

**BEFORE THE
UNITED STATES DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT**

**PETITION TO USE INTEGRATED PEST MANAGEMENT
AND TO REQUIRE PUBLIC HOUSING AUTHORITIES
TO IMPLEMENT INTEGRATED PEST MANAGEMENT
POLICIES**

Submitted on behalf of the following organizations
on October 8, 2003

Alliance for Healthy Homes - Washington, DC

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Business and Professional People for the Public Interest - Chicago, IL

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Children's Environmental Health Network - Berkeley, CA

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Citizens for a Better Environment - Milwaukee, WI

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National Center on Poverty Law - Chicago, IL

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Natural Resources Defense Council
Washington, DC, New York, NY, Los Angeles, CA, San Francisco, CA

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Safer Pest Control Project - Chicago, IL

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West Harlem Environmental Action - New York, NY

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I. INTRODUCTION

On behalf of its members, the Natural Resources Defense Council (NRDC), Alliance for Healthy Homes, Business and Professional People for the Public Interest, Children's Environmental Health Network, Citizens for a Better Environment, National Center on Poverty Law, Safer Pest Control Project, and West Harlem Environmental Action (collectively “NRDC” or “petitioners”), hereby petition the U.S. Department of Housing and Urban Development (HUD) to use Integrated Pest Management (IPM) require Public Housing Authorities (“PHAs”) to implement IPM practices and detail measures taken in their annual plan.

The Natural Resources Defense Council is a national, non-profit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than 550,000 members nationwide and maintains offices in New York, Washington, Los Angeles and San Francisco. NRDC and its members have a long-standing interest in improving the regulation of pesticides and other toxic chemical residues in food, air, and water. NRDC seeks to ensure that pesticide regulation and use is protective of the public health and in compliance with governing statutes. NRDC has litigated major cases seeking to protect the public from pesticides, *see, e.g., NRDC v. Whitman*, No. 99-3701 WHA, 2001 WL 1221774 (N.D. Cal. Sept. 24, 2001), and has actively participated in the development, enforcement, and reform of pesticide laws and pesticide regulation for over two decades.

The Alliance for Healthy Homes is a national public interest organization formed by leaders in public health, environmental protection, affordable housing, and civil rights. Founded in 1990 as the Alliance to End Childhood Lead Poisoning, the Alliance seeks to protect children from lead and other environmental health hazards in and around their homes by advocating for policy solutions and building capacity for primary prevention in communities throughout the US.

The Children's Environmental Health Network is a national multidisciplinary project dedicated to protect the fetus and the child from environmental hazards and promote a healthy environment. The Network is composed of experts in the fields of medicine, nursing, research and policy, who represent national health and child organizations on the Network's Advisory Board and Committees.

West Harlem Environmental Action, Inc. (WE ACT) is a non-profit, grassroots, 501(c)(3) organization working to improve environmental quality and to secure environmental justice in predominately African-American and Latino communities. WE ACT's mission is to inform, educate, train and mobilize the predominately African-American and Latino residents of Northern Manhattan on issues that impact their quality of life -- air, water and indoor pollution, toxins, land use and open space, waterfront development and usage, sanitation, transportation, historic preservation, regulatory enforcement, and citizen participation in public policy making.

Citizens for a Better Environment (CBE) is a not-for-profit [501(c)(3)] environmental advocacy organization that uses research, advocacy, public education, and citizen empowerment to protect and improve human health and the environment in the Great Lakes region. CBE works with individuals, communities, NGOs, government, and industry to ensure that individuals are aware of the health threats of exposure to chemicals and pathogens in the environment, and to ensure that behaviors are changed to reduce exposure to, and threats posed by chemicals and pathogens.

Business and Professional People for the Public Interest (BPI) is a public interest law and policy center dedicated to social justice and to enhancing the quality and equity of life for all people living in the Chicago region. BPI has a long history of working to improve the life opportunities and conditions for families living in public housing. BPI has also worked successfully to promote the use of Integrated Pest Management in Chicago's public housing.

Safer Pest Control Project N.F.P. (SPCP) is a non-profit organization dedicated to reducing the public health risks and environmental impacts of pesticide use and promoting safer alternatives in Illinois. SPCP focuses on children—especially those living in under-served communities—a population both critically vulnerable and disproportionately exposed to these toxic chemicals. SPCP not only promotes awareness about the dangers of pesticides, but also provides the people it serves with viable alternatives that are safer and more effective than conventional pest control methods.

The National Center on Poverty Law (NCPL) is a legal and policy research, communications, and advocacy organization that pursues model policy in the areas of affordable housing, health care, child care, community reinvestment, and public benefits, among others. As part of its work to improve public housing nationally, the Center's housing project has represented residents of the Henry Horner Homes development in Chicago, once one of the nation's most notorious public housing projects, in their efforts to transform Henry Horner into a rehabilitated mixed-income development. In implementing the consent decree obtained in the class action case of *Henry Horner Mothers Guild v. Chicago Hous. Auth.*, 824 F. Supp. 808 (N.D. Ill. 1993), the Center, on behalf of the residents, partnered with the Safer Pest Control Project to institute a pioneering integrated pest management policy at Henry Horner.

II. ACTION REQUESTED

On behalf of its members, NRDC and the above-listed co-petitioners, hereby petition HUD to use Integrated Pest Management techniques in carrying out pest management activities and to amend its rules governing Public Housing Authorities to require PHAs to implement IPM practices and detail measures taken in their annual plans.

Pursuant to the Administrative Procedure Act (“APA”), 5 U.S.C. § 553(e), HUD should amend its rules regarding PHA Annual Plans.¹ Specifically, NRDC requests that HUD amend 24 C.F.R. § 903.7, which sets forth requirements for PHA Annual Plans. Section 903.7(e) provides that Annual Plans must include “a description of any measures necessary for the prevention or eradication of pest infestation which includes cockroach infestation.” The regulation does not currently require PHAs to use any particular pest control method. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136r-1, expressly requires Federal agencies such as HUD use and promote IPM practices. Additionally, promoting IPM practices would comply with the requirements of President Clinton’s Executive Order 12898 on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

Because of the dangers that pesticides pose to PHA residents, particularly children, Petitioners request that HUD require all PHAs to adopt IPM practices to control pests and to detail any and all steps taken towards reducing the use of pesticides and implementing IPM in their Annual Plans.

III. THE DANGERS OF PESTICIDE USE AND THE NEED TO ADOPT INTEGRATED PEST MANAGEMENT TECHNIQUES

A. The Risks of Pesticide Use

Federal regulation of pesticides is accomplished primarily under two interrelated statutes: the Federal Food Drug and Cosmetic Act (FFDCA), 21 U.S.C. § 346a, et seq., and FIFRA, 7 U.S.C. § 136, et seq. FIFRA requires that a pesticide be registered before it can be sold or distributed in the United States. Before registering a new pesticide or *new use* for a registered pesticide, EPA must first

¹See 24 C.F.R. § 903.1 et seq.

ensure that the pesticide, when used according to label directions, can be used with a reasonable certainty of no harm to human health and without posing unreasonable risks to the environment.

Although registered by EPA for residential use, many pesticides contain active ingredients that can cause health problems, such as cancer² ³ neurological effects,⁴ effects on reproduction and development,⁵ ⁶ and acute symptoms such as nausea, headaches, rashes and dizziness.⁷ One class of registered pesticides, the organophosphate pesticides, are so highly toxic, that they were used in World War II as nerve gas.⁸ Organophosphate insecticides are poisonous to the nervous system of insects by design, and unfortunately also are poisonous to humans' brains and nervous systems, capable of causing symptoms such as weakness or paralysis of the muscles.⁹

1. Children Are More Susceptible to the Harms of Pesticide Use

Children face a much greater risk from exposure to pesticides than do adults. First, children are disproportionately exposed to pesticides compared with adults due to their greater intake of food, water, and air per unit of body weight, their greater activity levels, narrower dietary choices,

² See, e.g., Mott L. *Our Children at Risk: The Five Greatest Threats to Children's Health*. New York, NY: Natural Resources Defense Council, 1997;51; Memorandum from William L. Burnham, Chief – Science Analysis Branch, Health Effects Division to various recipients. EPA Office of Pesticide Programs List of Chemicals Evaluated for Carcinogenic Potential. August 31, 2000; see also Sorgan MH, et al. Pest Control in Public Housing, Schools and Parks: Urban Children at Risk. A Report from the Office of the New York State Attorney General. 2002; 34 (list of carcinogenic active ingredients in products used by some New York State public housing authorities and their residents).

³ Zahm SH, Ward MH. Pesticides and childhood cancer. *Envtl Health Persp.* 1998;106:893-908.

⁴ Guillette EA, Meza MM, Aquilar MG, Soto AD, Garcia IE. An anthropological approach to the evaluation of preschool children exposed to pesticides in Mexico. *Envtl Health Persp.* 1998;106:347-53.

⁵ Pastore LM, Hertz-Picciotto I, Beaumont JJ. Risk of stillbirth from occupational and residential exposures. *Occup Envtl Med.* 1997;54:511-8.

⁶ Garry V, Schreinemachers D, Harkins M, Griffith J. Pesticide applicators, biocides, and birth defects in rural Minnesota. *Envtl Health Persp.* 1996;104:394-399.

⁷ EPA. Recognition and Management of Pesticide Poisonings (5th ed.). March 1999; 211-222.

⁸ EPA. Organophosphate Pesticides in Food – A Primer on Reassessment of Residue Limits: Nature and Effects of Organophosphates. May 1999. Available at: <http://www.epa.gov/pesticides/op/primer.htm> (Visited Oct. 1, 2003).

⁹ *Id.*

crawling, and hand-to-mouth behavior.^{10, 11} At least one study has shown that some pesticides volatilize after application and may be absorbed by plastics, foam, and other materials from which children's toys are commonly made.¹² Children may be exposed to the pesticide residue through contact with toys or other surfaces up to two weeks after pesticide application.¹³ Additionally, children also face the risk of exposure to pesticides at the place where they spend the most time outside of the home—at school. Although some states and school districts have taken steps to reduce pesticide use, many children still face the risk of exposure to pesticides at school, adding to the exposure they receive at home.¹⁴

Second, fetuses, infants and children are particularly susceptible to toxic effects from many pesticides compared to adults because their immature systems cannot effectively detoxify and eliminate chemicals.¹⁵ Moreover, their organs are still growing and developing and thus pesticides may also affect the later development of anatomic, physiologic, and metabolic processes.¹⁶ A child's central nervous system is not fully developed until the age of six.¹⁷ Until then, the nervous system is especially vulnerable to neurotoxins such as many pesticides.¹⁸ The scientific literature strongly suggests that a fetus or child is very vulnerable to chemical assault during development and exposures may result in long-term or permanent destruction or dysfunction.¹⁹ Organophosphate

¹⁰ Our Children at Risk at 52; *see also* National Research Council, *Pesticides in the Diets of Infants and Children*. 1993; Reigart J. Pesticides and children. *Ped Annals*. 1995;24:663-668.

¹¹ Miller MD, Marty MA, Arcus A, Brown J, Morry D, Sandy M. Differences between children and adults: implications for risk assessment at California EPA. *Int J Toxicol*. Sept.-Oct. 2002;21(5):403-18.

¹² Gurunathan S, et al. Accumulation of chlorpyrifos on residential surfaces and toys accessible to children. *Envtl Health Persp*. Jan. 1998;106(1): 9-16.

¹³ *Id.*

¹⁴ *See, e.g.*, GAO. Report No. RCED-00-17, Pesticides: Use, Effects, and Alternatives to Pesticides in Schools. 1999.

¹⁵ National Research Council, *Pesticides in the Diets of Infants and Children*. 1993; 39.

¹⁶ *Id.*

¹⁷ Our Children at Risk at 52.

¹⁸ *Id.*

¹⁹ *See, e.g.*, Greater Boston Physicians for Social Responsibility. In Harm's Way: Toxic Threats to Child Development. May 2000;81-85; Our Children at Risk at 52-53.

pesticides, for example, interfere with cholinergic stimulation, which has been shown to be essential for normal nervous system development.²⁰

Several studies have also linked asthma to cockroach related allergens.²¹ Infestations often lead to an unfortunate rise in the use of pesticide use, when in actuality the use of pesticides to control pest populations may actually exacerbate the condition. Due to cockroaches' ability to adapt, a single approach to cockroach control is unlikely to be to be effective over time.²²

Indiscriminate use of pesticides as the sole method of control would therefore be less effective than an integrated pest management plan, which combines various approaches to cockroach control. IPM would provide a more complete solution to a prevalent problem.²³ Additionally, because organophosphate pesticides have been shown to disrupt the part of the nervous system that regulates the motor functioning of the lungs, some researchers now hypothesize that pesticides may even be a preventable cause of asthma in children.²⁴

Given the ubiquitous use of pesticides and the increased evidence of the toxicity of pesticides, especially to the health of children, and the availability of many cost-effective integrated pest management approaches for eradicating and preventing pests, it is essential that conventional pest management programs be reformed. HUD must act now to ensure that the health of the

²⁰ See In Harm's Way: Toxic Threats to Child Development at 81.

²¹ Call RS, Smith TF, Morris E, Chapman MD, Platts-Mills TAE. Risk factors for asthma in inner-city children. *Journal of Pediatrics*. 1992; 121:826-866; see also, Garcia DP, Corbett ML, Sublett JL, Pollard SJ, Meiners JF, Karibo JM, Pence HL, Petrosko JM. Cockroach allergy in Kentucky: a comparison of inner city, suburban, and rural small town populations. *Annals of Allergy*. 1994; 72:203-208; see also, Gordon T, Amdur MO. Responses of the respiratory system to toxic agents.

²² Kaakeh W, Scharf ME, Bennett GW. Efficacy of conventional insecticide and juvenoid mixtures on an insecticide-resistant field population of German cockroach (Dictyoptera: Blattellidae). *Journal of Agricultural Entomology*. 1997; 14:339-348.

²³ See University of Massachusetts Extension. Why IPM? Health Issues: Pests. Available at: http://www.umass.edu/umext/schoolipm/general/school_ipm_gen03a1.html (Visited Oct. 1, 2003).

²⁴ Eskenazi B, Bradman A, Castorina R. Exposures of children to organophosphate pesticides and their potential adverse health effects. *Envtl Health Persp*. 1999;107(S3):409-419.

children living in the nation's 1.3 million public housing units is protected by minimizing their exposure to pesticides in the home through the use of integrated pest management techniques.

B. Pesticide Use in Public Housing

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.²⁵ There are approximately 1.3 million public housing units in the U.S. today; managed by approximately 3,300 Public Housing Authorities.²⁶

In order to comply with § 511 of the Quality Housing and Work Responsibility Act of 1998 and to qualify for federal funding,²⁷ PHAs are required to submit annual plans to HUD that provide “details about the PHA’s current programs and the resident population served, as well as the PHA’s strategy for addressing the housing needs of currently assisted families and the larger community.”²⁸ Importantly, the annual plan also requires, “a description of any measures necessary for the prevention or eradication of pest infestation”²⁹

Data collected by the U.S. Environmental Protection Agency (EPA) indicates that approximately 74% of all U.S. households use pesticides.³⁰ Public housing is no exception. Because many public housing units are plagued with roaches, mice and rats, and other pests, pesticide use tends to be exceedingly high. In fact, EPA has marked older public housing developments as areas

²⁵ U.S. Department of Housing and Urban Development. HUD’s Public Housing Program, Renting. Available at: <http://www.hud.gov/renting/phprog.cfm> (Visited Oct. 1, 2003).

²⁶*Id.*

²⁷ U.S. Department of Housing and Urban Development. Public Housing Agency (PHA) Plan Overview. Available at: <http://www.hud.gov/offices/pih/pha/about/overview.cfm> (Visited Oct. 1, 2003)(summarizing requirements of § 511 of the Quality Housing and Work Responsibility Act of 1998).

²⁸ U.S. Department of Housing and Urban Development. About Public Housing Agency (PHA) Plans. Available at: <http://www.hud.gov/offices/pih/pha/about/index.cfm> (Visited October 1, 2003) (summarizing requirements of § 511 of the Quality Housing and Work Responsibility Act of 1998).

²⁹*See* 24 C.F.R. § 903.1 et seq.

³⁰ U.S. EPA. Pesticide Industry Sales and Usage: 1998 and 1999 Market Estimates. 2002;Table 4.1d.

of “special concern” for children’s exposure to pesticides, recognizing that children in such developments may have greater exposure than the general population.³¹

Historically, PHAs have used pesticides as a means by which to control pest problems in their units. A recent survey of PHAs in five New York cities, carried out by the New York State Attorney General’s office, found that all surveyed PHAs used pesticides in resident apartments and public spaces.³² In addition to regular spraying or other pest treatment conducted by building management, residents often undertake additional pesticide application themselves in an attempt to control pests.³³ Such multiple exposures put public housing residents at special risk for physical and developmental health problems resulting from pesticide exposure.

C. Integrated Pest Management and Its Advantages

Integrated Pest Management (IPM) eliminates or greatly reduces the use of hazardous pesticide products. IPM focuses on preventing and managing pest problems through nontoxic methods such as improved sanitation, reducing or eliminating sources of pest food, water and shelter; blocking pest entry into buildings; structural maintenance, mechanical and biological controls and other practices. Pests can be eradicated using mechanical trapping devices, natural predators, insect growth regulators, mating disruption substances (pheromones), and if necessary, chemical pesticides.

Chemical pesticides are used as a last resort and, when used, preference is given to the least toxic pesticide necessary. An additional component is a warning system which provides that on the rare occasion that a toxic pesticide is used, notification is given to residents and the public.

³¹ U.S. EPA. Children’s Exposure to Pesticides. *STAR Report*. Oct. 1997;1(1): 2.

³² Sorgan MH, et al. Pest Control in Public Housing, Schools and Parks: Urban Children at Risk. A Report from the Office of the New York State Attorney General. 2002;15-17.

³³ See, e.g., Pest Control in Public Housing, Schools and Parks, *supra* n.2 & 32, at 19.

Monitoring is essential both to determine program effectiveness and to avoid unnecessary pest control efforts.

FIFRA, 7 U.S.C. §§ 136-136y, defines IPM as “a sustainable approach to managing pests by combining biological, cultural, physical and chemical tools in a way that minimizes economic, health, and environmental risks.”³⁴ The California Legislature has also adopted a definition of IPM, stipulating that it means

a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to pre-established guidelines and treatment thresholds.³⁵

The Army too has implemented an integrated pest management program, characterizing IPM as a strategy to “avoid total reliance on chemical pesticides in favor of many techniques to eliminate or reduce pest related damage with minimum risks to the environment.”³⁶ The Army further defines IPM as requiring “full use of information about the pest’s biology and environment, as well as the roles of engineering, culture, genetics, and other disciplines for overall control.”³⁷

1. How IPM Works

IPM’s focus on prevention requires that a plan be in place even before an infestation takes place (the IPM toolbox also contains tools for dealing with ongoing infestations which will be

³⁴ 7 U.S.C. § 136r-1.

³⁵ California Healthy Schools Act of 2000 (AB 2260, Shelley), *codified at* Cal. Food & Ag. Code § 13181.

³⁶ U.S. Department of the Army. Army Regulation 200-5. Environmental Quality: Pest Management. Oct. 29, 1999; 2-5: 11.

³⁷ *Id.*

discussed below). Although there is no universally agreed-upon way to implement IPM, some principles are widely accepted as integral components of an IPM program: noticing the damage, identifying the pest, controlling the pest, and preventing the pest's return.³⁸ At its core, IPM depends on physical, mechanical, cultural, biological, and educational tools to eliminate pests or maintain pest populations at acceptable levels; low risk chemicals may be appropriate as a last resort. Monitoring is essential both to determine program effectiveness and to avoid unnecessary pest control efforts. For example, in managing indoor pests, an IPM program might consider the following steps: First, identify the pest or pests that present a problem. Because IPM emphasizes prevention and curative actions designed to target the pest's behavior, it is essential that the pest or pests at issue be targeted. Second, inspect the premises to determine how pests are entering the building, where they are hiding, and what they are feeding on. Third, ensure that screens are secure, and that cracks are covered with caulking, weather-stripping, and the like. Fourth, require good sanitation, including tight-fitting garbage can lids and prompt removal of trash and debris. Fifth, continue pest monitoring to determine what strategies are having the most beneficial effect and whether the pest population is changing. Finally, pesticides are used only as a last resort. Traps and baits, which have a lower impact and can be placed out of reach of children and pets, are preferable to sprays or other treatments that are not precisely targeted to pests and expose residents to much higher levels of poison.³⁹

³⁸ EPA Region I. Information for Homeowners: Pesticides in Your Home (brochure). March 2003. Available at: <http://www.epa.gov/NE/eco/pest/homeowners.html>.

³⁹ See, e.g., Information for Homeowners: Pesticides in Your Home (brochure); EPA, Office of Pesticide Programs, Integrated Pest Management (IPM) and Food Production. Available online at: <http://www.epa.gov/pesticides/factsheets/ipm.htm#how> (visited July 11, 2003); University of California Statewide Integrated Pest Management Program. Home and Landscape Pest Notes. Available at: <http://www.ipm.ucdavis.edu/PMG/selectnewpest.home.html>; Sorgan, Pest Control in Public Housing, Schools and Parks, *supra* at 56.

A myriad of alternative pest management practices are also available for landscaping needs. Landscape design, planting of low-maintenance vegetation, introduction of beneficial organisms, mechanical weed control and other methods can alleviate or eliminate the use of hazardous pesticide inputs.

Besides minimizing health risks, IPM is more effective than indiscriminate spraying. IPM targets individual pests and focuses on long-term prevention, resulting in a long-term solution to pest problems. IPM is also more economical than commercial pesticide use. Because IPM emphasizes minimal use of costly commercial sprays, treating a building with IPM is, over time, generally much less expensive than treating it regularly with conventional insecticides.⁴⁰

2. IPM Success Stories

Numerous institutions, including some public housing agencies, have achieved great success in controlling pests by implementing IPM programs. In Chicago, the Safer Pest Control Project teamed with the Residents' Committee of the Henry Horner Homes Public Housing Development in 1996 to develop an IPM plan to control roaches and rodents. The plan combined resident education and involvement with improved sanitation and maintenance and strategic application of insecticidal gel baits by a licensed pest control operator with IPM expertise. Within one year, 90 percent of Henry Horner's 500 residents reported that they had noticed declining pest populations and decreased pesticide use.⁴¹

In New York, EPA funded a pilot project to bring IPM to a public housing development in East Harlem. The project introduced IPM to one building, including improved sanitation and

⁴⁰ Sorgan, *Pest Control in Public Housing, Schools and Parks*, *supra* at 46 (citing several IPM programs with documented cost savings).

⁴¹ See Safer Pest Control Project. *Safer Solutions: Integrated Pest Management in Public Housing* (brochure). Jan. 2002. Available at: http://www.vdcom.com/articles/uploads/safer_pest_control_project_safer_solutions_report_2002.pdf.

maintenance and resident education and involvement. Residents of the building were hired to implement the IPM program, and all institutional pesticide application was suspended. The project team tallied cockroaches and mice before, and at three and six months after the initial program. Forty-six percent of residents reported an elimination of mice following the IPM program. Cockroach populations decreased in 73% of all apartments.⁴²

At the federal level, several agencies have successfully implemented IPM programs. For example, the Department of Defense (DoD) reduced its pesticide use by 53% between 1993 and 2000 by implementing an IPM program.⁴³ In August 1999, the DOD received a Special Achievement Award from the EPA, recognizing the Department's efforts to reduce pesticide use on military installations by 50 percent, two years ahead of schedule. The Army made a significant contribution to this achievement by reducing pesticide releases by 36 percent.⁴⁴ In 2002, EPA recognized DoD's Armed Forces Pest Management Board (AFPMB) as a "Champion" in their Pesticide Environmental Stewardship Program for its level of commitment and effort to reduce pesticide risks and protect human health and the environment.⁴⁵ The White House has also recognized the benefit of decreased pesticide use. The "Greening Project Status Report" for 2001 reported that the White House's IPM plan had resulted in an 80% reduction in pesticide use.⁴⁶

HUD has also recognized the importance of IPM by incorporating its principles and studying its effectiveness through its Healthy Homes Initiative (HHI). The HHI was designed to

⁴²Surgan, Pest Control in Public Housing, Schools and Parks, *supra* at 62.

⁴³See U.S. Department of Defense. Armed Forces Pest Management Board's 2002 Strategy. Available at: <http://www.epa.gov/oppbppd1/PESP/strategies/2002/usdod02.htm>.

⁴⁴ U.S. Army Environmental Center Northern Regional Environmental Office. Army Researches Means to Reduce Pesticide Use. Winter 2000. Available at: <http://aec.army.mil/usaec/publicaffairs/update/win00/win0016.htm> (viewed October 1, 2003).

⁴⁵U.S. Department of Defense, Defense Link -DoD News, EPA Names DOD "Champion" for Pesticide Management, available at: http://www.defenselink.mil/news/Jan2003/b01092003_bt011-03.html (visited October 1, 2003).

⁴⁶ U.S. Dept. of Energy, Federal Energy Management Program. Greening Project Status Report: The White House. April 2001;9.

study the ways by which to best protect residents from housing conditions that are responsible for multiple diseases and injuries.⁴⁷ The HHI focuses on researching and demonstrating low-cost, effective home hazard assessment and intervention methods, as well as on public education that stresses ways in which communities can mitigate housing-related hazards. The Healthy Homes Initiative Grant Program has funded, among others, the Healthy Public Housing Project, a Boston-based, community-centered project designed to engage residents in a collaborative process to address and change the factors that lead to poor health outcomes for residents in public housing. Despite this, HUD has failed to adopt a policy on IPM and in no way requires PHAs receiving HUD funding to develop or implement IPM strategies in the operation and maintenance of housing projects leaving scores of individuals at risk from the dangers posed by unnecessary and avoidable use of pesticides in housing projects.

IV. LEGAL OBLIGATIONS TO IMPLEMENT IPM

A. FIFRA Requires HUD to Promote IPM Practices

IPM has been an important part of pest management at the federal level for thirty years. For example, in February 1972, President Nixon endorsed IPM, pointing out that chemical pesticides “produced unintended and unanticipated harm,” and directed EPA to launch a large-scale IPM research and development program, and other agencies to develop IPM training programs.⁴⁸ In August 1979, President Carter reiterated that IPM should be “encouraged in both research and

⁴⁷ U.S. Department of Housing and Urban Development, Community Planning and Development. The Healthy Homes Program. Available at: <http://www.hud.gov/offices/cpd/energyenviron/energy/apply/lead/hhi.cfm>.

⁴⁸ President’s Message to Congress Transmitting a Program for Environmental Protection. 92d Congress 2d Session, House of Representatives, Document No. 92-247, p. 7 (Feb. 8, 1972).

operational programs of federal agencies” and created an interagency IPM Coordinating Committee to assure development and implementation of IPM practices.⁴⁹

This Federal IPM policy was codified in 1996 in the Food Quality Protection Act, Pub. L. No. 104-170, 110 Stat. 1489 (1996) (“FQPA”). The Act added a provision to FIFRA requiring that all federal agencies use IPM and promote its use by contractors and others with whom the agency deals. Specifically, FIFRA now provides:

Federal agencies shall use Integrated Pest Management techniques in carrying out pest management activities and shall promote Integrated Pest Management through procurement and regulatory policies, and other activities.⁵⁰

Without a requirement to use IPM and to promote the use of IPM by PHAs, HUD is in violation of FIFRA’s requirement that, as a federal agency, HUD “use” IPM in carrying out its own pest management activities. Neither HUD’s regulatory policies, nor its funding decisions and guidance to PHAs show any action toward promoting IPM as required by FIFRA. If HUD is in fact in compliance with this portion of FIFRA, we request that you provide us with a summary of the steps HUD has taken to implement IPM in its own facilities or to require PHAs to use IPM.

B. The Executive Order on Environmental Justice Creates a Duty to Implement IPM

Residents of public housing facilities are typically economically disadvantaged and as a result, may have fewer housing alternatives than others. These residents may also be inadequately informed about pesticide-associated risk and exposure. The frequent use of highly toxic materials in and around public housing facilities without the prior informed consent and choice of public housing residents may therefore be environmentally “unjust” to affected communities.

⁴⁹Memorandum from President Jimmy Carter to Secretaries of Agriculture, Commerce, Defense, Health and Welfare, Housing and Urban Development, Interior, Labor, and Transportation dated August 2, 1979. Council on Environmental Quality, Integrated Pest Management, Appendix C (Dec. 1979).

⁵⁰7 U.S.C. § 136r-1.

The Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations requires that “each Federal agency shall develop an agency-wide environmental justice strategy . . . that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, or activities on minority populations and low-income populations.”⁵¹ By definition, PHAs serve low-income populations. Consequently, the use of pesticides in public housing necessarily has a disproportionate health effect on low-income populations. Additionally, because public housing residents face a higher incidence of pest infestations due to the age and condition of many of the units, they are likely to face greater pesticide exposure and also a higher likelihood of multiple exposures.⁵² Such exposures put public housing residents at special risk for physical and developmental health problems. Requiring PHAs to carry out IPM practices would thus both meet the dictates of the executive order and improve the living conditions of PHA rental inhabitants while doing so.

C. The Annual Plan is the Perfect Vehicle to Require PHAs to Use IPM

Congress has mandated that each PHA submit an Annual PHA Plan for each fiscal year for which the PHA receives assistance under Section 8 to the Secretary of HUD.⁵³ HUD promulgated regulations implementing the statutory requirement in 24 C.F.R. § 903.7 that requires PHAs to submit an Annual Plan. The rule also requires that HUD advise the PHA of the date the Annual Plan is to be submitted. Each PHA must submit a statement of the PHA’s operation and management. Included in this statement are the PHA’s rules, standards, and policies that govern maintenance and management of housing owned, assisted, or operated by the PHA. Section

⁵¹ Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Feb. 11, 1994).

⁵² See, e.g., Pest Control in Public Housing, Schools and Parks at 19.

⁵³ See 42 U.S.C. §1437c-1.

903.7(e)(2) provides, in relevant part, that the policies listed in the statement “must include a description of any measures necessary for the prevention or eradication of pest infestation which includes cockroach infestation.” Requiring that PHA’s detail the steps taken towards implementing IPM practices to control pests and proper guidelines for establishing IPM in their properties would protect residents, particularly children, from the dangers of pesticide use, and should be required as part of PHAs’ Annual Plans.

NRDC requests that HUD amend 24 C.F.R. § 903.7, to require PHAs to describe their Integrated Pest Management policy and the specific steps taken to reduce, to the maximum extent possible, reliance on chemical pesticides while providing long term pest control and elimination of pest infestation. HUD must require that the IPM policy contain a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using non-chemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls.

V. CONCLUSION

HUD’s failure to use IPM and “promote” the use of IPM through its regulatory policies not only puts public housing residents at risk, it also calls into question the Department’s compliance with FIFRA. Amending HUD regulations to require the use of IPM by PHAs would remedy that violation and go far in furthering HUD’s mission to provide a decent, safe, and sanitary home to residents of HUD-funded public housing developments.

For these reasons and the reasons stated in this petition, NRDC requests that HUD amend its regulations to require PHAs to take active measures towards the use of IPM in public housing and specifically require PHAs to detail in their Annual Plans any and all steps taken towards reducing the use of pesticides. Because NRDC believes strongly that IPM is an important and

beneficial pest-management strategy, and because NRDC possesses expertise in IPM, NRDC would appreciate the opportunity to work with HUD to develop sound IPM guidelines as well as developing an effective, workable IPM program for PHAs.

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.⁵⁴ In order to provide safe environments, HUD should act to minimize risks to residents of public housing. In light of the dangers of pesticide exposure, especially to vulnerable populations like young children, and the many documented successes and benefits of IPM programs in urban settings, HUD should amend 24 C.F.R. § 903.7 to require all PHAs to use IPM.

⁵⁴U.S. Department of Housing and Urban Development. HUD's Public Housing Program, Renting. Available at: <http://www.hud.gov/renting/phprog.cfm>.

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