6) SETTLEMENT AGREEMENT.—Before the  
21       final order is issued, the proceeding may be termi-  
22       nated by a settlement agreement, which shall remain  
23       open, entered into by the Administrator, the com-  
24       plainant, and the person alleged to have committed  
25       the violation.

1           “(7) COSTS.—

2                   “(A) IN GENERAL.—If the Administrator  
3 issues a final order against a school or school  
4 district for violation of this section and the  
5 complainant requests, the Administrator may  
6 assess against the person against whom the  
7 order is issued the costs (including attorney’s  
8 fees) reasonably incurred by the complainant in  
9 bringing the complaint.

10                   “(B) AMOUNT.—The Administrator shall  
11 determine the amount of the costs that were  
12 reasonably incurred by the complainant.

13           “(8) JUDICIAL REVIEW AND VENUE.—

14                   “(A) IN GENERAL.—A person adversely af-  
15 fected by an order issued after a hearing under  
16 this subsection may file a petition for review  
17 not later than 60 days after the date that the  
18 order is issued, in a district court of the United  
19 States or other United States court for any dis-  
20 trict in which a local educational agency or  
21 school is found, resides, or transacts business.

22                   “(B) TIMING.—The review shall be heard  
23 and decided expeditiously.

24                   “(C) COLLATERAL REVIEW.—An order of  
25 the Administrator subject to review under this

1 paragraph shall not be subject to judicial review  
2 in a criminal or other civil proceeding.

3 “(h) CIVIL PENALTY.—

4 “(1) IN GENERAL.—Any local educational agen-  
5 cy, school, or person that violates this section may  
6 be assessed a civil penalty by the Administrator  
7 under paragraph (3) or (7) of subsection (b) of not  
8 more than \$10,000 for each offense.

9 “(2) TRANSFER TO TRUST FUND.—Civil pen-  
10 alties collected under paragraph (1) shall be depos-  
11 ited in the Fund.

12 “(i) INTEGRATED PEST MANAGEMENT TRUST  
13 FUND.—

14 “(1) ESTABLISHMENT.—There is established in  
15 the Treasury of the United States a trust fund to  
16 be known as the ‘Integrated Pest Management  
17 Trust Fund’, consisting of—

18 “(A) amounts deposited in the Fund under  
19 subsection (h)(2); and

20 “(B) any interest earned on investment of  
21 amounts in the Fund.

22 “(2) EXPENDITURES FROM FUND.—

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (B), on request by the Administrator, the  
25 Secretary of the Treasury shall transfer from

1 the Fund to the Administrator, without further  
2 appropriation, such amounts as the Secretary  
3 determines are necessary to provide funds to  
4 each State educational agency of a State, in  
5 proportion to the amount of civil penalties col-  
6 lected in the State under subsection (h)(1), to  
7 carry out education, training, propagation, and  
8 development activities under integrated pest  
9 management systems of schools in the State to  
10 remedy the harmful effects of actions taken by  
11 the persons that paid the civil penalties.

12 “(B) ADMINISTRATIVE EXPENSES.—An  
13 amount not to exceed 6 percent of the amounts  
14 in the Fund shall be available for each fiscal  
15 year to pay the administrative expenses nec-  
16 essary to carry out this subsection.

17 “(j) EMPLOYEE PROTECTION.—

18 “(1) IN GENERAL.—No local educational agen-  
19 cy, school, or person may harass, prosecute, hold lia-  
20 ble, or discriminate against any employee or other  
21 person because the employee or other person—

22 “(A) is assisting or demonstrating an in-  
23 tent to assist in achieving compliance with this  
24 section (including any regulation);

1           “(B) is refusing to violate or assist in the  
2 violation of this section (including any regula-  
3 tion); or

4           “(C) has commenced, caused to be com-  
5 menced, or is about to commence a proceeding,  
6 has testified or is about to testify at a pro-  
7 ceeding, or has assisted or participated or is  
8 about to participate in any manner in such a  
9 proceeding or in any other action to carry out  
10 this section.

11           “(2) COMPLAINTS.—Not later than 1 year after  
12 an alleged violation occurred, an employee or other  
13 person alleging a violation of this section, or another  
14 person at the request of the employee, may file a  
15 complaint with the Administrator.

16           “(3) REMEDIAL ACTION.—If the Administrator  
17 decides, on the basis of a complaint, that a local  
18 educational agency, school, or person violated para-  
19 graph (1), the Administrator shall order the local  
20 educational agency, school, or person to—

21           “(A) take affirmative action to abate the  
22 violation;

23           “(B) reinstate the complainant to the  
24 former position with the same pay and terms  
25 and privileges of employment; and

1                   “(C) pay compensatory damages, including  
2                   back pay.

3                   “(k) GRANTS.—

4                   “(1) IN GENERAL.—The Administrator, in con-  
5                   sultation with the Secretary of Education, shall pro-  
6                   vide grants to local educational agencies to develop  
7                   and implement integrated pest management systems  
8                   in schools in the school district of the local edu-  
9                   cational agencies.

10                  “(2) AMOUNT.—The amount of a grant pro-  
11                  vided to a local educational agency of a school dis-  
12                  trict under paragraph (1) shall be based on the ratio  
13                  that the number of students enrolled in schools in  
14                  the school district bears to the total number of stu-  
15                  dents enrolled in schools in all school districts in the  
16                  United States.

17                  “(l) RELATIONSHIP TO STATE AND LOCAL REQUIRE-  
18                  MENTS.—This section (including regulations promulgated  
19                  under this section) shall not preempt requirements im-  
20                  posed on local educational agencies and schools related to  
21                  the use of integrated pest management by State or local  
22                  law (including regulations) that are more stringent than  
23                  the requirements imposed under this section.

1       “(m) REGULATIONS.—Subject to subsection (j), the  
2 Administrator shall promulgate such regulations as are  
3 necessary to carry out this section.

4       “(n) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to carry out this section  
6 \$7,000,000 for each of fiscal years 2011 through 2015.”.

7       (b) CLERICAL AMENDMENT.—The table of contents  
8 in section 1(b) of the Federal Insecticide, Fungicide, and  
9 Rodenticide Act is amended by striking the items relating  
10 to sections 34 and 35 and inserting the following new  
11 items:

“Sec. 34. Integrated pest management program for schools.

“Sec. 35. Severability.

“Sec. 36. Authorization for appropriations.”.

12 **SEC. 4. EFFECTIVE DATE.**

13       The amendments made by this Act shall take effect  
14 at the end of the 180-day period beginning on the date  
15 of the enactment of this Act.

○