

109TH CONGRESS
1ST SESSION

S. 1619

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems 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.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2005

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “School Environment
5 Protection Act of 2005”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

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

8 (2) the National Education Association and
9 many other national public interest organizations
10 have announced support for reducing or eliminating
11 pesticide use in schools;

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

14 (4) the overall incidence of childhood cancer in-
15 creased 10 percent between 1974 and 1991, making
16 cancer the leading cause of childhood death from
17 disease;

18 (5) approximately 4,800,000 children in the
19 United States under the age of 18 have asthma, the
20 most common chronic illness in children, and the in-
21 cidence of asthma is on the rise;

22 (6) children are more susceptible to hazardous
23 impacts from pesticides than are adults;

24 (7) numerous scientific studies have linked both
25 cancer and asthma to pesticide exposure;

1 (8) the Environmental Protection Agency has
2 recommended the use of an integrated pest manage-
3 ment system by local educational agencies, which
4 emphasizes nonchemical ways of reducing pests,
5 such as sanitation and maintenance;

6 (9) integrated pest management—

7 (A) promotes nonchemical methods of pest
8 prevention and management using least toxic
9 pesticides after all other methods have been ex-
10 hausted; and

11 (B) requires a notification process by
12 which each student, parent, guardian, staff
13 member, and teacher shall be notified of a pes-
14 ticide application;

15 (10) parents and guardians have a right to
16 know that there is an integrated pest management
17 system in their children's schools;

18 (11) an integrated pest management system
19 provides long-term health and economic benefits;
20 and

21 (12) parents and guardians wish to and have a
22 right to be notified in advance of any use of a pes-
23 ticide in their children's schools.

1 **SEC. 3. INTEGRATED PEST MANAGEMENT SYSTEMS FOR**
2 **SCHOOLS.**

3 The Federal Insecticide, Fungicide, and Rodenticide
4 Act is amended—

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

8 (2) by inserting after section 33 (7 U.S.C.
9 136w–8) the following:

10 **“SEC. 34. INTEGRATED PEST MANAGEMENT SYSTEMS FOR**
11 **SCHOOLS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) BOARD.—The term ‘Board’ means the Na-
14 tional School Integrated Pest Management Advisory
15 Board established under subsection (e).

16 “(2) CONTACT PERSON.—The term ‘contact
17 person’ means an individual who is—

18 “(A) knowledgeable about integrated pest
19 management systems; and

20 “(B) designated by a local educational
21 agency as the contact person under subsection
22 (f).

23 “(3) CRACK AND CREVICE TREATMENT.—The
24 term ‘crack and crevice treatment’ means the appli-
25 cation of small quantities of a pesticide in a building
26 into openings such as those commonly found at ex-

1 pansion joints, between levels of construction, and
2 between equipment and floors.

3 “(4) EMERGENCY.—The term ‘emergency’
4 means an urgent need to mitigate or eliminate a
5 pest that threatens the health or safety of a student
6 or staff member.

7 “(5) FUND.—The term ‘Fund’ means the Inte-
8 grated Pest Management Trust Fund established
9 under subsection (m).

10 “(6) INTEGRATED PEST MANAGEMENT SYS-
11 TEM.—The term ‘integrated pest management sys-
12 tem’ means a managed pest control system that—

13 “(A) eliminates or mitigates economic,
14 health, and aesthetic damage caused by pests;

15 “(B) uses—

16 “(i) integrated methods;

17 “(ii) site or pest inspections;

18 “(iii) pest population monitoring;

19 “(iv) an evaluation of the need for
20 pest control; and

21 “(v) 1 or more pest control methods,
22 including sanitation, structural repair, me-
23 chanical and biological controls, other non-
24 chemical methods, and (if nontoxic options

1 are unreasonable and have been exhausted)

2 least toxic pesticides; and

3 “(C) minimizes—

4 “(i) the use of pesticides; and

5 “(ii) the risk to human health and the
6 environment associated with pesticide ap-
7 plications.

8 “(7) LEAST TOXIC PESTICIDES.—

9 “(A) IN GENERAL.—The term ‘least toxic
10 pesticides’ means—

11 “(i) boric acid and disodium
12 octoborate tetrahydrate;

13 “(ii) silica gels;

14 “(iii) diatomaceous earth;

15 “(iv) nonvolatile insect and rodent
16 baits in tamper resistant containers or for
17 crack and crevice treatment only;

18 “(v) microbe-based insecticides;

19 “(vi) botanical insecticides (not in-
20 cluding synthetic pyrethroids) without toxic
21 synergists;

22 “(vii) biological, living control agents;
23 and

24 “(viii) materials for which the inert
25 ingredients are nontoxic and disclosed.

1 “(B) EXCLUSIONS.—The term ‘least toxic
2 pesticides’ does not include a pesticide that is
3 determined by the Administrator to be an
4 acutely or moderately toxic pesticide, car-
5 cinogen, mutagen, teratogen, reproductive toxin,
6 developmental neurotoxin, endocrine disrupter,
7 or immune system toxin, and any application of
8 the pesticide using a broadcast spray, dust,
9 tenting, fogging, or baseboard spray applica-
10 tion.

11 “(8) LIST.—The term ‘list’ means the list of
12 least toxic pesticides established under subsection
13 (d).

14 “(9) LOCAL EDUCATIONAL AGENCY.—The term
15 ‘local educational agency’ has the meaning given the
16 term in section 14101 of the Elementary and Sec-
17 ondary Education Act of 1965 (20 U.S.C. 8801).

18 “(10) PERSON.—The term ‘person’ means—

19 “(A) an individual that attends, has chil-
20 dren enrolled in, works at, or uses a school;

21 “(B) a resident of a school district; and

22 “(C) any other individual that may be af-
23 fected by pest management activities of a
24 school.

1 “(11) OFFICIAL.—The term ‘official’ means the
2 official appointed by the Administrator under sub-
3 section (e).

4 “(12) PESTICIDE.—

5 “(A) IN GENERAL.—The term ‘pesticide’
6 means any substance or mixture of substances,
7 including herbicides and bait stations, intended
8 for—

9 “(i) preventing, destroying, repelling,
10 or mitigating any pest;

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

13 “(iii) use as a spray adjuvant such as
14 a wetting agent or adhesive.

15 “(B) EXCLUSION.—The term ‘pesticide’
16 does not include antimicrobial agents such as
17 disinfectants or deodorizers used for cleaning
18 products.

19 “(13) SCHOOL.—The term ‘school’ means a
20 public—

21 “(A) elementary school (as defined in sec-
22 tion 14101 of the Elementary and Secondary
23 Education Act of 1965 (20 U.S.C. 8801));

24 “(B) secondary school (as defined in sec-
25 tion 14101 of that Act); or

1 “(C) kindergarten or nursery school.

2 “(14) SCHOOL GROUNDS.—

3 “(A) IN GENERAL.—The term ‘school
4 grounds’ means the area outside of the school
5 buildings controlled, managed, or owned by the
6 school or school district.

7 “(B) INCLUSIONS.—The term ‘school
8 grounds’ includes a lawn, playground, sports
9 field, and any other property or facility con-
10 trolled, managed, or owned by a school.

11 “(15) SPACE SPRAYING.—

12 “(A) IN GENERAL.—The term ‘space
13 spraying’ means application of a pesticide by
14 discharge into the air throughout an inside
15 area.

16 “(B) INCLUSION.—The term ‘space spray-
17 ing’ includes the application of a pesticide using
18 a broadcast spray, dust, tenting, or fogging.

19 “(C) EXCLUSION.—The term ‘space spray-
20 ing’ does not include crack and crevice treat-
21 ment.

22 “(16) STAFF MEMBER.—

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

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

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

7 “(i) an employee hired by a school,
8 local educational agency, or State to apply
9 a pesticide; or

10 “(ii) a person assisting in the applica-
11 tion of a pesticide.

12 “(17) STATE EDUCATIONAL AGENCY.—The
13 term ‘State educational agency’ has the meaning
14 given the term in section 14101 of the Elementary
15 and Secondary Education Act of 1965 (20 U.S.C.
16 8801).

17 “(18) UNIVERSAL NOTIFICATION.—The term
18 ‘universal notification’ means notice provided by a
19 local educational agency or school to—

20 “(A) all parents or guardians of children
21 attending the school; and

22 “(B) staff members of the school or local
23 educational agency.

24 “(b) INTEGRATED PEST MANAGEMENT SYSTEMS.—

1 “(1) IN GENERAL.—The Administrator, in con-
2 sultation with the Secretary of Education, shall es-
3 tablish a National School Integrated Pest Manage-
4 ment Advisory System to develop and update uni-
5 form standards and criteria for implementing inte-
6 grated pest management systems in schools.

7 “(2) IMPLEMENTATION.—Not later than 18
8 months after the date of enactment of this sub-
9 section, each local educational agency of a school
10 district shall develop and implement in each of the
11 schools in the school district an integrated pest man-
12 agement system that complies with this section.

13 “(3) STATE PROGRAMS.—If, on the date of en-
14 actment of this section, a State maintains an inte-
15 grated pest management system that meets the
16 standards and criteria established under paragraph
17 (1) (as determined by the Board), a local edu-
18 cational agency in the State may continue to imple-
19 ment the system in a school or in the school district
20 in accordance with paragraph (2).

21 “(4) APPLICATION TO SCHOOLS AND SCHOOL
22 GROUNDS.—The requirements of this section that
23 apply to a school, including the requirement to im-
24 plement an integrated management system, apply to

1 pesticide application in a school building and on the
2 school grounds.

3 “(5) APPLICATION OF PESTICIDES WHEN
4 SCHOOLS IN USE.—A school shall prohibit—

5 “(A) the application of a pesticide when a
6 school or a school ground is occupied or in use;
7 or

8 “(B) the use of an area or room treated by
9 a pesticide, other than a least toxic pesticide,
10 during the 24-hour period beginning at the end
11 of the treatment.

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 systems and policies in schools;

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 system coordinators.

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

12 “(F) Environmental advocacy groups.

13 “(G) Children’s health advocacy groups.

14 “(H) Trade organization for pest control
15 operators.

16 “(I) Teachers and staff members.

17 “(J) School maintenance staff.

18 “(K) School administrators.

19 “(L) School board members.

20 “(3) APPOINTMENT.—Not later than 180 days
21 after the date of enactment of this section, the Ad-
22 ministrador shall appoint members of the Board
23 from nominations received from Parent Teacher As-
24 sociations, school districts, States, and other inter-
25 ested persons and organizations.

1 “(4) TERM.—

2 “(A) IN GENERAL.—A member of the
3 Board shall serve for a term of 5 years, except
4 that the Administrator may shorten the terms
5 of the original members of the Board in order
6 to provide for a staggered term of appointment
7 for all members of the Board.

8 “(B) CONSECUTIVE TERMS.—Subject to
9 subparagraph (C), a member of the Board shall
10 not serve consecutive terms unless the term of
11 the member has been reduced by the Adminis-
12 trator.

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

16 “(5) MEETINGS.—The Administrator shall con-
17 vene—

18 “(A) an initial meeting of the Board not
19 later than 60 days after the appointment of the
20 members; and

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

23 “(6) COMPENSATION.—A member of the Board
24 shall serve without compensation, but may be reim-
25 bursed by the Administrator for expenses (in accord-

1 ance with section 5703 of title 5, United States
2 Code) incurred in performing duties as a member of
3 the Board.

4 “(7) CHAIRPERSON.—The Board shall select a
5 Chairperson for the Board.

6 “(8) QUORUM.—A majority of the members of
7 the Board shall constitute a quorum for the purpose
8 of conducting business.

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

12 “(10) ADMINISTRATION.—The Administrator—

13 “(A) shall—

14 “(i) authorize the Board to hire a
15 staff director; and

16 “(ii) detail staff of the Environmental
17 Protection Agency, or allow for the hiring
18 of staff for the Board; and

19 “(B) subject to the availability of appro-
20 priations, may pay necessary expenses incurred
21 by the Board in carrying out this subtitle, as
22 determined appropriate by the Administrator.

23 “(11) RESPONSIBILITIES OF THE BOARD.—

1 “(A) IN GENERAL.—The Board shall pro-
2 vide recommendations to the Administrator re-
3 garding the implementation of this section.

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

7 “(i) review implementation of this sec-
8 tion (including use of least toxic pes-
9 ticides); and

10 “(ii) review and make recommenda-
11 tions to the Administrator with respect to
12 new proposed active and inert ingredients
13 or proposed amendments to the list in ac-
14 cordance with subsection (d).

15 “(C) TECHNICAL ADVISORY PANELS.—

16 “(i) IN GENERAL.—The Board shall
17 convene technical advisory panels to pro-
18 vide scientific evaluations of the materials
19 considered for inclusion on the list.

20 “(ii) COMPOSITION.—A panel de-
21 scribed in clause (i) shall include experts
22 on integrated pest management, children’s
23 health, entomology, health sciences, and
24 other relevant disciplines.

25 “(D) SPECIAL REVIEW.—

1 “(i) IN GENERAL.—Not later than 2
2 years after the initial meeting of the
3 Board, the Board shall review, with the as-
4 sistance of a technical advisory panel, pes-
5 ticides used in school buildings and on
6 school grounds for their acute toxicity and
7 chronic effects, including cancer,
8 mutations, birth defects, reproductive dys-
9 function, neurological and immune system
10 effects, and endocrine system disruption.

11 “(ii) DETERMINATION.—The Board—

12 “(I) shall determine whether the
13 use of pesticides described in clause
14 (i) may endanger the health of chil-
15 dren; and

16 “(II) may recommend to the Ad-
17 ministrator restrictions on pesticide
18 use in school buildings and on school
19 grounds.

20 “(12) REQUIREMENTS.—In establishing the
21 proposed list, the Board shall—

22 “(A) review available information from the
23 Environmental Protection Agency, the National
24 Institute of Environmental Health Studies,
25 medical and scientific literature, and such other

1 sources as appropriate, concerning the potential
2 for adverse human and environmental effects of
3 substances considered for inclusion in the pro-
4 posed list; and

5 “(B) cooperate with manufacturers of sub-
6 stances considered for inclusion in the proposed
7 list to obtain a complete list of ingredients and
8 determine that such substances contain inert
9 ingredients that are generally recognized as
10 safe.

11 “(13) PETITIONS.—The Board shall establish
12 procedures under which individuals may petition the
13 Board for the purpose of evaluating substances for
14 inclusion on the list.

15 “(14) PERIODIC REVIEW.—

16 “(A) IN GENERAL.—The Board shall re-
17 view each substance included on the list at least
18 once during each 5-year period beginning on—

19 “(i) the date that the substance was
20 initially included on the list; or

21 “(ii) the date of the last review of the
22 substance under this subsection.

23 “(B) SUBMISSION TO ADMINISTRATOR.—
24 The Board shall submit the results of a review
25 under subparagraph (A) to the Administrator

1 with a recommendation as to whether the sub-
 2 stance should continue to be included on the
 3 list.

4 “(15) CONFIDENTIALITY.—Any business sen-
 5 sitive material obtained by the Board in carrying out
 6 this section shall be treated as confidential business
 7 information by the Board and shall not be released
 8 to the public.

9 “(d) LIST OF LEAST TOXIC PESTICIDES; PESTICIDE
 10 REVIEW.—

11 “(1) IN GENERAL.—The Board shall rec-
 12 ommend to the Administrator a list of least toxic
 13 pesticides (including the pesticides described in sub-
 14 section (a)(7)) that may be used as least toxic pes-
 15 ticides, any restrictions on the use of the listed pes-
 16 ticides, and any recommendations regarding restric-
 17 tions on all other pesticides, in accordance with this
 18 section.

19 “(2) PROCEDURE FOR EVALUATING PESTICIDE
 20 USE.—

21 “(A) LIST OF LEAST TOXIC PESTICIDES.—

22 “(i) IN GENERAL.—The Administrator
 23 shall establish a list of least toxic pes-
 24 ticides that may be used in school build-
 25 ings and on school grounds, including any

1 restrictions on the use of the pesticides,
2 that is based on the list prepared by the
3 Board.

4 “(ii) REGULATORY REVIEW.—The Ad-
5 ministrator shall initiate regulatory review
6 of all other pesticides recommended for re-
7 striction by the Board.

8 “(B) RECOMMENDATIONS.—Not later than
9 1 year after receiving the proposed list and re-
10 strictions, and recommended restrictions on all
11 other pesticides from the Board, the Adminis-
12 trator shall—

13 “(i) publish the proposed list and re-
14 strictions and all other proposed pesticide
15 restrictions in the Federal Register and
16 seek public comment on the proposed pro-
17 posals; and

18 “(ii) after evaluating all comments re-
19 ceived concerning the proposed list and re-
20 strictions, but not later than 1 year after
21 the close of the period during which public
22 comments are accepted, publish the final
23 list and restrictions in the Federal Reg-
24 ister, together with a discussion of com-
25 ments received.

1 “(C) FINDINGS.—Not later than 2 years
2 after publication of the final list and restric-
3 tions, the Administrator shall make a deter-
4 mination and issue findings on whether use of
5 registered pesticides in school buildings and on
6 school grounds may endanger the health of chil-
7 dren.

8 “(D) NOTICE AND COMMENT.—

9 “(i) IN GENERAL.—Prior to estab-
10 lishing or making amendments to the list,
11 the Administrator shall publish the pro-
12 posed list or any proposed amendments to
13 the list in the Federal Register and seek
14 public comment on the proposals.

15 “(ii) RECOMMENDATIONS.—The Ad-
16 ministrator shall include in any publication
17 described in clause (i) any changes or
18 amendments to the proposed list that are
19 recommended to and by the Administrator.

20 “(E) PUBLICATION OF LIST.—After evalu-
21 ating all comments received concerning the pro-
22 posed list or proposed amendments to the list,
23 the Administrator shall publish the final list in
24 the Federal Register, together with a descrip-
25 tion of comments received.

1 “(e) OFFICE OF PESTICIDE PROGRAMS.—

2 “(1) ESTABLISHMENT.—The Administrator
3 shall appoint an official for school pest management
4 within the Office of Pesticide Programs of the Envi-
5 ronmental Protection Agency to coordinate the de-
6 velopment and implementation of integrated pest
7 management systems in schools.

8 “(2) DUTIES.—The official shall—

9 “(A) coordinate the development of school
10 integrated pest management systems and poli-
11 cies;

12 “(B) consult with schools concerning—

13 “(i) issues related to the integrated
14 pest management systems of schools;

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

16 and

17 “(iii) the registration of pesticides,
18 and amendments to the registrations, as
19 the registrations and amendments relate to
20 the use of integrated pest management
21 systems in schools; and

22 “(C) support and provide technical assist-
23 ance to the Board.

24 “(f) CONTACT PERSON.—

1 “(1) IN GENERAL.—Each local educational
2 agency of a school district shall designate a contact
3 person for carrying out an integrated pest manage-
4 ment system in schools in the school district.

5 “(2) DUTIES.—The contact person of a school
6 district shall—

7 “(A) maintain information about pesticide
8 applications inside and outside schools within
9 the school district, in school buildings, and on
10 school grounds;

11 “(B) act as a contact for inquiries about
12 the integrated pest management system;

13 “(C) maintain material safety data sheets
14 and labels for all pesticides that may be used in
15 the school district;

16 “(D) be informed of Federal and State
17 chemical health and safety information and con-
18 tact information;

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

21 “(F) maintain contact with Federal and
22 State integrated pest management system ex-
23 perts; and

1 “(G) obtain periodic updates and training
2 from State integrated pest management system
3 experts.

4 “(3) PESTICIDE USE DATA.—A local edu-
5 cational agency of a school district shall—

6 “(A) maintain all pesticide use data for
7 each school in the school district; and

8 “(B) on request, make the data available
9 to the public for review.

10 “(g) NOTICE OF INTEGRATED PEST MANAGEMENT
11 SYSTEM.—

12 “(1) IN GENERAL.—At the beginning of each
13 school year, each local educational agency or school
14 of a school district shall include a notice of the inte-
15 grated pest management system of the school dis-
16 trict in school calendars or other forms of universal
17 notification.

18 “(2) CONTENTS.—The notice shall include a de-
19 scription of—

20 “(A) the integrated pest management sys-
21 tem of the school district;

22 “(B) any pesticide (including any least
23 toxic pesticide) or bait station that may be used
24 in a school building or on a school ground as
25 part of the integrated pest management system;

1 “(C) the name, address, and telephone
2 number of the contact person of the school dis-
3 trict;

4 “(D) a statement that—

5 “(i) the contact person maintains the
6 product label and material safety data
7 sheet of each pesticide (including each
8 least toxic pesticide) and bait station that
9 may be used by a school in buildings or on
10 school grounds;

11 “(ii) the label and data sheet is avail-
12 able for review by a parent, guardian, staff
13 member, or student attending the school;
14 and

15 “(iii) the contact person is available to
16 parents, guardians, and staff members for
17 information and comment; and

18 “(E) the time and place of any meetings
19 that will be held under subsection (g)(1).

20 “(3) USE OF PESTICIDES.—A local educational
21 agency or school may use a pesticide during a school
22 year only if the use of the pesticide has been dis-
23 closed in the notice required under paragraph (1) at
24 the beginning of the school year.

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

5 “(A) each new staff member who is em-
6 ployed during the school year; and

7 “(B) the parent or guardian of each new
8 student enrolled during the school year.

9 “(h) USE OF PESTICIDES.—

10 “(1) IN GENERAL.—If a local educational agen-
11 cy or school determines that a pest in the school or
12 on school grounds cannot be controlled after having
13 used the integrated pest management system of the
14 school or school district and least toxic pesticides,
15 the school may use a pesticide (other than space
16 spraying of the pesticide) to control the pest in ac-
17 cordance with this subsection.

18 “(2) PRIOR NOTIFICATION OF PARENTS,
19 GUARDIANS, AND STAFF MEMBERS.—

20 “(A) IN GENERAL.—Subject to paragraphs
21 (4) and (5), not less than 72 hours before a
22 pesticide (other than a least toxic pesticide) is
23 used by a school, the school shall provide to a
24 parent or guardian of each student enrolled at

1 the school and each staff member of the school,
2 notice that includes—

3 “(i) the common name, trade name,
4 and Environmental Protection Agency reg-
5 istration number of the pesticide;

6 “(ii) a description of the location of
7 the application of the pesticide;

8 “(iii) a description of the date and
9 time of application, except that, in the case
10 of outdoor pesticide applications, 1 notice
11 shall include 3 dates, in chronological
12 order, that the outdoor pesticide applica-
13 tions may take place if the preceding date
14 is canceled;

15 “(iv) a statement that The Office of
16 Pesticide Programs of the United States
17 Environmental Protection Agency has stat-
18 ed: ‘Where possible, persons who poten-
19 tially are sensitive, such as pregnant
20 women and infants (less than 2 years old),
21 should avoid any unnecessary pesticide ex-
22 posure.’;

23 “(v) a description of potential adverse
24 effects of the pesticide based on the mate-
25 rial safety data sheet of the pesticide;

1 “(vi) a description of the reasons for
2 the application of the pesticide;

3 “(vii) the name and telephone number
4 of the contact person of the school district;
5 and

6 “(viii) any additional warning infor-
7 mation related to the pesticide.

8 “(B) METHOD OF NOTIFICATION.—The
9 school may provide the notice required by sub-
10 paragraph (A) by—

11 “(i) written notice sent home with the
12 student and provided to the staff member;

13 “(ii) a telephone call;

14 “(iii) direct contact; or

15 “(iv) written notice mailed at least 1
16 week before the application.

17 “(C) REISSUANCE.—If the date of the ap-
18 plication of the pesticide needs to be extended
19 beyond the period required for notice under this
20 paragraph, the school shall reissue the notice
21 under this paragraph for the new date of appli-
22 cation.

23 “(3) POSTING OF SIGNS.—

24 “(A) IN GENERAL.—Subject to paragraphs
25 (4) and (5), at least 72 hours before a pesticide

1 (other than a least toxic pesticide) is used by a
2 school, the school shall post a sign that provides
3 notice of the application of the pesticide—

4 “(i) in a prominent place that is in or
5 adjacent to the location to be treated; and

6 “(ii) at each entrance to the building
7 or school ground to be treated.

8 “(B) ADMINISTRATION.—A sign required
9 under subparagraph (A) for the application of
10 a pesticide shall—

11 “(i) remain posted for at least 72
12 hours after the end of the treatment;

13 “(ii) be at least 8½ inches by 11
14 inches; and

15 “(iii) state the same information as
16 that required for prior notification of the
17 application under paragraph (2).

18 “(C) OUTDOOR PESTICIDE APPLICA-
19 TIONS.—

20 “(i) IN GENERAL.—In the case of out-
21 door pesticide applications, each sign shall
22 include 3 dates, in chronological order,
23 that the outdoor pesticide application may
24 take place if the preceding date is canceled
25 due to weather.

1 “(ii) DURATION OF POSTING.—A sign
2 described in clause (i) shall be posted after
3 an outdoor pesticide application in accord-
4 ance with subparagraph (B).

5 “(4) ADMINISTRATION.—

6 “(A) APPLICATORS.—Paragraphs (2) and
7 (3) shall apply to any person that applies a pes-
8 ticide in a school or on a school ground, includ-
9 ing a custodian, staff member, or commercial
10 applicator.

11 “(B) TIME OF YEAR.—Paragraphs (2) and
12 (3) shall apply to a school—

13 “(i) during the school year; and

14 “(ii) during holidays and the summer
15 months, if the school is in use, with notice
16 provided to all staff members and the par-
17 ents or guardians of the students that are
18 using the school in an authorized manner.

19 “(5) EMERGENCIES.—

20 “(A) IN GENERAL.—A school may apply a
21 pesticide (other than a least toxic pesticide) in
22 the school or on school grounds without com-
23 plying with paragraphs (2) and (3) in an emer-
24 gency, subject to subparagraph (B).

1 “(B) SUBSEQUENT NOTIFICATION OF PAR-
2 ENTS, GUARDIANS, AND STAFF MEMBERS.—Not
3 later than the earlier of the time that is 24
4 hours after a school applies a pesticide under
5 this paragraph or on the morning of the next
6 school day, the school shall provide to each par-
7 ent or guardian of a student enrolled at the
8 school, and staff member of the school, notice
9 of the application of the pesticide for emergency
10 pest control that includes—

11 “(i) the information required for a no-
12 tice under paragraph (2)(A);

13 “(ii) a description of the problem and
14 the factors that qualified the problem as
15 an emergency that threatened the health or
16 safety of a student or staff member; and

17 “(iii) a description of the steps the
18 school will take in the future to avoid
19 emergency application of a pesticide under
20 this paragraph.

21 “(C) METHOD OF NOTIFICATION.—The
22 school may provide the notice required by sub-
23 paragraph (B) by—

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

1 “(ii) a telephone call; or

2 “(iii) direct contact.

3 “(D) POSTING OF SIGNS.—A school apply-
4 ing a pesticide under this paragraph shall post
5 a sign warning of the pesticide application in
6 accordance with paragraph (3).

7 “(E) MODIFICATION OF INTEGRATED PEST
8 MANAGEMENT PLANS.—If a school in a school
9 district applies a pesticide under this para-
10 graph, the local educational agency of the
11 school district shall modify the integrated pest
12 management plan of the school district to mini-
13 mize the future applications of pesticides under
14 this paragraph.

15 “(6) DRIFT OF PESTICIDES ONTO SCHOOL
16 GROUND.—Each local educational agency, State pes-
17 ticide lead agency, and the Administrator are en-
18 couraged to—

19 “(A) identify sources of pesticides that
20 drift from treated land to school grounds of the
21 educational agency; and

22 “(B) take steps necessary to create an in-
23 door and outdoor school environment that are
24 protected from pesticides described in subpara-
25 graph (A).

1 “(i) MEETINGS.—

2 “(1) IN GENERAL.—Before the beginning of a
3 school year, at the beginning of each new calendar
4 year, and at a regularly scheduled meeting of a
5 school board, each local educational agency shall
6 provide an opportunity for the contact person des-
7 ignated under subsection (d) to receive and address
8 public comments regarding the integrated pest man-
9 agement system of the school district.

10 “(2) EMERGENCY MEETINGS.—An emergency
11 meeting of a school board to address a pesticide ap-
12 plication may be called under locally appropriate
13 procedures for convening emergency meetings.

14 “(j) INVESTIGATIONS AND ORDERS.—

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

18 “(A) conduct an investigation of the com-
19 plaint;

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

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

1 “(2) PRELIMINARY ORDER.—If the Adminis-
2 trator determines it is reasonable to believe a viola-
3 tion occurred, the Administrator shall issue a pre-
4 liminary order (that includes findings) to impose the
5 penalty described in subsection (j).

6 “(3) OBJECTIONS TO PRELIMINARY ORDER.—

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

11 “(i) file objections to the preliminary
12 order (including findings); and

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

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

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

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

23 “(6) SETTLEMENT AGREEMENT.—Before the
24 final order is issued, the proceeding may be termi-
25 nated by a settlement agreement, which shall remain

1 open, entered into by the Administrator, the com-
2 plainant, and the person alleged to have committed
3 the violation.

4 “(7) COSTS.—

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

13 “(B) AMOUNT.—The Administrator shall
14 determine the amount of the costs that were
15 reasonably incurred by the complainant.

16 “(8) JUDICIAL REVIEW AND VENUE.—

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

1 “(B) TIMING.—The review shall be heard
2 and decided expeditiously.

3 “(C) COLLATERAL REVIEW.—An order of
4 the Administrator subject to review under this
5 paragraph shall not be subject to judicial review
6 in a criminal or other civil proceeding.

7 “(k) CIVIL PENALTY.—

8 “(1) IN GENERAL.—Any local educational agen-
9 cy, school, or person that violates this section may
10 be assessed a civil penalty by the Administrator
11 under subsections (h) and (i), respectively, of not
12 more than \$10,000 for each offense.

13 “(2) TRANSFER TO TRUST FUND.—Except as
14 provided in subsection (i)(4)(B), civil penalties col-
15 lected under paragraph (1) shall be deposited in the
16 Fund.

17 “(l) INTEGRATED PEST MANAGEMENT TRUST
18 FUND.—

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

23 “(A) amounts deposited in the Fund under
24 subsection (j)(2);

1 “(B) amounts transferred to the Secretary
2 of the Treasury for deposit into the Fund under
3 paragraph (5); and

4 “(C) any interest earned on investment of
5 amounts in the Fund under paragraph (3).

6 “(2) EXPENDITURES FROM FUND.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), on request by the Administrator, the
9 Secretary of the Treasury shall transfer from
10 the Fund to the Administrator, without further
11 appropriation, such amounts as the Secretary
12 determines are necessary to provide funds to
13 each State educational agency of a State, in
14 proportion to the amount of civil penalties col-
15 lected in the State under subsection (j)(1), to
16 carry out education, training, propagation, and
17 development activities under integrated pest
18 management systems of schools in the State to
19 remedy the harmful effects of actions taken by
20 the persons that paid the civil penalties.

21 “(B) ADMINISTRATIVE EXPENSES.—An
22 amount not to exceed 6 percent of the amounts
23 in the Fund shall be available for each fiscal
24 year to pay the administrative expenses nec-
25 essary to carry out this subsection.

1 “(3) INVESTMENT OF AMOUNTS.—

2 “(A) IN GENERAL.—The Secretary of the
3 Treasury shall invest such portion of the Fund
4 as is not, in the judgment of the Secretary of
5 the Treasury, required to meet current with-
6 drawals. Investments may be made only in in-
7 terest-bearing obligations of the United States.

8 “(B) ACQUISITION OF OBLIGATIONS.—For
9 the purpose of investments under subparagraph
10 (A), obligations may be acquired—

11 “(i) on original issue at the issue
12 price; or

13 “(ii) by purchase of outstanding obli-
14 gations at the market price.

15 “(C) SALE OF OBLIGATIONS.—Any obliga-
16 tion acquired by the Fund may be sold by the
17 Secretary of the Treasury at the market price.

18 “(D) CREDITS TO FUND.—The interest on,
19 and the proceeds from the sale or redemption
20 of, any obligations held in the Fund shall be
21 credited to and form a part of the Fund.

22 “(4) TRANSFERS OF AMOUNTS.—

23 “(A) IN GENERAL.—The amounts required
24 to be transferred to the Fund under this sub-
25 section shall be transferred at least monthly

1 from the general fund of the Treasury to the
2 Fund on the basis of estimates made by the
3 Secretary of the Treasury.

4 “(B) ADJUSTMENTS.—Proper adjustment
5 shall be made in amounts subsequently trans-
6 ferred to the extent prior estimates were in ex-
7 cess of or less than the amounts required to be
8 transferred.

9 “(5) ACCEPTANCE AND USE OF DONATIONS.—
10 The Secretary may accept and use donations to
11 carry out paragraph (2)(A). Amounts received by
12 the Secretary in the form of donations shall be
13 transferred to the Secretary of the Treasury for de-
14 posit into the Fund.

15 “(m) EMPLOYEE PROTECTION.—

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

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

23 “(B) is refusing to violate or assist in the
24 violation of this section (including any regula-
25 tion); or

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

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

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

18 “(A) take affirmative action to abate the
19 violation;

20 “(B) reinstate the complainant to the
21 former position with the same pay and terms
22 and privileges of employment; and

23 “(C) pay compensatory damages, including
24 back pay.

25 “(n) GRANTS.—

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

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

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

21 “(p) REGULATIONS.—Subject to subsection (m), the
22 Administrator shall promulgate such regulations as are
23 necessary to carry out this section.

24 “(q) RESTRICTION ON PESTICIDE USE.—Not later
25 than 6 years after the date of enactment of this section,

1 no pesticide, other than a pesticide that is defined as a
 2 least toxic pesticide under this subsection, shall be used
 3 in a school or on school grounds unless the Administrator
 4 has met the deadlines and requirements of this section.

5 “(r) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to carry out this section
 7 \$7,000,000 for each of fiscal years 2006 through 2010.”.

8 **SEC. 4. CONFORMING AMENDMENT.**

9 The table of contents in section 1(b) of the Federal
 10 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
 11 prec. 121) is amended by striking the items relating to
 12 sections 34 and 35 and inserting the following:

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

“(a) Definitions.

“(1) Board.

“(2) Contact person.

“(3) Crack and crevice treatment.

“(4) Emergency.

“(5) Fund.

“(6) Integrated pest management system.

“(7) Least toxic pesticides.

“(8) List.

“(9) Local educational agency.

“(10) Official.

“(11) Person.

“(12) Pesticide.

“(13) School.

“(14) School ground.

“(15) Space spraying.

“(16) Staff member.

“(17) State educational agency.

“(18) Universal notification.

“(b) Integrated pest management systems.

“(1) In general.

“(2) Implementation.

“(3) State programs.

“(4) Application to schools and school grounds.

“(5) Application of pesticides when schools in use.

“(c) National School Integrated Pest Management Advisory Board.

“(1) In general.

“(2) Composition of Board.

- “(3) Appointment.
- “(4) Term.
- “(5) Meetings.
- “(6) Compensation.
- “(7) Chairperson.
- “(8) Quorum.
- “(9) Decisive votes.
- “(10) Administration.
- “(11) Responsibilities of the Board.
- “(12) Requirements.
- “(13) Petitions.
- “(14) Periodic review.
- “(15) Confidentiality.
- “(d) List of Least Toxic Pesticides.
 - “(1) In general.
 - “(2) Procedure for evaluating pesticide use.
- “(e) Office of Pesticide Programs.
 - “(1) Establishment.
 - “(2) Duties.
- “(f) Contact person.
 - “(1) In general.
 - “(2) Duties.
 - “(3) Pesticide use data.
- “(g) Notice of Integrated Pest Management System.
 - “(1) In general.
 - “(2) Contents.
 - “(3) Use of pesticides.
 - “(4) New employees and students.
- “(h) Use of pesticides.
 - “(1) In general.
 - “(2) Prior notification of parents, guardians, and staff members.
 - “(3) Posting of signs.
 - “(4) Administration.
 - “(5) Emergencies.
 - “(6) Drift of pesticides onto school ground.
- “(i) Meetings.
 - “(1) In general.
 - “(2) Emergency meetings.
- “(j) Investigations and orders.
 - “(1) In general.
 - “(2) Preliminary order.
 - “(3) Objections to preliminary order.
 - “(4) Hearing.
 - “(5) Final order.
 - “(6) Settlement agreement.
 - “(7) Costs.
 - “(8) Judicial review and venue.
- “(k) Civil penalty.
 - “(1) In general.
 - “(2) Transfer to Trust Fund.
- “(l) Integrated Pest Management Trust Fund.
 - “(1) Establishment.
 - “(2) Expenditures from Fund.
 - “(3) Investment of amounts.
 - “(4) Transfers of amounts.

- “(5) Acceptance and use of donations.
 - “(m) Employee protection.
 - “(1) In general.
 - “(2) Complaints.
 - “(3) Remedial action.
 - “(n) Grants.
 - “(1) In general.
 - “(2) Amount.
 - “(o) Relationship to State and local requirements.
 - “(p) Regulations.
 - “(q) Restriction on pesticide use.
 - “(r) Authorization of appropriations.
- “Sec. 35. Severability.
- “Sec. 36. Authorization of appropriations.”.

1 SEC. 5. EFFECTIVE DATE.

- 2 This Act and the amendments made by this Act take
- 3 effect on October 1, 2005.

