

111TH CONGRESS
2D SESSION

S. _____

To amend the Toxic Substances Control Act to ensure that risks from chemicals are adequately understood and managed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Toxic Substances Control Act to ensure that risks from chemicals are adequately understood and managed, 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 “Safe Chemicals Act
5 of 2010”.

6 **SEC. 2. PURPOSES.**

7 It is the purpose of this Act to ensure that risks from
8 chemicals are adequately understood and managed.

1 **SEC. 3. FINDINGS, POLICY, AND GOAL.**

2 Section 2 of the Toxic Substances Control Act (15
3 U.S.C. 2601) is amended—

4 (1) by striking “**INTENT**” in the heading and
5 inserting “**GOAL**”; and

6 (2) by striking subsections (a) through (c) and
7 inserting the following:

8 “(a) **FINDINGS.**—Congress finds that—

9 “(1) each year human beings and the environ-
10 ment are exposed to a large number of chemical sub-
11 stances and mixtures;

12 “(2) the chemical industry, an important part
13 of the United States economy, provides valuable
14 products that are used in diverse manufacturing in-
15 dustries and other commercial, institutional, and
16 consumer applications;

17 “(3) more than 3 decades after the enactment
18 of the Toxic Substances Control Act, people and the
19 environment in the United States are still exposed to
20 thousands of chemicals whose safety has not been
21 adequately reviewed and may harm health and the
22 environment;

23 “(4) the incidence of some diseases and dis-
24 orders linked to chemical substance exposures is on
25 the rise;

1 “(5) biomonitoring of chemical substances in
2 humans reveals that people in the United States
3 carry hundreds of hazardous chemicals in their bod-
4 ies;

5 “(6) the concentrations of certain chemical sub-
6 stances that persist and accumulate are increasing
7 in the environment and in human bodies and are
8 found across the world, including in the remote Arc-
9 tic in which Native Americans face increasing con-
10 tamination of traditional foods;

11 “(7) differences in metabolism and physiology
12 at certain stages of development can make infants
13 and children more vulnerable than adults to the ef-
14 fects of chemical exposure, especially exposures that
15 occur in utero, during infancy, and during other
16 critical periods of development;

17 “(8) manufacturers and processors of chemicals
18 should supply sufficient health and environmental
19 information before distributing products in com-
20 merce;

21 “(9) the Administrator must have and exercise
22 the authority to develop sufficient information to as-
23 sess chemical safety, and to act effectively when the
24 Administrator obtains information that indicates

1 there are risks of harmful exposure to chemical sub-
2 stances and mixtures;

3 “(10) there is significant global trade in the
4 chemical sector and many of the companies that con-
5 duct business in the United States must also comply
6 with chemical safety regulatory programs in other
7 countries, and the data that is generated to comply
8 with these other regulatory programs may be useful
9 in understanding hazards and exposures of chemical
10 substances and mixtures presented in the United
11 States; and

12 “(11) a revised policy on the safety of chemical
13 substances and mixtures will assist in renewing the
14 manufacturing sector of the United States, create
15 new and safer jobs, spur innovations in green chem-
16 istry, restore confidence domestically and inter-
17 nationally in the safety of products of the United
18 States, and ensure that products of the United
19 States remain competitive in the global market.

20 “(b) POLICY.—It is the policy of the United States—

21 “(1) to protect the health of children, workers,
22 consumers, and the public, and to protect the envi-
23 ronment from harmful exposures to chemical sub-
24 stances and mixtures;

1 “(2) to promote the use of safer alternatives
2 and other actions that reduce use of and exposure
3 to hazardous chemical substances and reward inno-
4 vation toward safer chemicals, processes, and prod-
5 ucts;

6 “(3) to require that all chemicals in commerce
7 meet a risk-based safety standard that protects vul-
8 nerable and affected populations and the environ-
9 ment;

10 “(4) to require companies to provide sufficient
11 health and environmental information for the chem-
12 ical substances which they manufacture, process, or
13 import as a condition of allowing such companies to
14 distribute such chemicals in commerce;

15 “(5) to improve the quality of information on
16 chemical safety and use;

17 “(6) to guarantee the right of the public and
18 workers to know about the hazards and uses of
19 chemical substances that they may be exposed to by
20 maximizing public access to information on chemical
21 safety and use; and

22 “(7) to strengthen cooperation between and
23 among the Federal Government and State, munic-
24 ipal, tribal, and foreign governments.

1 “(c) GOAL.—It is the goal of the United States to
2 address the harmful exposure of vulnerable or affected
3 populations to chemical substances caused by the distribu-
4 tion of such substances in commerce by—

5 “(1) reviewing all chemical substances for safe-
6 ty and identifying the highest priority chemical sub-
7 stances for expedited review;

8 “(2) determining whether all chemical sub-
9 stances in commerce meet the safety standard under
10 this subchapter;

11 “(3) applying appropriate restrictions to the use
12 of a chemical substance, where warranted; and

13 “(4) encouraging the replacement of harmful
14 chemicals and processes with safer alternatives.”.

15 **SEC. 4. DEFINITIONS.**

16 Section 3 of the Toxic Substances Control Act (15
17 U.S.C. 2602) is amended—

18 (1) in paragraph (2)—

19 (A) in subparagraph (A)—

20 (i) by striking “subparagraph (B)”
21 and inserting “subparagraphs (B) and
22 (C)”;

23 (ii) in clause (i), by striking “and”
24 after “nature,”;

1 (iii) in clause (ii), by striking the pe-
2 riod at the end and inserting “, and”;

3 (iv) by adding at the end the following
4 new clause:

5 “(iii) any chemical substance con-
6 tained in or formed into an article.”;

7 (B) by adding at the end the following new
8 subparagraph:

9 “(C) Notwithstanding molecular identity,
10 the Administrator may determine, under section
11 5(a)(6), that a variant of a chemical substance
12 is a new chemical substance.”.

13 (2) in paragraph (4)—

14 (A) by striking “or” after “or article;”;
15 and

16 (B) by inserting “; or to export or offer for
17 export the substance, mixture, or article” after
18 “article after its introduction into commerce”;

19 (3) in paragraph (5), by inserting “ambient and
20 indoor” after “includes water,”;

21 (4) in paragraph (6), by inserting “relating to
22 a chemical substance or mixture or to the specific
23 chemical identity of the chemical substance or mix-
24 ture” after “test”;

1 (5) in paragraph (8), by inserting “The term
2 ‘mixture’ includes any mixture contained in or
3 formed into an article.” after “combination were
4 combined.”;

5 (6) in paragraph (9), by striking “which is not
6 included in the chemical substance list compiled and
7 published under section 8(b)” and inserting “for
8 which the manufacturer or processor of the chemical
9 substance has not submitted a declaration under sec-
10 tion 8(a)”;

11 (7) by striking paragraph (12);

12 (8) by redesignating paragraphs (13) and (14)
13 as paragraphs (12) and (13), respectively; and

14 (9) by adding at the end the following new
15 paragraphs:

16 “(14) ADVERSE EFFECT.—The term ‘adverse
17 effect’ means a biochemical change, anatomic
18 change, functional impairment, or pathological le-
19 sion, or its known precursor, that—

20 “(A) affects or alters the performance of
21 an anatomic structure of a vital system of an
22 organism or progeny of an organism;

23 “(B) causes irreversible change in the ho-
24 meostasis of an organism;

1 “(C) increases the susceptibility of an or-
2 ganism or progeny of an organism to other
3 chemical or biological stressors or reduces the
4 ability of an organism or progeny of an orga-
5 nism to respond to additional health or environ-
6 mental challenges; or

7 “(D) affects, alters, or harms the environ-
8 ment such that the health of humans or other
9 organisms is directly or indirectly threatened.

10 “(15) AGGREGATE EXPOSURE.—The term ‘ag-
11 gregate exposure’ means all exposure to—

12 “(A) a chemical substance or mixture from
13 the manufacture, processing, distribution, use,
14 and disposal of a chemical substance that is not
15 considered to be a chemical substance under
16 this chapter solely because of the use of the
17 substance as or in a food, food additive, cos-
18 metic, or device (as such terms are defined in
19 section 201 of the Federal Food, Drug, and
20 Cosmetic Act (21 U.S.C. 321));

21 “(B) all other sources of the chemical sub-
22 stance under subparagraph (A), including—

23 “(i) contamination of food, air, water,
24 soil, and house dust from current or prior
25 uses or activity;

1 “(ii) accidental releases;
2 “(iii) permitted sources of pollution;
3 “(iv) nonpoint sources of pollution;
4 and
5 “(v) documented background levels
6 from natural and anthropogenic sources;
7 and
8 “(C) any mixture containing the chemical
9 substance under subparagraph (A).

10 “(16) BIOACCUMULATIVE.—The term ‘bio-
11 accumulative’ has the meaning given to such term in
12 the policy statement entitled ‘Category for Per-
13 sistent, Bioaccumulative, and Toxic New Chemical
14 Substances’ (64 Fed. Reg. 60194, Nov. 4, 1999).
15 The Administrator may issue a rule to update the
16 definition of such term for purposes of this chapter.

17 “(17) CHEMICAL IDENTITY.—The term ‘chem-
18 ical identity’ includes the following—

19 “(A) with respect to a chemical substance,
20 each common and trade name of the chemical
21 substance;

22 “(B) with respect to a chemical substance,
23 the name of the chemical substance appearing
24 in International Union of Pure and Applied

1 Chemistry nomenclature and the most current
2 Collective Index format;

3 “(C) with respect to a chemical substance,
4 each Chemical Abstracts Service registration
5 number of the chemical substance;

6 “(D) with respect to a chemical substance,
7 the molecular structure of the chemical sub-
8 stance;

9 “(E) with respect to a mixture, the chem-
10 ical identities of the mixture’s component chem-
11 ical substances;

12 “(F) with respect to a mixture, the propor-
13 tions the mixture’s component chemical sub-
14 stances.

15 “(18) CUMULATIVE EXPOSURE.—The term ‘cu-
16 mulative exposure’ means the sum of aggregate ex-
17 posure to—

18 “(A) each of the chemical substances that
19 are known or suspected to contribute appre-
20 ciably to the risk of an adverse effect; and

21 “(B) mixtures containing chemical sub-
22 stances described under subparagraph (A).

23 “(19) END CONSUMER.—The term ‘end con-
24 sumer’ means an individual or other entity that pur-

1 chases and uses or consumes a chemical substance,
2 mixture, or article.

3 “(20) FEDERAL AGENCY.—The term ‘Federal
4 agency’ means any department, agency, or other in-
5 strumentality of the Federal Government, any inde-
6 pendent agency or establishment of the Federal Gov-
7 ernment including any Government corporation, and
8 the Government Printing Office.

9 “(21) PERSISTENT.—The term ‘persistent’ has
10 the meaning given to such term in the policy state-
11 ment entitled ‘Category for Persistent, Bioaccumula-
12 tive, and Toxic New Chemical Substances’ (64 Fed.
13 Reg. 60194, Nov. 4, 1999). The Administrator may
14 issue a rule to update the definition of such term for
15 purposes of this chapter.

16 “(22) PERSON.—The term ‘person’ means an
17 individual, trust, firm, joint stock company, corpora-
18 tion (including a government corporation), partner-
19 ship, association, State, municipality, commission,
20 political subdivision of a State, or any interstate
21 body and shall include each Federal agency and any
22 officer, agent, or employee thereof.

23 “(23) REASONABLE CERTAINTY OF NO HARM.—
24 The term ‘reasonable certainty of no harm’ means,
25 in establishing whether a chemical substance or mix-

1 ture meets the safety standard under this sub-
2 chapter, that aggregate exposure and cumulative ex-
3 posure of the general population or of any vulnerable
4 population to the chemical substance or mixture pre-
5 sents a negligible risk of any adverse effect on the
6 general population or a vulnerable population.

7 “(24) SPECIAL SUBSTANCE CHARACTERIS-
8 TICS.—The term ‘special substance characteristics’
9 means, such physical, chemical, or biological charac-
10 teristics, other than molecular identity, that the Ad-
11 ministrator determines, by order or rule, may signifi-
12 cantly affect the risks posed by substances exhibiting
13 those characteristics. In determining the existence of
14 special substance characteristics, the Administrator
15 may consider—

16 “(A) size or size distribution;

17 “(B) shape and surface structure;

18 “(C) reactivity; and

19 “(D) any other properties that may signifi-
20 cantly affect the risks posed.

21 “(25) TOXIC.—The term ‘toxic’, with respect to
22 a chemical substance or mixture, means that the
23 chemical substance or mixture has a toxicological
24 property—

1 “(A) meeting the criteria for Category 1 or
2 Category 2 for any of the toxicity endpoints es-
3 tablished by the Globally Harmonized System
4 for the Classification and Labeling of Haz-
5 ardous Substances;

6 “(B) that causes an adverse effect that has
7 been demonstrated in humans or other exposed
8 organisms; or

9 “(C) for which the weight of evidence
10 (such as demonstration of such an adverse ef-
11 fect as described in clause (i) in laboratory
12 studies or data for a chemical from the same
13 chemical class that exhibits such an adverse ef-
14 fect) demonstrates the potential for an adverse
15 effect in humans or other exposed organisms.

16 “(26) TOXICOLOGICAL PROPERTY.—The term
17 ‘toxicological property’ means actual or potential
18 toxicity or other adverse effects of a chemical sub-
19 stance or mixture, including actual or potential ef-
20 fects of exposure to a chemical substance or mixture
21 on—

22 “(A) mortality;

23 “(B) morbidity, including carcinogenesis;

24 “(C) reproduction;

25 “(D) growth and development;

1 “(E) the immune system;
2 “(F) the endocrine system;
3 “(G) the brain or nervous system;
4 “(H) other organ systems; or
5 “(I) any other biological functions in hu-
6 mans or nonhuman organisms.

7 “(27) VULNERABLE POPULATION.—The term
8 ‘vulnerable population’ means a population that is
9 subject to a disproportionate exposure to, or poten-
10 tial for a disproportionate adverse effect from expo-
11 sure to, a chemical substance or mixture, includ-
12 ing—

13 “(A) infants, children, and adolescents;
14 “(B) pregnant women;
15 “(C) elderly;
16 “(D) individuals with preexisting medical
17 conditions;
18 “(E) workers that work with chemical sub-
19 stance and mixtures; and
20 “(F) members of any other appropriate
21 population identified by the Administrator.”.

22 **SEC. 5. MINIMUM DATA SET AND TESTING OF CHEMICAL**
23 **SUBSTANCES AND MIXTURES.**

24 Section 4 of the Toxic Substances Control Act (15
25 U.S.C. 2603) is amended to read as follows:

1 **“SEC. 4. MINIMUM DATA SET AND TESTING OF CHEMICAL**
2 **SUBSTANCES AND MIXTURES.**

3 “(a) MINIMUM DATA SET.—

4 “(1) MINIMUM DATA SET RULE.—Not later
5 than 1 year after the date of enactment of the Safe
6 Chemicals Act of 2010, the Administrator shall es-
7 tablish, by rule, the data that constitute the min-
8 imum data set for chemical substances and mix-
9 tures. The rule shall require submission of a min-
10 imum data set including information on substance
11 characteristics and on hazard, exposure, and use of
12 chemical substances and mixtures that the Adminis-
13 trator anticipates will be useful in conducting safety
14 standard determinations pursuant to section 6(b) or
15 carrying out any provision of this chapter. The rule
16 shall also establish requirements for manufacturers
17 and processors to update their minimum data set
18 submissions, as appropriate. The rule may provide
19 for varied or tiered testing for different chemical
20 substances, mixtures or categories of chemical sub-
21 stances and mixtures. Studies conducted to satisfy
22 such data requirements shall be conducted in accord-
23 ance with section 31.

24 “(2) SUBMISSION OF MINIMUM DATA SET.—The
25 manufacturers and processors of a chemical sub-

1 stance shall submit the minimum data set for the
2 chemical substance to the Administrator by—

3 “(A) 18 months after the date on which
4 the Administrator places the chemical substance
5 on the priority list; or

6 “(B) for a new chemical substance, the
7 date on which the notice required in section
8 5(b)(1) is filed.

9 “(3) PROHIBITION.—The Administrator may,
10 by order, prohibit a manufacturer or processor in
11 violation of paragraph (2) from manufacturing,
12 processing, or distributing in commerce the chemical
13 substance or any mixture or article containing the
14 chemical substance, except as authorized under sec-
15 tion 6(e).

16 “(b) TESTING.—

17 “(1) IN GENERAL.—The Administrator may, by
18 rule or order, require testing with respect to any
19 chemical substance or mixture, and the submission
20 of test results by a specified date, as necessary for
21 making any determination or carrying out any provi-
22 sion of this chapter. Nothing in this paragraph shall
23 be construed as limiting the Administrator’s author-
24 ity under paragraph (2).

1 “(2) SAMPLE SUBMISSION.—The Administrator
2 may, by rule or order require the submission of a
3 sample of any chemical substance or mixture in such
4 manner as enables the Administrator to conduct
5 such tests as are necessary for making any deter-
6 mination or carrying out any provision of this chap-
7 ter. Nothing in this paragraph shall be construed as
8 limiting the Administrator’s authority under para-
9 graph (1).

10 “(3) PROHIBITION.—The Administrator may,
11 by order, prohibit a manufacturer or processor in
12 violation of a rule or order under paragraph (1)
13 from manufacturing, processing, or distributing in
14 commerce the chemical substance or any mixture or
15 article containing the chemical substance, except as
16 authorized under section 6(e).

17 “(4) EXEMPTION.—If a manufacturer or proc-
18 essor has submitted a declaration of cessation of
19 manufacture or processing under section 8(a)(3) for
20 a chemical substance, the manufacturer or processor
21 shall be exempted from the requirements of this sub-
22 section.

23 “(c) TEST RULES OR ORDERS.—

24 “(1) A rule or order under subsection (b) shall
25 include—

1 “(A) identification of the chemical sub-
2 stance or mixture for which testing is required
3 under the rule or order;

4 “(B) standards for the development of test
5 data for such substance or mixture; and

6 “(C) a specification of the period (which
7 period may not be of unreasonable duration)
8 within which the persons required to conduct
9 the testing shall submit to the Administrator
10 data developed in accordance with the stand-
11 ards referred to in subparagraph (B).

12 In determining the standards and period to be in-
13 cluded, pursuant to subparagraphs (B) and (C), in
14 a rule or order under subsection (b), the Administra-
15 tor’s considerations shall include the relative costs of
16 the various test protocols and methodologies which
17 may be required under the rule or order and the rea-
18 sonably foreseeable availability of the facilities and
19 personnel needed to perform the testing required
20 under the rule. Any such rule or order may require
21 the submission to the Administrator of preliminary
22 data during the period prescribed under subpara-
23 graph (C).

24 “(2) TYPES OF HEALTH AND ENVIRONMENTAL
25 INFORMATION.—

1 “(A) IN GENERAL.—The types of health
2 and environmental information for which stand-
3 ards for the development of test data may be
4 prescribed include—

5 “(i) information pertaining to carcino-
6 genesis, mutagenesis, teratogenesis, behav-
7 ioral disorders, cumulative or synergistic
8 effects, and any other effect which may be
9 considered in a safety determination;

10 “(ii) information pertaining to expo-
11 sure to the chemical substance or mixture,
12 including information regarding the pres-
13 ence of the chemical or mixture in human
14 blood, fluids, or tissue; and

15 “(iii) information pertaining to—

16 “(I) bioaccumulation;

17 “(II) persistence;

18 “(III) acute toxicity;

19 “(IV) subacute toxicity;

20 “(V) chronic toxicity; and

21 “(VI) any other characteristic

22 which may present an adverse effect.

23 “(B) METHODOLOGIES.—

24 “(i) IN GENERAL.—The Administrator
25 may prescribe methodologies in standards

1 for the development of test data includ-
2 ing—

- 3 “(I) epidemiologic studies;
4 “(II) biomonitoring studies;
5 “(III) serial or hierarchical tests;
6 “(IV) in vitro tests; and
7 “(V) whole animal tests, con-
8 sistent with section 31.

9 “(ii) REQUIREMENT.—Prior to pre-
10 scribing epidemiologic studies of employ-
11 ees, the Administrator shall consult with
12 the Director of the National Institute for
13 Occupational Safety and Health.

14 “(C) REVIEW.—Periodically, but not less
15 frequently than once every 3 years, the Admin-
16 istrator shall—

17 “(i) review the adequacy of the stand-
18 ards for development of data prescribed in
19 rules under subsection (a); and

20 “(ii) if necessary, institute pro-
21 ceedings to make appropriate revisions of
22 the standards.

23 “(3) PERSONS REQUIRED TO CONDUCT TESTS
24 AND SUBMIT DATA.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), a rule or order under sub-
3 section (b) respecting a chemical substance or
4 mixture shall specify the persons required to
5 conduct tests and submit data to the Adminis-
6 trator on the substance or mixture.

7 “(B) EXCEPTION.—The Administrator
8 may permit 2 or more of the persons described
9 in subparagraph (A) to designate 1 of the per-
10 sons or a qualified third party to conduct the
11 tests and submit the data on behalf of the per-
12 sons making the designation.

13 “(C) LIABILITY.—All persons described in
14 subparagraphs (A) and (B) shall remain liable
15 for compliance with any requirements subject to
16 the designation.

17 “(4) EXPIRATION OF RULES AND ORDERS.—

18 “(A) IN GENERAL.—Any rule or order
19 under subsection (b) that requires the testing
20 and submission of data with respect to a par-
21 ticular chemical substance or mixture shall ex-
22 pire at the end of the reimbursement period (as
23 defined in subsection (d)(3)) that is applicable
24 to test data with respect to the substance or

1 mixture unless, prior to that date, the Adminis-
2 trator withdraws the rule or order.

3 “(B) CATEGORY OF CHEMICAL SUB-
4 STANCES OR MIXTURES.—A rule or order under
5 subsection (b) that requires the testing and
6 submission of data with respect to a category of
7 chemical substances or mixtures shall expire
8 with respect to a chemical substance or mixture
9 included in the category at the end of the reim-
10 bursement period (as defined in subsection
11 (d)(3)) that is applicable to test data with re-
12 spect to the substance or mixture unless, prior
13 to that date, the Administrator withdraws the
14 rule or order with respect the substance or mix-
15 ture or in its entirety.

16 “(d) EXEMPTIONS.—

17 “(1) IN GENERAL.—Any person required by a
18 rule or order under subsections (a) or (b) to conduct
19 tests and submit data with respect to a chemical
20 substance or mixture may apply to the Adminis-
21 trator (in such form and manner as the Adminis-
22 trator shall prescribe) for an exemption from the re-
23 quirement.

24 “(2) ACTION BY ADMINISTRATOR.—In accord-
25 ance with paragraph (3) or (4), the Administrator

1 shall exempt an applicant under paragraph (1) from
2 conducting tests and submitting data with respect to
3 the substance or mixture under the rule or order
4 with respect to which the application was submitted,
5 if, on receipt of the application, the Administrator
6 determines that—

7 “(A) the chemical substance or mixture
8 with respect to which the application was sub-
9 mitted is equivalent to a chemical substance or
10 mixture for which—

11 “(i) data has been submitted to the
12 Administrator in accordance with a rule or
13 order under subsection (a) or (b); or

14 “(ii) data is being developed in ac-
15 cordance with the rule or order; and

16 “(B) submission of data by the applicant
17 with respect to the substance or mixture would
18 be duplicative of data that—

19 “(i) has been submitted to the Admin-
20 istrator in accordance with the rule or
21 order under subsection (a) or (b); or

22 “(ii) is being developed in accordance
23 with the rule or order.

24 “(3) REIMBURSEMENT DUE TO EXEMPTION
25 FOR PREVIOUSLY SUBMITTED TEST DATA.—

1 “(A) DEFINITION OF REIMBURSEMENT PE-
2 RIOD.—In this paragraph, the term ‘reimburse-
3 ment period’, with respect to any test data for
4 a chemical substance or mixture, means a pe-
5 riod—

6 “(i) beginning on the date on which
7 the test data is submitted in accordance
8 with a rule or order issued under sub-
9 section (a) or (b); and

10 “(ii) ending on the later of—

11 “(I) 5 years after the date re-
12 ferred to in clause (i); or

13 “(II) at the expiration of a period
14 that—

15 “(aa) begins on the date re-
16 ferred to in clause (i); and

17 “(bb) is equal to the period
18 that the Administrator deter-
19 mines was necessary to develop
20 the test data.

21 “(B) REIMBURSEMENT.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), if the exemption under
24 paragraph (2) of any person from the re-
25 quirement to conduct tests and submit test

1 data with respect to a chemical substance
2 or mixture is granted on the basis of the
3 existence of previously submitted test data
4 and the exemption is granted during the
5 reimbursement period for the test data, the
6 Administrator shall order the person
7 granted the exemption to provide fair and
8 equitable reimbursement (in an amount de-
9 termined under rules of the Administrator)
10 to—

11 “(I) the person who previously
12 submitted the test data, for a portion
13 of the costs incurred by the person in
14 complying with the requirement to
15 submit the data; and

16 “(II) any other person who has
17 been required under this subsection to
18 contribute with respect to the costs,
19 for a portion of the amount the per-
20 son was required to contribute.

21 “(ii) EXCEPTION.—Clause (i) shall
22 not apply if there is agreement on the
23 amount and method of reimbursement be-
24 tween an exempted person described in

1 clause (i) and the persons described in sub-
2 clauses (I) and (II) of that clause.

3 “(iii) CONSIDERATIONS.—In promul-
4 gating rules for the determination of fair
5 and equitable reimbursement to the per-
6 sons described in subclauses (I) and (II) of
7 clause (i) for costs incurred with respect to
8 a chemical substance or mixture, the Ad-
9 ministrator shall, after consultation with
10 the Attorney General and the Federal
11 Trade Commission, consider all relevant
12 factors, including—

13 “(I) the effect on the competitive
14 position of the person required to pro-
15 vide reimbursement in relation to the
16 person to be reimbursed; and

17 “(II) the share of the market for
18 the substance or mixture of the per-
19 son required to provide reimburse-
20 ment in relation to the share of the
21 market of the persons to be reim-
22 bursed.

23 “(4) REIMBURSEMENT DUE TO EXEMPTION
24 FOR TEST DATA BEING DEVELOPED IN ACCORDANCE
25 WITH A RULE OR ORDER.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), if the exemption under para-
3 graph (2) of any person from the requirement
4 to conduct tests and submit test data with re-
5 spect to a chemical substance or mixture is
6 granted on the basis of the fact that test data
7 is being developed by 1 or more persons in ac-
8 cordance with a rule or order issued under sub-
9 section (a) or (b), the Administrator shall order
10 the person granted the exemption to provide
11 fair and equitable reimbursement (in an
12 amount determined under rules of the Adminis-
13 trator)—

14 “(i) to each such person who is devel-
15 oping the test data, for a portion of the
16 costs incurred by each person in complying
17 with the rule or order; and

18 “(ii) to any other person who has
19 been required under this subsection to con-
20 tribute with respect to the costs of com-
21 plying with the rule or order, for a portion
22 of the amount the person was required to
23 contribute.

24 “(B) EXCEPTION.—Subparagraph (A)
25 shall not apply if there is agreement on the

1 amount and method of reimbursement between
2 an exempted person described in subparagraph
3 (A) and the persons described in clauses (i) and
4 (ii) of that subparagraph.

5 “(C) CONSIDERATIONS.—In promulgating
6 rules for the determination of fair and equitable
7 reimbursement to the persons described in
8 clauses (i) and (ii) of subparagraph (A) for
9 costs incurred with respect to a chemical sub-
10 stance or mixture, the Administrator shall,
11 after consultation with the Attorney General
12 and the Commissioners of the Federal Trade
13 Commission, consider the factors described in
14 paragraph (3)(B)(iii).

15 “(D) LACK OF COMPLIANCE.—If any ex-
16 emption is granted under paragraph (2) on the
17 basis that 1 or more persons are developing test
18 data pursuant to a rule or order promulgated
19 or issued under subsection (a) or (b), and after
20 the exemption is granted, the Administrator de-
21 termines that no such person has complied with
22 the rule or order, the Administrator shall—

23 “(i) after providing written notice to
24 the person who holds the exemption and an

1 opportunity for a hearing, by order termi-
2 nate the exemption; and

3 “(ii) notify in writing the person of
4 the requirements of the rule or order with
5 respect to which the exemption was grant-
6 ed.

7 “(e) NOTICE.—

8 “(1) IN GENERAL.—Not later than 15 days
9 after the date of receipt of any test data pursuant
10 to a rule or order under subsection (a) or (b), the
11 Administrator shall publish in the Federal Register
12 a notice of the receipt of the test data.

13 “(2) REQUIREMENTS.—Subject to section 14,
14 each notice shall—

15 “(A) identify the chemical substance or
16 mixture with respect to which data have been
17 received;

18 “(B) list the commercial and consumer
19 uses or intended commercial and consumer uses
20 of the substance or mixture known to the Ad-
21 ministrator and the information required by the
22 applicable standards for the development of test
23 data; and

24 “(C) describe the nature of the test data
25 developed.

1 “(ii) that a copy of any such submis-
2 sion also be furnished to the requesting
3 agency;

4 “(C) issue a rule or order under subsection
5 (b)—

6 “(i) to develop the data; and

7 “(ii) to require the developed data be
8 furnished to the requesting agency; or

9 “(D) publish in the Federal Register the
10 reason for not taking any of the actions de-
11 scribed in this paragraph.

12 “(g) CERTIFICATION.—Each submission required
13 under this section or under a rule or an order promulgated
14 or issued by the Administrator under this section shall be
15 accompanied by a certification signed by a responsible offi-
16 cial of the manufacturer or processor that each statement
17 contained in the submission—

18 “(1) is accurate and reliable; and

19 “(2) includes all material facts known to, in the
20 possession or control of, or reasonably ascertainable
21 by the manufacturer or processor.”.

22 **SEC. 6. MANUFACTURING AND PROCESSING NOTICES.**

23 Section 5 of the Toxic Substances Control Act (15
24 U.S.C. 2604) is amended to read as follows:

1 **“SEC. 5. MANUFACTURING AND PROCESSING NOTICES.**

2 “(a) NEW CHEMICAL SUBSTANCES AND MIXTURES
3 AND NEW USES OF CHEMICAL SUBSTANCES AND MIX-
4 TURES.—

5 “(1) NEW CHEMICAL SUBSTANCES AND MIX-
6 TURES.—Except as provided in subsection (d), no
7 person may manufacture or process a new chemical
8 substance unless—

9 “(A)(i) the person submits to the Adminis-
10 trator a notice, in accordance with subsection
11 (c), of the intention of the person to manufac-
12 ture or process the substance; and

13 “(ii) the person complies with subsection
14 (b); and

15 “(B) the Administrator—

16 “(i) finds that the manufacturers and
17 processors have established that the chem-
18 ical substance meets the safety standard
19 under section 6(b); or

20 “(ii) finds that the new chemical sub-
21 stance , or a metabolite or degradation
22 product of the chemical substance, as ap-
23 plicable, is not , and is not expected to
24 be—

25 “(I) manufactured in a volume of
26 more than 1,000,000 pounds annually

1 or released into the environment in a
2 volume of more than 100,000 pounds
3 annually;

4 “(II) a known, probable, or sus-
5 pected reproductive, developmental,
6 neurological, or immunological toxi-
7 cant, carcinogen, mutagen, or endo-
8 crine disruptor, or has other toxi-
9 cological properties of concern;

10 “(III) persistent and bioaccumu-
11 lative;

12 “(IV) found in human cord
13 blood, or otherwise found in human
14 blood, fluids, or tissue, unless the
15 chemical substance or metabolite or
16 degradation product is naturally
17 present at the level commonly found
18 in that medium; or

19 “(V) found in food, drinking
20 water, ambient or indoor air, residen-
21 tial soil, or house dust, unless the
22 chemical substance or metabolite or
23 degradation product is naturally
24 present at the level commonly found
25 in that medium.

1 “(2) NEW USES OF EXISTING CHEMICAL SUB-
2 STANCES PRIOR TO SAFETY DETERMINATION.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), with respect to an existing
5 chemical substance which the Administrator has
6 not made a safety determination under section
7 6, no person may manufacture or process the
8 chemical substance—

9 “(i) for a use that was not ongoing on
10 the date of enactment of the Safe Chemi-
11 cals Act of 2010;

12 “(ii) at a significantly increased vol-
13 ume above the level on the date of enact-
14 ment; or

15 “(iii) if the person had not previously
16 manufactured or processed the chemical
17 substance on the date of enactment of the
18 Safe Chemicals Act of 2010.

19 “(B) HEADER NEEDED.—The person—

20 “(i) submits to the Administrator a
21 new or updated declaration referred to in
22 section 8(a); and

23 “(ii) complies with subsection (b).

24 “(3) NEW USES OF EXISTING CHEMICAL SUB-
25 STANCES THAT MEET THE SAFETY STANDARD.—

1 “(ii) the notice under clause (i)(I) in-
2 dicates that the chemical substance will
3 continue to meet the safety standard if the
4 allowed uses, allowed production volume,
5 or other specified conditions or terms for
6 such chemical substance are revised to en-
7 compass the new use or new production
8 volume, or other new manner of manufac-
9 turing or processing; and

10 “(iii) the Administrator determines
11 that the manufacturer or processor submit-
12 ting the notice has established that the
13 chemical substance will continue to meet
14 the safety standard if the allowed uses or
15 allowed production volume, or other speci-
16 fied conditions or terms for such sub-
17 stance, are revised to encompass the new
18 use or new production volume or other new
19 manner of manufacturing or processing.

20 “(B) AMENDMENT TO SAFETY DETER-
21 MINATION.—If the conditions described in
22 clause (i) through (iii) of subparagraph (A) are
23 satisfied, the Administrator shall, by order,
24 amend the safety determination for the chem-
25 ical substance to include the new use or new

1 production volume among the allowed uses or
2 production volumes of the chemical substance.

3 “(4) SAFETY STANDARD DETERMINATION.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraphs (B) and (C), not later than 180
6 days after the date of receipt of a notice and
7 supporting data that satisfies paragraph (1)(A)
8 or paragraph (3)(A), the Administrator shall
9 determine whether the person submitting the
10 notice has established that the chemical sub-
11 stance will meet, or continue to meet, the safety
12 standard under section 6(b).

13 “(B) EXCEPTION.—In the case of a notice
14 under paragraph (1)(A), the Administrator
15 shall not be subject to the deadline described in
16 subparagraph (A) if the Administrator first
17 makes the finding specified under paragraph
18 (1)(B)(ii).

19 “(C) EXTENSION.—The Administrator
20 may extend the determination deadline under
21 subparagraph (A) by 1 or more additional peri-
22 ods not to exceed 12 months in aggregate, by
23 action in accordance with section 5(b) or sec-
24 tion 6(b)(2)(A)(i)(I)(bb), or other means, as

1 necessary to secure additional relevant data for
2 the determination.

3 “(D) FAILURE TO MAKE A TIMELY DETER-
4 MINATION.—The failure of the Administrator to
5 make a timely determination in accordance with
6 this paragraph shall not be sufficient to satisfy
7 paragraph (1)(B)(ii) or paragraph (3)(A)(iii).

8 “(5) NOTICE OF COMMENCEMENT.—Not later
9 than 30 days after the date on which a manufac-
10 turer or processor commences manufacturing or
11 processing of a new chemical substance, the manu-
12 facturer or processor shall submit to the Adminis-
13 trator a notice of commencement of manufacture or
14 processing.

15 “(6) CHEMICAL SUBSTANCES EXHIBITING SPE-
16 CIAL SUBSTANCE CHARACTERISTICS.—

17 “(A) DETERMINATION.—The Adminis-
18 trator shall determine by order or rule that a
19 variant of a chemical substance exhibiting one
20 or more special substance characteristics—

21 “(i) is a use that is separate from any
22 use of the chemical substance that does
23 not exhibit such special substance charac-
24 teristics; or

25 “(ii) is a new chemical substance.

1 “(B) REQUIREMENTS FOR VARIANTS THAT
2 ARE SEPARATE USES.—In the case of a chem-
3 ical substance which the Administrator deter-
4 mines to be a separate use based on its special
5 substance characteristics, the manufacturer or
6 processor shall satisfy such further conditions
7 as the Administrator establishes, by order or
8 rule.

9 “(b) SUBMISSION OF DATA.—

10 “(1) IN GENERAL.—If a person is required by
11 subsection (a) to submit to the Administrator a no-
12 tice before beginning the manufacture or processing
13 of a chemical substance, and is required by a rule
14 or order under section 4(b) to submit test data for
15 the chemical substance before the submission of the
16 notice, the person shall submit to the Administrator
17 the data in accordance with the rule or order at the
18 time the notice is submitted under subsection (b).

19 “(2) AVAILABILITY.—Subject to section 14, test
20 data submitted under paragraph (1) shall be made
21 available on the internet by the Administrator.

22 “(c) CONTENT AND AVAILABILITY OF NOTICE.—

23 “(1) CONTENT OF NOTICE.—The notice re-
24 quired by subsection (b)(1) shall include—

1 “(A) the declaration described in section
2 8(a)(2);

3 “(B) the minimum data set, as defined in
4 accordance with section 4(a); and

5 “(C) a statement that the chemical sub-
6 stance will meet the safety standard.

7 “(2) AVAILABILITY.—Subject to section 14, a
8 notice described in paragraph (1) shall be made
9 available on the internet by the Administrator.

10 “(3) PUBLIC INFORMATION.—Subject to section
11 14, not later than 5 days (excluding Saturdays, Sun-
12 days, and legal holidays) after the date of the receipt
13 of a notice under subsection (a) or of data under
14 subsection (b), the Administrator shall make avail-
15 able on the internet information that—

16 “(A) identifies the chemical substance for
17 which notice or data has been received;

18 “(B) lists the uses or intended uses of the
19 chemical substance;

20 “(C) in the case of the receipt of data
21 under subsection (b), describes—

22 “(i) the nature of the tests performed
23 with respect to the chemical substance; and

1 “(ii) any data that were received
2 under subsection (b) or a rule or order
3 under section 4; and

4 “(D) references the availability of the min-
5 imum data set.

6 “(4) LIST OF NOTICES.—At the beginning of
7 each month, the Administrator shall make available
8 on the internet a list of each chemical substance for
9 which notice has been received under subsection (a).

10 “(d) EXEMPTIONS.—

11 “(1) TEST MARKETING PURPOSES.—The Ad-
12 ministrator may, upon application, exempt any per-
13 son from any requirement of subsection (a) or (b) to
14 permit the person to manufacture or process a
15 chemical substance for test marketing purposes—

16 “(A) upon a showing by the person satis-
17 factory to the Administrator that the manufac-
18 ture, processing, distribution in commerce, use,
19 and disposal of the chemical substance, and
20 that any combination of those activities, will not
21 endanger the health or the environment, and

22 “(B) under such restrictions as the Admin-
23 istrator considers appropriate.

24 “(2) EQUIVALENT CHEMICAL SUBSTANCES.—

1 “(A) IN GENERAL.—The Administrator
2 shall, upon application, fully or partially exempt
3 any person from the requirement to submit any
4 data otherwise required with respect to a chem-
5 ical substance for which notice is submitted
6 under subsection (a) if, on receipt of an appli-
7 cation, the Administrator determines that—

8 “(i) the chemical substance with re-
9 spect to which the application was sub-
10 mitted is equivalent to a chemical sub-
11 stance for which data has been submitted
12 to the Administrator as required by this
13 chapter; and

14 “(ii) submission of data by the appli-
15 cant on the chemical substance would be
16 duplicative of data which has been sub-
17 mitted to the Administrator in accordance
18 with this chapter.

19 “(iii) EFFECTIVE DATE.—No exemp-
20 tion granted under this subparagraph with
21 respect to the submission of data for a
22 chemical substance may take effect before
23 the beginning of the reimbursement period
24 applicable to the data.

1 “(B) FAIR AND EQUITABLE REIMBURSE-
2 MENT.—

3 “(i) DEFINITION OF REIMBURSEMENT
4 PERIOD.—In this subparagraph, the term
5 ‘reimbursement period’, with respect to
6 any previously submitted data for a chem-
7 ical substance, means a period—

8 “(I) beginning on the date of the
9 termination of the prohibition, im-
10 posed under this section, on the man-
11 ufacture or processing of the chemical
12 substance by the person who sub-
13 mitted the data to the Administrator;
14 and

15 “(II) ending on the later of—

16 “(aa) the date that is 5
17 years after the date referred to in
18 subclause (I); or

19 “(bb) at the expiration of a
20 period beginning on the date re-
21 ferred to in subclause (I) that is
22 equal in length to the period that
23 the Administrator determines to
24 be necessary to develop the data.

1 “(ii) REIMBURSEMENT.—Except as
2 provided in clause (iii), if the Adminis-
3 trator exempts any person, under subpara-
4 graph (A), from submitting data required
5 under subsection (a) or (b) for a chemical
6 substance because of the existence of pre-
7 viously submitted data and the exemption
8 is granted during the reimbursement pe-
9 riod for that data, the Administrator shall
10 order the person granted the exemption to
11 provide fair and equitable reimbursement
12 (in an amount determined under rules of
13 the Administrator)—

14 “(I) to the person who previously
15 submitted the data on which the ex-
16 emption was based, for a portion of
17 the costs incurred by the person in
18 complying with the requirement under
19 this subchapter to submit the data;
20 and

21 “(II) to any other person who
22 has been required under this subpara-
23 graph to contribute with respect to
24 the costs, for a portion of the amount
25 the person was required to contribute.

1 “(iii) EXCEPTION.—Clause (ii) shall
2 not apply if the person exempted under
3 that clause and the persons described in
4 subclauses (I) and (II) of that clause agree
5 on the amount and method of reimburse-
6 ment.

7 “(iv) CONSIDERATIONS.—In promul-
8 gating rules for the determination of fair
9 and equitable reimbursement to the per-
10 sons described in subclauses (I) and (II) of
11 clause (ii) for costs incurred with respect
12 to a chemical substance, the Administrator
13 shall, after consultation with the Attorney
14 General and the Commissioners of the
15 Federal Trade Commission, consider all
16 relevant factors, including—

17 “(I) the effect on the competitive
18 position of the person required to pro-
19 vide reimbursement in relation to the
20 persons to be reimbursed; and

21 “(II) the share of the market for
22 the chemical substance of the person
23 required to provide reimbursement in
24 relation to the share of the market of
25 the persons to be reimbursed.

1 “(3) SMALL QUANTITIES.—

2 “(A) IN GENERAL.—If the conditions de-
3 scribed in subparagraph (B) are met, sub-
4 sections (a) and (b) shall not apply with respect
5 to the manufacturing or processing of any
6 chemical substance that is manufactured or
7 processed, or proposed to be manufactured or
8 processed, only in small quantities (as defined
9 by the Administrator by rule) solely for pur-
10 poses of—

11 “(i) scientific experimentation or anal-
12 ysis, or

13 “(ii) chemical research on, or analysis
14 of such substance or another substance, in-
15 cluding such research or analysis for the
16 development of a product.

17 “(B) CONDITIONS.—The conditions re-
18 ferred to in subparagraph (A) are that all per-
19 sons engaged in the experimentation, research,
20 or analysis for a manufacturer or processor are
21 notified (in such form and manner as the Ad-
22 ministrator may prescribe) of any risk to health
23 which the manufacturer, processor, or the Ad-
24 ministrator has reason to believe may be associ-
25 ated with such chemical substance.

1 “(4) TEMPORARY EXISTENCE.—The Adminis-
2 trator may, upon application, exempt from sub-
3 sections (a) and (b) the manufacturing or processing
4 of any chemical substance—

5 “(A) that exists temporarily as a result of
6 a chemical reaction in the manufacturing or
7 processing of a mixture or another chemical
8 substance; and

9 “(B) to which there is no, and will not be,
10 human or environmental exposure.

11 “(5) PUBLICATION.—

12 “(A) IN GENERAL.—As soon as practicable
13 after receipt of an application under paragraph
14 (1) or (4), the Administrator shall publish in
15 the Federal Register notice of the receipt of the
16 application.

17 “(B) REQUIREMENTS.—The Administrator
18 shall—

19 “(i) give interested persons an oppor-
20 tunity to comment upon any application
21 described in subparagraph (A);

22 “(ii) not later than 45 days after the
23 date of receipt of an application, approve
24 or deny the application; and

1 “(iii) publish in the Federal Register
2 notice of the approval or denial of the ap-
3 plication.

4 “(e) CERTIFICATION.—Each submission required
5 under this section or under a rule or an order promulgated
6 or issued by the Administrator under this section shall be
7 accompanied by a certification signed by a responsible offi-
8 cial of the manufacturer or processor that each statement
9 contained in the submission—

10 “(1) is accurate and reliable; and

11 “(2) includes all material facts known to, in the
12 possession or control of, or reasonably ascertainable
13 by the manufacturer or processor.

14 “(f) DEFINITIONS.—In this section:

15 “(1) MANUFACTURE AND PROCESS.—The terms
16 ‘manufacture’ and ‘process’ mean manufacture or
17 process, respectively, for commercial purposes.

18 “(2) TEST MARKETING.—The term ‘test mar-
19 keting’ does not include any provision of a chemical
20 substance or mixture, or an article containing a
21 chemical substance or mixture, to an end consumer
22 of the chemical substance, mixture, or article.”.

1 **SEC. 7. PRIORITIZATION, SAFETY STANDARD DETERMINA-**
2 **TION, AND RISK MANAGEMENT.**

3 Section 6 of the Toxic Substances Control Act (15
4 U.S.C. 2605) is amended to read as follows:

5 **“SEC. 6. PRIORITIZATION, SAFETY STANDARD DETERMINA-**
6 **TION, AND RISK MANAGEMENT.**

7 “(a) PRIORITIZATION OF CHEMICAL SUBSTANCES.—

8 “(1) ESTABLISHMENT OF PRIORITY LIST.—Not
9 later than 18 months after the date of enactment of
10 the Safe Chemicals Act of 2010, the Administrator
11 shall by order develop and publish a priority list con-
12 taining the names of not less than 300 chemical sub-
13 stances for which safety determinations under this
14 section shall first be made. Chemical substances
15 shall be selected to be on the list at the Administra-
16 tor’s discretion, based on available scientific evi-
17 dence, and consideration of their risk relative to
18 other chemical substances, based upon presence in
19 biological and environmental media, use, production
20 volume, toxicity, persistence, bioaccumulation, or
21 other properties indicating risk.

22 “(2) UPDATING OF LIST.—The Administrator
23 shall—

24 “(A) remove a chemical substance or mix-
25 ture from the list under paragraph (1) only
26 after a safety standard determination has been

1 made for such chemical substance or mixture
2 pursuant to subsection (b);

3 “(B) add chemical substances or mixtures
4 to the list periodically so that the number of
5 chemical substances on the list will not be fewer
6 than 300 at any given time, until such time as
7 all chemical substances and mixtures distrib-
8 uted in commerce have had a safety standard
9 determination. Additions to the list shall be
10 consistent with paragraph (1) and based on
11 consideration generally of risk relative to listed
12 chemical substances and mixtures to the extent
13 practicable. Such additions to the list may be
14 made in response to petitions under section 21;
15 and

16 “(C) give due consideration to any rec-
17 ommendation provided by the committee estab-
18 lished under paragraph (3).

19 “(3) INTERAGENCY PRIORITIZATION AND TEST-
20 ING COMMITTEE.—

21 “(A) ESTABLISHMENT.—There is estab-
22 lished an interagency committee (referred to in
23 this section as the ‘committee’) to make rec-
24 ommendations to the Administrator con-
25 cerning—

1 “(i) the issuance of test rules or or-
2 ders for chemical substances and mixtures
3 under section 4(b); and

4 “(ii) the placement of chemical sub-
5 stances on the priority list under this sub-
6 section.

7 “(B) RECOMMENDATIONS.—

8 “(i) FACTORS.—In making a rec-
9 ommendation concerning—

10 “(I) the issuance of test rules or
11 orders under section 4(b), the com-
12 mittee shall consider all factors rel-
13 evant to risk; and

14 “(II) placement on the priority
15 list under subsection (a), the com-
16 mittee shall consider the criteria iden-
17 tified pursuant to subsection (a)(1).

18 “(ii) FORM.—The recommendations of
19 the committee shall be in the form of 1 or
20 more lists of chemical substances and mix-
21 tures that shall specify, either by individual
22 substance or mixture or by groups of sub-
23 stances or mixtures—

24 “(I) the recommendations of the
25 committee that particular chemical

1 substances, mixtures, or categories of
2 chemical substances or mixtures be
3 the subject of a test rule or order
4 under section 4(b); or

5 “(II) the recommendations of the
6 committee that particular chemical
7 substances, or groups of chemical sub-
8 stances, be placed on the priority list.

9 “(iii) ADDITIONS OR REVISIONS.—

10 “(I) IN GENERAL.—At least once
11 every year, the committee shall—

12 “(aa) make such additions
13 or revisions to the recommenda-
14 tions of the commission as the
15 commission determines to be nec-
16 essary; and

17 “(bb) submit to the Admin-
18 istrator the recommendations and
19 a statement of the reasons of the
20 committee for any additions or
21 revisions.

22 “(II) PUBLICATION.—On receipt
23 of any new or revised recommenda-
24 tions, the Administrator shall publish
25 in the Federal Register the rec-

1 ommendations and the statement of
2 the reasons for the additions or revi-
3 sions.

4 “(III) COMMENTS.—The Admin-
5 istrator shall—

6 “(aa) provide reasonable op-
7 portunity to any interested per-
8 son to file with the Administrator
9 written comments on the rec-
10 ommendations of the committee,
11 and any additions or revisions to
12 the recommendations by the com-
13 mittee;

14 “(bb) consideration such
15 comments; and

16 “(cc) make the comments
17 available to the public.

18 “(C) COMPOSITION.—The committee shall
19 consist of the following 8 members:

20 “(i) 1 member appointed by the Ad-
21 ministrator from officers or employees of
22 the Environmental Protection Agency.

23 “(ii) 1 member appointed by the Sec-
24 retary of Labor from officers or employees
25 of the Department of Labor engaged in the

1 activities of the Secretary of Labor under
2 the Occupational Safety and Health Act of
3 1970 (29 U.S.C. 651 et seq.).

4 “(iii) 1 member appointed by the
5 Chairman of the Council on Environmental
6 Quality from the Council or the officers or
7 employees of the Council.

8 “(iv) 1 member appointed by the Di-
9 rector of the National Institute for Occu-
10 pational Safety and Health from officers or
11 employees of the Institute.

12 “(v) 1 member appointed by the Di-
13 rector of the National Institute of Environ-
14 mental Health Sciences from officers or
15 employees of the Institute.

16 “(vi) 1 member appointed by the Di-
17 rector of the National Cancer Institute
18 from officers or employees of the Institute.

19 “(vii) 1 member appointed by the Di-
20 rector of the National Science Foundation
21 from officers or employees of the Founda-
22 tion.

23 “(viii) 1 member appointed by the
24 Secretary of Commerce from officers or

1 employees of the Department of Com-
2 merce.

3 “(D) APPOINTMENT OF MEMBERS.—

4 “(i) DESIGNEES.—

5 “(I) IN GENERAL.—An appointed
6 member may designate an individual
7 to serve on the committee on behalf of
8 the member.

9 “(II) PREREQUISITES.—A des-
10 ignation may be made only—

11 “(aa) with the approval of
12 the applicable appointing author-
13 ity; and

14 “(bb) if the individual is
15 from the entity from which the
16 member was appointed.

17 “(ii) TERMS.—

18 “(I) IN GENERAL.—No individual
19 may serve as a member of the com-
20 mittee for more than 4 years in the
21 aggregate.

22 “(II) MEMBERS LEAVING AP-
23 POINTING ENTITIES.—If any member
24 of the committee leaves the entity

1 from which the member was ap-
2 pointed—

3 “(aa) the member may not
4 continue as a member of the
5 committee; and

6 “(bb) the position of the
7 member shall be considered to be
8 vacant.

9 “(III) VACANCIES.—A vacancy
10 on the committee shall be filled in the
11 same manner in which the original ap-
12 pointment was made.

13 “(E) CONFLICTS OF INTEREST.—

14 “(i) POST-TERMINATION EMPLOY-
15 MENT OR COMPENSATION.—No member of
16 the committee, or designee of the member,
17 shall accept employment or compensation
18 from any person subject to any require-
19 ment of this chapter or of any rule promul-
20 gated or order issued under this chapter,
21 for a period of at least 1 year after the
22 date of termination of service on the com-
23 mittee.

24 “(ii) FINANCIAL INTERESTS.—No per-
25 son, while serving as a member of the com-

1 mittee or designee of the member, may
2 own any stocks or bonds, or have any pe-
3 cuniary interest, of substantial value in
4 any person engaged in the manufacture,
5 processing, or distribution in commerce of
6 any chemical substance or mixture subject
7 to this chapter or of any rule promulgated
8 or order issued under this chapter.

9 “(iii) VIOLATIONS.—The Adminis-
10 trator, acting through attorneys of the En-
11 vironmental Protection Agency, or the At-
12 torney General may bring an action in the
13 appropriate district court of the United
14 States to restrain any violation of this sub-
15 paragraph.

16 “(F) ADMINISTRATIVE SUPPORT.—The
17 Administrator shall provide the committee such
18 administrative support services as may be nec-
19 essary to enable the committee to carry out the
20 functions of the committee under this sub-
21 section.

22 “(4) NO JUDICIAL REVIEW; NONDISCRETIONARY
23 DUTY.—

24 “(A) NO JUDICIAL REVIEW.—The fol-
25 lowing actions shall not be subject to judicial

1 review, including when a prioritization decision
2 or recommendation coincides with or is based
3 on other decisions under this chapter that are
4 subject to judicial review:

5 “(i) A decision whether to place a par-
6 ticular chemical substance on the priority
7 list pursuant to this subsection;

8 “(ii) A response to a petition to place
9 a particular chemical on the priority list;
10 and

11 “(iii) The issuance of a recommenda-
12 tion pursuant to paragraph (3).

13 “(B) NONDISCRETIONARY DUTY.—The
14 failure of the Administrator to establish the pri-
15 ority list required in subparagraph (1), or to
16 update the list as required by paragraph (2),
17 shall be—

18 “(i) considered to be a failure to per-
19 form a nondiscretionary duty; and

20 “(ii) subject to judicial review.

21 “(b) SAFETY DETERMINATIONS FOR CHEMICAL SUB-
22 STANCES.—

23 “(1) IN GENERAL.—

24 “(A) APPLICATION.—This paragraph ap-
25 plies to the determination, or redetermination,

1 of whether a chemical substance meets the safe-
2 ty standards of this subchapter.

3 “(B) BURDEN OF PROOF.—Under this
4 subchapter, it shall be the duty of—

5 “(i) the manufacturers and processors
6 of a chemical substance to, at all times,
7 bear the burden of proving that the chem-
8 ical substance meets the applicable safety
9 standard; and

10 “(ii) the Administrator to determine
11 whether the manufacturers and processors
12 of a chemical substance have met the bur-
13 den of proof under clause (i).

14 “(C) ASSESSMENT OF RISK.—

15 “(i) IN GENERAL.—Any determination
16 that a manufacturer or processor of a
17 chemical substance has met the burden of
18 proof pursuant to subparagraph (B)(i)
19 shall be supported by an assessment of
20 risk conducted by an employee or con-
21 tractor of the Environmental Protection
22 Agency.

23 “(ii) FINANCIAL INTERESTS.—No
24 participant or peer reviewer in an assess-
25 ment described in clause (i) shall have a

1 direct or indirect financial interest in the
2 outcome of the assessment.

3 “(iii) METHODOLOGY.—The Adminis-
4 trator shall use the best available science
5 when conducting an assessment described
6 in clause (i). For the purpose of deter-
7 mining the current best available science
8 the Administrator shall consider the most
9 recent recommendations of the National
10 Academy of Sciences on ways to better
11 protect people, including pregnant women,
12 infants, children and other vulnerable pop-
13 ulations from harm by exposure to toxic
14 substances when assessing such potential
15 risks.

16 “(iv) SCOPE.—An assessment de-
17 scribed in clause (i) shall address health or
18 environmental impacts including potential
19 or demonstrated cancer and noncancer
20 endpoints.

21 “(v) TRANSPARENCY.—In carrying
22 out this subsection, the Administrator shall
23 ensure that the approaches and resulting
24 assessments are communicated in a man-

1 ner that is transparent and understandable
2 to the public and to risk managers.

3 “(vi) MANUFACTURE OR PROCESSING
4 FOR EXPORT.—In the case of a chemical
5 substance that is manufactured or proc-
6 essed in whole or in part for export, in de-
7 termining whether the manufacturer or
8 processor has met the burden of proof pur-
9 suant to subparagraph (B)(i), the Admin-
10 istrator shall take into account such risks
11 as the chemical substance may pose in the
12 United States, including risks involving
13 long-range transport of the chemical sub-
14 stance in the environment and risks involv-
15 ing the import of articles and mixtures
16 containing the chemical substance.

17 “(vii) RISK ASSESSMENT NOT RE-
18 QUIRED.—The Administrator shall not be
19 required to conduct a risk assessment to
20 determine that a manufacturer or proc-
21 essor has not met the burden of proof
22 under subparagraph (B)(i).

23 “(D) NO JUDICIAL REVIEW.—A determina-
24 tion by the Administrator that a manufacturer
25 or processor has not established that the chem-

1 chemical substance on the pri-
2 ority list;

3 “(bb) submit to the Admin-
4 istrator, and develop by testing
5 as necessary, all other informa-
6 tion the Administrator may re-
7 quire, including information de-
8 veloped through testing or other-
9 wise, in order to make a safety
10 determination; and

11 “(cc) indicate whether the
12 chemical substance, including
13 specified uses to be evaluated and
14 any proposed conditions on the
15 specified uses meets the safety
16 standard.

17 “(II) SUBMITTING MANUFACTUR-
18 ERS AND PROCESSORS.—The Admin-
19 istrator may permit the manufactur-
20 ers and processors of a chemical sub-
21 stance to designate 1 or more manu-
22 facturers or processors to submit the
23 information required under subclause
24 (I) on behalf of the manufacturers

1 and processors making the designa-
2 tion.

3 “(III) LIABILITY.—All manufac-
4 turers and processors described in
5 subclause (II) shall remain liable for
6 compliance with any requirements
7 subject to the designation.

8 “(ii) RENEWAL OF SAFETY DETER-
9 MINATION SUBMISSION.—

10 “(I) IN GENERAL.—Not later
11 than 15 years after the date of the
12 previous submission under clause (i),
13 this clause, or section 5(c)(1), the
14 manufacturers and processors of each
15 chemical substance shall—

16 “(aa) submit to the Admin-
17 istrator the minimum dataset for
18 the chemical substance, as estab-
19 lished under section 4(a); and

20 “(bb) indicate whether the
21 chemical substance, including
22 specified uses to be evaluated and
23 any proposed conditions on the
24 specified use meets the safety
25 standard.

1 “(II) SUBMITTING MANUFACTUR-
2 ERS AND PROCESSORS.—The Admin-
3 istrator may permit the manufactur-
4 ers and processors of a chemical sub-
5 stance to designate 1 or more manu-
6 facturers or processors to submit the
7 information required under subclause
8 (I) on behalf of the manufacturers
9 and processors making the designa-
10 tion.

11 “(III) LIABILITY.—All manufac-
12 turers and processors described in
13 subclause (II) shall remain liable for
14 compliance with any requirements
15 subject to the designation.

16 “(iii) NOTICE OF PENDING DETER-
17 MINATION.—If the Administrator fails to
18 act by an applicable deadline under sub-
19 paragraph (B)(i), each manufacturer and
20 processor of a chemical substance for
21 which the Administrator has failed to act
22 shall provide to the Administrator, the
23 public, their employees and recognized bar-
24 gaining agents of any employees who are
25 represented by bargaining agents, and each

1 known customer who has purchased the
2 chemical substance within a reasonable
3 timeframe as determined by the Adminis-
4 trator by rule or order, or mixture or arti-
5 cle containing the chemical substance, a
6 written notice that a determination by the
7 Administrator of the safety of the chemical
8 substance is pending.

9 “(iv) FAILURE OF MANUFACTURER OR
10 PROCESSOR TO MEET DUTIES.—If a manu-
11 facturer or processor fails to meet duties
12 under this subparagraph for a chemical
13 substance, the Administrator may, by
14 order, prohibit a manufacturer or proc-
15 essor, in violation of a duty under this sub-
16 paragraph, from manufacturing, proc-
17 essing, or distributing in commerce the
18 chemical substance, or any mixture or arti-
19 cle containing the chemical substance, ex-
20 cept as authorized under subsection (e).

21 “(B) ADMINISTRATOR DUTIES.—

22 “(i) SAFETY DETERMINATION.—Not
23 later than 180 days after the earlier of the
24 date of receipt of a complete submission or
25 the applicable submission deadline under

1 clause (i) or (ii) of subparagraph (A), or
2 after initiating a redetermination under
3 clause (iii) of this subparagraph, with re-
4 spect to a chemical substance, the Admin-
5 istrator shall by order determine, or rede-
6 termine, as the case may be, whether the
7 manufacturers and processors of the sub-
8 stance have established that the substance
9 meets the safety standard.

10 “(ii) USES AND CONDITIONS.—If the
11 Administrator determines that the sub-
12 stance meets the safety standard, the Ad-
13 ministrator shall in the order specify—

14 “(I) the allowed uses of the sub-
15 stance, which shall be limited to the
16 uses evaluated in the determination;
17 and

18 “(II) any conditions on the speci-
19 fied uses to ensure the safety stand-
20 ard is met, including conditions that
21 relate to the manufacture, processing,
22 use, distribution in commerce, or dis-
23 posal of a chemical substance, or mix-
24 ture or article containing such chem-

1 ical substance, and any conditions de-
2 scribed in subsection (c).

3 “(iii) REDETERMINATION.—The Ad-
4 ministrator shall initiate a redetermination
5 of whether the manufacturers and proc-
6 essors of a chemical substance distributed
7 in commerce have established that the
8 chemical substance meets the safety stand-
9 ard—

10 “(I) if new information raises a
11 credible question as to whether the
12 chemical substance continues to meet
13 the safety standard;

14 “(II) on the receipt of a renewal
15 submission under subparagraph
16 (A)(ii); or

17 “(III) after the 15-year period
18 beginning on the date of the previous
19 applicable determination of the Ad-
20 ministrator under this subparagraph,
21 if a redetermination has not already
22 been initiated subsequent to the deter-
23 mination.

24 “(iv) PETITION FOR REDETERMINA-
25 TION.—

1 “(I) IN GENERAL.—Any person
2 may petition the Administrator for a
3 redetermination of whether a chemical
4 substance continues to meet the appli-
5 cable safety standard.

6 “(II) BASIS.—The person shall
7 include in the petition a description of
8 the basis for requesting the redeter-
9 mination.

10 “(III) ACTION BY ADMINIS-
11 TRATOR.—On receipt of the petition,
12 the Administrator shall—

13 “(aa) not later than 30 days
14 after the date of receipt, publish
15 in the Federal Register a notice
16 of receipt of the petition that
17 specifies the chemical identity of
18 the chemical substance to which
19 the petition pertains;

20 “(bb) make the petition
21 available on request;

22 “(cc) provide a reasonable
23 opportunity for public review and
24 comment on the petition and give

1 due consideration to any com-
2 ments received;

3 “(dd) decide whether to
4 make the requested redetermina-
5 tion; and

6 “(ee) not later than 180
7 days after the date of receipt,
8 publish in the Federal Register
9 the decision and the basis for the
10 decision.

11 “(3) RISK REDUCTION.—

12 “(A) IN GENERAL.—Except as provided
13 under subsection (e), the risk reduction meas-
14 ures described in this paragraph shall apply to
15 a chemical substance in accordance with this
16 paragraph.

17 “(B) NEGATIVE SAFETY DETERMINA-
18 TION.—No person shall manufacture, process,
19 or distribute in commerce a chemical substance,
20 or any mixture or article containing a chemical
21 substance, for—

22 “(i) any new chemical substance for
23 which notice is required under section 5(a),
24 effective immediately after the Adminis-
25 trator makes a safety determination for a

1 chemical substance under paragraph
2 (2)(B)(i) and does not determine that the
3 manufacturer or processor has established
4 that the chemical substance meets the ap-
5 plicable safety standard; or

6 “(ii) any other chemical substance, ef-
7 fective 1 year after the Administrator
8 makes a safety determination for a chem-
9 ical substance under paragraph (2)(B)(i)
10 and does not determine that the chemical
11 substance meets the applicable safety
12 standard.

13 “(C) POSITIVE SAFETY DETERMINA-
14 TION.—Effective beginning 1 year after the
15 date the Administrator determines under para-
16 graph (2)(B)(i) that a chemical substance
17 meets the safety standard or immediately after
18 such a determination is made for a new chem-
19 ical substance for which notice is required
20 under section 5(a), no person shall manufac-
21 ture, process, or distribute in commerce the
22 chemical substance, or any mixture or article
23 containing the chemical substance, for any use
24 other than those specified in the determination
25 established under paragraph (2)(B)(ii).

1 “(c) CONDITIONS IN SAFETY DETERMINATIONS.—

2 The Administrator in a safety determination may impose
3 conditions on the manufacture, processing, use, distribu-
4 tion in commerce, or disposal of a chemical substance, or
5 mixture or article containing a chemical substance, in ac-
6 cordance with subsection (b)(2)(B)(ii)(II), including—

7 “(1) a requirement limiting the quantity of the
8 substance, mixture, or article that may be manufac-
9 tured, processed, or distributed in commerce:

10 “(2) a requirement—

11 “(A) prohibiting the manufacture, proc-
12 essing, or distribution in commerce of the sub-
13 stance, mixture, or article for a particular use
14 in a concentration in excess of a level specified
15 by the Administrator in conditions under sub-
16 section (b)(2)(B)(ii)(II); or

17 “(B) limiting the quantity of the sub-
18 stance, mixture, or article that may be manu-
19 factured, processed, or distributed in commerce
20 for—

21 “(i) a particular use; or

22 “(ii) a particular use in a concentra-
23 tion in excess of a level specified by the
24 Administrator in conditions established
25 under section 6(b)(2)(B)(ii)(II);

1 “(3) a requirement that the substance, mixture,
2 or article be marked with or accompanied by clear
3 and adequate warnings and instructions with respect
4 to use, distribution in commerce, or disposal, or any
5 combination of such activities, with the form and
6 content of the warnings and instructions prescribed
7 by the Administrator;

8 “(4) a requirement that manufacturers and
9 processors of the substance, mixture, or article—

10 “(A) make and retain records of the proc-
11 esses used to manufacture or process the sub-
12 stance, mixture, or article; and

13 “(B) monitor or conduct tests that are rea-
14 sonable and necessary to ensure compliance
15 with this chapter;

16 “(5) a requirement prohibiting or otherwise reg-
17 ulating any manner or method of commercial use of
18 the substance, mixture, or article;

19 “(6) a requirement prohibiting or otherwise reg-
20 ulating any manner or method of disposal of the
21 substance, mixture, or article, by—

22 “(A) the manufacturer or processor of the
23 substance, mixture, or article; or

1 “(B) any other person that uses, or dis-
2 poses of, the substance, mixture, or article for
3 commercial purposes; and

4 “(7) a requirement that the manufacturers and
5 processors of the substance, mixture, or article de-
6 velop a risk reduction management plan to achieve
7 a risk reduction specified by the Administrator.

8 “(d) QUALITY CONTROL ORDERS.—

9 “(1) IN GENERAL.—If the Administrator has a
10 reasonable basis to conclude that a particular manu-
11 facturer or processor is manufacturing or processing
12 a chemical substance or mixture in a manner that
13 may present a substantial endangerment to health or
14 the environment, the Administrator may by order re-
15 quire the manufacturer or processor to submit a de-
16 scription of the quality control procedures followed
17 in the manufacturing or processing of the chemical
18 substance or mixture.

19 “(2) ORDERS.—

20 “(A) IN GENERAL.—If the Administrator
21 determines that quality control procedures de-
22 scribed in paragraph (1) are inadequate to pre-
23 vent the chemical substance or mixture from
24 presenting a risk of injury, the Administrator
25 may order the manufacturer or processor to re-

1 vise the quality control procedures to the extent
2 necessary to remedy the inadequacy.

3 “(B) SUBSTANTIAL ENDANGERMENT.—If
4 the Administrator determines that quality con-
5 trol procedures described in paragraph (1) have
6 resulted in the distribution in commerce of a
7 chemical substance or mixture that may present
8 a substantial endangerment to health or the en-
9 vironment, the Administrator may order the
10 manufacturer or processor—

11 “(i) to give notice of the
12 endangerment to—

13 “(I) processors or distributors (or
14 both) in commerce of the substance or
15 mixture; and

16 “(II) to the extent reasonably as-
17 certainable, any other person in pos-
18 session of or exposed to the substance
19 or mixture;

20 “(ii) to give public notice of the
21 endangerment; and

22 “(iii) to provide for the replacement
23 or repurchase, as prescribed by the Admin-
24 istrator, of the substance or mixture as is

1 “(B) CRITERIA.—The Administrator may
2 grant an exemption for the use of a chemical
3 substance under subparagraph (A)(ii) if—

4 “(i) the exemption is in the para-
5 mount interest of national security;

6 “(ii) the lack of availability of the
7 chemical substance would cause significant
8 disruption in the national economy; or

9 “(iii) the use for which the exemption
10 is sought is a critical or essential use; and

11 “(I) no feasible safer alternative
12 for the specified use of the chemical
13 substance is available; or

14 “(II) the specified use of the
15 chemical substance when compared to
16 all available alternatives, provides ben-
17 efit to health, the environment, or
18 public safety.

19 “(C) PUBLIC NOTICE.—If the Adminis-
20 trator grants an exemption for a chemical sub-
21 stance under this paragraph—

22 “(i) the manufacturers and processors
23 of the chemical substance shall, for the ex-
24 empted use, provide notice of the exemp-
25 tion to—

1 “(I) each known purchaser of the
2 chemical substance; and

3 “(II) each known purchaser of a
4 mixture or article containing the
5 chemical substance; and

6 “(ii) the Administrator shall provide
7 the public with a notice of the exemption.

8 “(D) RENEWAL.—The Administrator may
9 by order renew an exemption under this para-
10 graph for 1 or more additional 5-year periods
11 if the Administrator concludes, after providing
12 public notice and an opportunity for comment,
13 that the use of the chemical substance con-
14 tinues to meet the criteria described in subpara-
15 graph (B).

16 “(E) CONDITIONS.—

17 “(i) IN GENERAL.—The Administrator
18 shall by order impose any condition on an
19 exemption issued under this paragraph
20 that the Administrator determines to be
21 necessary to ensure the protection of
22 human health and the environment on the
23 use of a chemical substance exempted
24 under this paragraph.

1 “(ii) COMPLIANCE.—Effective imme-
2 diately after the Administrator establishes
3 conditions on exempted use under clause
4 (i), the manufacturing, processing, or dis-
5 tribution in commerce of the chemical sub-
6 stance, or any mixture or article containing
7 the chemical substance, shall be prohibited
8 except to the extent that the conditions are
9 satisfied.

10 “(3) RESALE OF USED ARTICLES.—The restric-
11 tions described in paragraph (1) shall not apply to
12 the resale of an article subject to a restriction under
13 subsection (b) if the article has previously been used
14 by an end consumer.

15 “(4) EXTENSIONS OF EFFECTIVE DATES FOR
16 RETAIL SALE OF ARTICLES TO END CONSUMERS.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), in the case of the retail sale
19 to an end consumer of a chemical substance,
20 mixture, or article that is subject to a restric-
21 tion described in paragraph (1), the Adminis-
22 trator may by order extend the effective date of
23 the restriction by a period of not to exceed 3
24 years, if the Administrator determines that the
25 extension—

1 “(i) is necessary and appropriate to
2 allow for depletion of the existing retail in-
3 ventory; and

4 “(ii) will not present a substantial
5 endangerment to human health or the en-
6 vironment.

7 “(B) EXCEPTION.—An extension under
8 subparagraph (A) shall not apply to any retailer
9 that the Administrator determines has failed to
10 comply with an order requesting information
11 issued by the Administrator pursuant to section
12 8.

13 “(f) POLYCHLORINATED BIPHENYLS.—

14 “(1) IN GENERAL.—The Administrator shall
15 act by order or rule consistent with paragraphs (2)
16 and (3)—

17 “(A) to prescribe methods for the disposal
18 of polychlorinated biphenyls; and

19 “(B) to require polychlorinated biphenyls
20 to be marked with clear and adequate warnings
21 and instructions with respect to the processing,
22 distribution in commerce, use, or disposal (or
23 any combination of such activities) of poly-
24 chlorinated biphenyls.

1 “(2) MANUFACTURE, PROCESS, OR DISTRIBUTION IN TOTALLY ENCLOSED MANNER.—

2
3 “(A) DEFINITION OF TOTALLY ENCLOSED
4 MANNER.—In this paragraph, the term ‘totally
5 enclosed manner’ means any manner that will
6 ensure that any exposure of human beings or
7 the environment to the polychlorinated biphenyl
8 will be insignificant, as determined by the Ad-
9 ministrator by order or rule.

10 “(B) PROHIBITION.—Except as provided
11 in subparagraph (C), no person may manufac-
12 ture, process, distribute in commerce, or use
13 any polychlorinated biphenyl in any manner
14 other than in a totally enclosed manner.

15 “(C) ALTERNATIVE MANNER.—The Ad-
16 ministrator may by order or rule authorize the
17 manufacture, processing, distribution in com-
18 merce, or use (or any combination of such ac-
19 tivities) of any polychlorinated biphenyl in a
20 manner other than in a totally enclosed manner
21 if the Administrator finds that the manufac-
22 ture, processing, distribution in commerce, or
23 use (or combination of such activities) will not
24 present a substantial endangerment to health or
25 the environment.

1 “(3) PROHIBITION ON MANUFACTURE, PROC-
2 ESS, OR DISTRIBUTION.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraphs (B), (C), and (D)—

5 “(i) no person may manufacture any
6 polychlorinated biphenyl; and

7 “(ii) no person may process or dis-
8 tribute in commerce any polychlorinated
9 biphenyl.

10 “(B) EXEMPTIONS.—

11 “(i) IN GENERAL.—Any person may
12 petition the Administrator for an exemp-
13 tion from the requirements of subpara-
14 graph (A), and the Administrator may
15 grant by rule the exemption, if the Admin-
16 istrator finds that—

17 “(I) a substantial endangerment
18 to health or environment would not
19 result; and

20 “(II) good faith efforts have been
21 made to develop a chemical substance
22 that meets the safety standard and
23 that may be substituted for such poly-
24 chlorinated biphenyl.

1 “(ii) ADMINISTRATION.—An exemp-
2 tion granted under this subparagraph shall
3 be—

4 “(I) subject to such terms and
5 conditions as the Administrator may
6 prescribe; and

7 “(II) be in effect for such period
8 (but not more than 1 year from the
9 date it is granted, except as provided
10 in subparagraph (D)) as the Adminis-
11 trator may prescribe.

12 “(C) PRIOR SALES.—Subparagraph (A)
13 shall not apply to the distribution in commerce
14 of any polychlorinated biphenyl if the poly-
15 chlorinated biphenyl was sold for purposes other
16 than resale before the expiration of the 2½ -pe-
17 riod beginning on October 11, 1976.

18 “(D) EXTENSION OF EXEMPTIONS.—

19 “(i) IN GENERAL.—The Administrator
20 may by order or rule extend an exemption
21 granted under subparagraph (B) that has
22 not yet expired for a period of not to ex-
23 ceed 60 days for the purpose of author-
24 izing the Secretary of Defense and the Sec-
25 retaries of the military departments to pro-

1 vide for the transportation into the cus-
2 toms territory of the United States of poly-
3 chlorinated biphenyls generated by or
4 under the control of the Department of
5 Defense for purposes of the disposal, treat-
6 ment, or storage of the polychlorinated
7 biphenyls in the customs territory of the
8 United States if the polychlorinated
9 biphenyls are already in transit from stor-
10 age locations but the Administrator deter-
11 mines, in the sole discretion of the Admin-
12 istrator, the polychlorinated biphenyls
13 would not otherwise arrive in the customs
14 territory of the United States within the
15 period of the original exemption.

16 “(ii) NOTICE.—The Administrator
17 shall promptly publish in the Federal Reg-
18 ister notice of the extension.

19 “(g) MERCURY.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), no Federal agency shall convey, sell, or
22 distribute to any other Federal agency, any State or
23 local government agency, or any private individual or
24 entity any elemental mercury under the control or
25 jurisdiction of the Federal agency.

1 “(2) EXCEPTIONS.—Paragraph (1) shall not
2 apply to—

3 “(A) a transfer between Federal agencies
4 of elemental mercury for the sole purpose of fa-
5 cilitating storage of mercury to carry out this
6 chapter; or

7 “(B) a conveyance, sale, distribution, or
8 transfer of coal.

9 “(3) LEASES OF FEDERAL COAL.—Nothing in
10 this subsection prohibits the leasing of coal.

11 “(h) CERTIFICATION.—Each submission required
12 pursuant to this section or pursuant to a rule or an order
13 promulgated or issued by the Administrator under this
14 section shall be accompanied by a certification signed by
15 a responsible official of the manufacturer or processor that
16 each statement contained in the submission—

17 “(1) is accurate and reliable; and

18 “(2) includes all material facts known to, in the
19 possession or control of, or reasonably ascertainable
20 by the manufacturer or processor.

21 “(i) EFFECTIVE DATE.—In any rule or order under
22 this section, the Administrator shall specify the date on
23 which the rule or order shall take effect, which date shall
24 be as soon as feasible.”.

1 **SEC. 8. IMMINENT HAZARDS.**

2 Section 7 of the Toxic Substances Control Act (15
3 U.S.C. 2606) is amended to read as follows:

4 **“SEC. 7. IMMINENT HAZARDS.**

5 **“(a) ACTIONS AUTHORIZED AND REQUIRED.—**

6 **“(1) IN GENERAL.—**The Administrator may
7 commence a civil action in an appropriate district
8 court of the United States for—

9 **“(A)** seizure of a chemical substance or
10 mixture, or any article containing a chemical
11 substance or mixture, that may present an im-
12 minent and substantial endangerment to health
13 or the environment;

14 **“(B)** relief (as authorized by subsection
15 (b)) against any person that manufactures,
16 processes, distributes in commerce, uses, or dis-
17 poses of a chemical substance or mixture, or
18 any article containing a chemical substance or
19 mixture, if the manufacture, processing, dis-
20 tribution in commerce, use, or disposal may
21 present an imminent and substantial
22 endangerment to health or the environment, or
23 any person that contributes to the activities; or

24 **“(C)** both seizure and relief described in
25 subparagraphs (A) and (B), respectively.

26 **“(2) OTHER ACTIONS.—**

1 “(A) IN GENERAL.—The Administrator
2 may issue such orders as may be necessary to
3 protect health or the environment from any
4 manufacturing, processing, distribution in com-
5 merce, use, or disposal of a chemical substance
6 or mixture or any article containing such a sub-
7 stance or mixture that may present an immi-
8 nent and substantial endangerment to health or
9 the environment.

10 “(B) REQUIREMENT.—An order under
11 subparagraph (A) may include any require-
12 ments imposed on the manufacture, processing,
13 distribution in commerce, use, or disposal of a
14 chemical substance or mixture, or article con-
15 taining the chemical substance or mixture, as
16 the Administrator determines is necessary to
17 protect health or the environment, including the
18 requirements described in section 6(c) and the
19 relief authorized under subsection (b).

20 “(3) RELATIONSHIP TO EXISTING RULES, OR-
21 DERS, AND PROCEEDINGS.—A civil action may be
22 commenced, under paragraph (1), or other action
23 taken under paragraph (2), notwithstanding—

24 “(A) the existence of a rule or order under
25 this chapter; and

1 “(B) the pendency of any administrative or
2 judicial proceeding under this chapter.

3 “(b) RELIEF AUTHORIZED.—

4 “(1) IN GENERAL.—The district court of the
5 United States in which an action under subsection
6 (a)(1) is brought shall have jurisdiction to grant
7 such temporary or permanent relief as may be nec-
8 essary to protect health or the environment from the
9 risk associated with the activity involved in the ac-
10 tion.

11 “(2) TYPES OF RELIEF.—In the case of an ac-
12 tion under subsection (a)(1) brought against a per-
13 son that manufactures, processes, distributes in
14 commerce, uses, or disposes of a chemical substance
15 or mixture or an article containing a chemical sub-
16 stance or mixture, the relief authorized by para-
17 graph (1) may include—

18 “(A) the issuance of a mandatory order
19 imposing any of the requirements described in
20 section 6(c); and

21 “(B) in the case of purchasers of the sub-
22 stance, mixture, or article known to the defend-
23 ant—

1 “(i) notification to the purchasers of
2 the risk associated with the substance,
3 mixture, or article;

4 “(ii) public notice of the risk;

5 “(iii) recall;

6 “(iv) the replacement or repurchase of
7 the substance, mixture, or article; or

8 “(v) any combination of the actions
9 described in clauses (i) through (iv) or sec-
10 tion 6(c); or

11 “(C) any other relief as may be necessary
12 to protect health or the environment from the
13 risk involved in the action.

14 “(3) SEIZURE AND CONDEMNATION.—An action
15 under subsection (a)(1) against a chemical sub-
16 stance, mixture, or article may be proceeded against
17 by process of libel for its seizure and condemnation.
18 Proceedings in such an action described in this sub-
19 paragraph shall conform as nearly as possible to
20 proceedings in rem in admiralty.

21 “(c) VENUE AND CONSOLIDATION.—

22 “(1) VENUE.—

23 “(A) IN GENERAL.—An action under sub-
24 section (a)(1) against a person that manufac-
25 tures, processes, or distributes a chemical sub-

1 stance or mixture or an article containing a
2 chemical substance or mixture may be brought
3 in the United States District Court for the Dis-
4 trict of Columbia, or for any judicial district in
5 which any of the defendants is found, resides,
6 or transacts business.

7 “(B) PROCESS.—Process in an action de-
8 scribed in subparagraph (A) may be served on
9 a defendant in any other district in which the
10 defendant resides or may be found.

11 “(C) CHEMICAL SUBSTANCES, MIXTURES,
12 OR ARTICLES.—An action under subsection
13 (a)(1) against a chemical substance, mixture, or
14 article may be brought in any United States
15 district court within the jurisdiction of which
16 the chemical substance, mixture, or article is
17 found.

18 “(D) MULTIPLE JUDICIAL DISTRICTS.—In
19 determining the judicial district in which an ac-
20 tion may be brought under subsection (a)(1) in
21 instances in which the action may be brought in
22 more than 1 judicial district, the Administrator
23 shall take into account the convenience of the
24 parties.

1 “(E) SUBPOENAS.—Subpoenas requiring
2 attendance of witnesses in an action brought
3 under subsection (a)(1) may be served in any
4 judicial district.

5 “(2) CONSOLIDATION.—If proceedings under
6 subsection (a)(1) involving identical chemical sub-
7 stances, mixtures, or articles are pending in courts
8 in 2 or more judicial districts, the proceedings shall
9 be consolidated for trial by order of any such court
10 on application reasonably made by any party in in-
11 terest, on notice to all parties in interest.”

12 **SEC. 9. REPORTING AND RETENTION OF INFORMATION.**

13 Section 8 of the Toxic Substances Control Act (15
14 U.S.C. 2607) is amended to read as follows:

15 **“SEC. 8. REPORTING AND RETENTION OF INFORMATION.**

16 “(a) SUBSTANCE IDENTIFICATION, DECLARATION,
17 AND INFORMATION.—

18 “(1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of the Safe Chemicals Act of
20 2010, each manufacturer or processor of a chemical
21 substance distributed in commerce shall submit to
22 the Administrator the declaration described in para-
23 graph (2) or (3), accompanied by the certification
24 described in subsection (i).

1 “(2) DECLARATION OF CURRENT MANUFAC-
2 TURE OR PROCESSING.—A declaration described in
3 this paragraph is a statement that includes, for each
4 chemical substance manufactured or processed by a
5 manufacturer or processor—

6 “(A) the chemical identity and any special
7 substance characteristics of the chemical sub-
8 stance;

9 “(B) the name and location of each facility
10 under the control of the manufacturer or proc-
11 essor at which the chemical substance is manu-
12 factured or processed or from which the chem-
13 ical substance is distributed in commerce;

14 “(C) a list of health and safety studies
15 conducted or initiated by or for, known to, or
16 reasonably ascertainable by the manufacturer
17 or processor with respect to the chemical sub-
18 stance, and copies of any such studies that have
19 not previously been submitted to the Adminis-
20 trator; and

21 “(D) all other information known to, in the
22 possession or control of, or reasonably ascer-
23 tainable by the manufacturer or processor that
24 has not previously been submitted to the Ad-
25 ministrator regarding—

1 “(i) the physical, chemical, and toxi-
2 cological properties of the chemical sub-
3 stance;

4 “(ii) the annual production volume
5 and known uses of, and exposure and fate
6 information relating to, the chemical sub-
7 stance; and

8 “(iii) the name and location of each
9 facility to which the chemical substance is
10 sent, after manufacture and processing, for
11 subsequent processing, distribution, or use.

12 “(3) DECLARATION OF CESSATION OF MANU-
13 FACTURING OR PROCESSING.—A declaration de-
14 scribed in this paragraph is a statement certifying
15 that the manufacturer or processor has ceased, or
16 will cease not later than 180 days after the date of
17 submission of the declaration, all production, impor-
18 tation, processing, and export of the chemical sub-
19 stance.

20 “(4) UPDATING OF INFORMATION.—Each man-
21 ufacturer or processor of a chemical substance that
22 submits to the Administrator a declaration described
23 in paragraph (2) shall update and submit to the Ad-
24 ministrator a new declaration—

25 “(A) at a minimum every 3 years; and

1 “(B) immediately, at any time at which
2 there becomes known or available to, in the pos-
3 session or control of, or reasonably ascertain-
4 able by the manufacturer or processor signifi-
5 cant new information regarding a physical,
6 chemical, toxicological property or use of, or ex-
7 posure to, the chemical substance, including
8 any information that—

9 “(i) demonstrates a new potential
10 toxic effect of the chemical substance;

11 “(ii) corroborates previous informa-
12 tion demonstrating or suggesting a toxic
13 effect; or

14 “(iii) suggests a toxic effect at a lower
15 dose than previously demonstrated.

16 “(5) RECORDS TO SUPPORT DECLARATIONS.—

17 Each manufacturer or processor of a chemical sub-
18 stance distributed in commerce shall maintain
19 records of the information described in subpara-
20 graphs (A) through (D) of paragraph (2).

21 “(6) PROHIBITION ON MANUFACTURING, PROC-
22 ESSING, OR DISTRIBUTION.—The Administrator
23 may, by order, prohibit a manufacturer or processor
24 in violation of this subsection from manufacturing,
25 processing, or distributing in commerce the chemical

1 substance or any article containing the chemical sub-
2 stance, except as authorized under section 6(e).

3 “(b) REPORTS.—

4 “(1) IN GENERAL.—

5 “(A) Except as provided in paragraph (2),
6 the Administrator may by rule or order require
7 any person who manufactures, processes, dis-
8 tributes in commerce, uses, or disposes of a
9 chemical substance, mixture, or article to main-
10 tain records of and report by a specified date
11 any information concerning the substance, mix-
12 ture, or article that, in the judgment of the Ad-
13 ministrator, would assist the Administrator
14 in—

15 “(i) making a safety determination
16 with respect to a chemical substance under
17 this subchapter; or

18 “(ii) any other aspect of administering
19 this chapter.

20 “(B) The Administrator may by rule or
21 order require that any report or information
22 submitted pursuant to this chapter include
23 chemical identity and special substance charac-
24 teristics, as appropriate to the chemical sub-

1 stance or mixture that is the subject of the re-
2 port or information.

3 “(C) The Administrator shall by rule or
4 order further specify or modify the information
5 that must be submitted with a particular report
6 or information submission to establish the
7 chemical identity and special substance charac-
8 teristics of the subject chemical substance or
9 mixture for the purposes of such report or in-
10 formation submission .

11 “(2) SMALL QUANTITIES FOR RESEARCH OR
12 ANALYSIS.—In the case of the manufacture, proc-
13 essing, distribution in commerce, use, or disposal of
14 a chemical substance in small quantities (as defined
15 by the Administrator by rule) solely for purposes of
16 scientific experimentation or analysis or chemical re-
17 search (including any such research or analysis for
18 the development of a product), the Administrator
19 may issue a rule or order under paragraph (1) only
20 to the extent the Administrator determines the
21 maintenance of records or submission of reports, or
22 both, is necessary for the effective enforcement of
23 this chapter.

24 “(3) PROHIBITION ON MANUFACTURING, PROC-
25 ESSING, OR DISTRIBUTION.—The Administrator

1 may, by order, prohibit a manufacturer or processor
2 in violation of a requirement of a rule or order
3 under paragraph (1) from manufacturing, proc-
4 essing, or distributing in commerce the chemical
5 substance or any article containing the chemical sub-
6 stance, except as authorized under subsection 6(e).

7 “(c) INVENTORY AND CATEGORIZATION.—

8 “(1) IN GENERAL.—The Administrator shall
9 compile, keep current, and publish a list of each
10 chemical substance that is manufactured or proc-
11 essed in the United States.

12 “(2) CONTENTS.—The list shall at least include
13 the name of each chemical substance that any per-
14 son reports, under section 5 or subsection (b), is
15 manufactured or processed in the United States.

16 “(3) TIMING.—

17 “(A) IN GENERAL.—In the case of a chem-
18 ical substance for which a notice is submitted in
19 accordance with section 5, the chemical sub-
20 stance shall be included on the list as of the
21 earliest date (as determined by the Adminis-
22 trator) on which the substance was manufac-
23 tured or processed in the United States.

24 “(B) PUBLICATION.—The Administrator
25 shall first publish a list under subparagraph (A)

1 not later than 18 months after the effective
2 date of this Act.

3 “(4) SMALL QUANTITIES FOR RESEARCH OR
4 ANALYSIS.—The Administrator shall not include in
5 the list any chemical substance that is manufactured
6 or processed only in small quantities (as defined by
7 the Administrator by rule) solely for purposes of sci-
8 entific experimentation or analysis or chemical re-
9 search on, or analysis of, the substance or another
10 substance, including such research or analysis for
11 the development of a product.

12 “(5) CATEGORIZATION.—Not later than 5 years
13 after the date of enactment of the Safe Chemicals
14 Act of 2010 and from time to time thereafter, the
15 Administrator shall publish in the Federal Register
16 a list of all chemical substances distributed in com-
17 merce that categorizes the chemical substances,
18 based on existing information available to the Ad-
19 ministrator, into categories based on known health
20 or environmental effects, exposure, insufficient data,
21 or other category that the Administrator considers
22 appropriate.

23 “(d) PUBLIC ACCESS TO SIGNIFICANT INFORMA-
24 TION.—

1 “(1) ELECTRONIC DATABASE.—Not later than
2 1 year after the date of enactment of Safe Chemicals
3 Act of 2010, the Administrator, through collabora-
4 tion as appropriate, shall establish—

5 “(A) an electronic, Internet-accessible
6 database for storing and sharing of information
7 relating to the toxicity and use of, and exposure
8 to, chemical substances; and

9 “(B) procedures for use in maintaining
10 and updating the database.

11 “(2) PUBLIC ACCESS.—Not later than 18
12 months after the date of enactment of the Safe
13 Chemicals Act of 2010 or not later than 90 days
14 after the date of decisions made by the Adminis-
15 trator or receipt by the Administrator of information
16 submitted pursuant to this subchapter, the Adminis-
17 trator shall, subject to section 14, make available to
18 the public via the Internet-accessible database de-
19 scribed in paragraph (1) a description of all signifi-
20 cant decisions made by the Administrator under this
21 subchapter or significant information submitted pur-
22 suant to this subchapter.

23 “(e) RECORDS.—

24 “(1) IN GENERAL.—Any person that manufac-
25 tures, processes, or distributes in commerce any

1 chemical substance or mixture shall maintain and
2 submit to the Administrator records of significant
3 adverse reactions to health or the environment, as
4 determined by the Administrator by rule, alleged to
5 have been caused by the substance or mixture.

6 “(2) DURATION.—

7 “(A) IN GENERAL.—Records of the ad-
8 verse reactions to the health of employees shall
9 be retained for a period of 30 years after the
10 date the reactions were first reported to or
11 known by the person maintaining the records.

12 “(B) OTHER RECORDS.—Any other record
13 of the adverse reactions shall be retained for a
14 period of 5 years after the date the information
15 contained in the record was first reported to or
16 known by the person maintaining the record.

17 “(3) CONTENTS.—Records required to be main-
18 tained under this subsection shall include—

19 “(A) records of consumer allegations of
20 personal injury or harm to health;

21 “(B) reports of occupational disease or in-
22 jury; and

23 “(C) reports or complaints of injury to the
24 environment submitted to the manufacturer,

1 processor, or distributor in commerce from any
2 source.

3 “(f) INFORMATION IN THE POSSESSION OF OTHER
4 FEDERAL AGENCIES.—

5 “(1) SYNOPSES.—

6 “(A) IN GENERAL.—From time to time,
7 each Federal agency and Federal institution
8 shall submit to the Administrator a synopsis of
9 the data and records in the possession or con-
10 trol of the agency and institution, respectively,
11 that may be useful to the Administrator in car-
12 rying out this chapter.

13 “(B) FORMAT AND CONTENT.—Not later
14 than 1 year after the date of enactment of the
15 Safe Chemicals Act of 2010, the Administrator
16 shall prescribe, by order, the format, content,
17 and level of detail of the synopses.

18 “(C) INITIAL SUBMISSION.—Not later than
19 18 months after the date of enactment of the
20 Safe Chemicals Act of 2010, each Federal agen-
21 cy and Federal institution shall make the initial
22 submission of a synopsis of the agency and in-
23 stitution, respectively, to the Administrator.

1 “(D) UPDATES.—At least once every 3
2 years, each Federal agency and Federal institu-
3 tion shall—

4 “(i) update and keep current the syn-
5 opsis of the agency and institution, respec-
6 tively; and

7 “(ii) submit the updated synopsis to
8 the Administrator.

9 “(2) REQUESTS BY ADMINISTRATOR.—On the
10 request of the Administrator, any information in the
11 possession or control of an agency or institution re-
12 lating to a hazard of, use of, exposure to, or risk of,
13 a chemical substance or mixture shall be provided to
14 the Administrator.

15 “(g) NOTICE TO ADMINISTRATOR OF SUBSTANTIAL
16 RISKS.—Any person that manufactures, processes, or dis-
17 tributes in commerce a chemical substance or mixture and
18 that obtains information that reasonably supports the con-
19 clusion that the substance or mixture presents a substan-
20 tial risk of injury to health or the environment shall imme-
21 diately inform the Administrator of the information unless
22 the person has actual knowledge that the Administrator
23 has been adequately informed of the information.

24 “(h) CERTIFICATION.—Each submission required
25 pursuant to this section or pursuant to a rule or an order

1 promulgated or issued by the Administrator under this
2 section, other than a submission under subsection (f),
3 shall be accompanied by a certification signed by a respon-
4 sible official of the manufacturer or processor that each
5 statement contained in the submission—

6 “(1) is accurate and reliable; and

7 “(2) includes all material facts known to, in the
8 possession or control of, or reasonably ascertainable
9 by the manufacturer or processor.”

10 “(i) DEFINITION OF MANUFACTURE AND PROC-
11 ESS.—In this section, the terms ‘manufacture’ and ‘proc-
12 ess’ mean manufacture and process, respectively, for com-
13 mercial purposes.”.

14 **SEC. 10. RELATIONSHIP TO OTHER FEDERAL LAWS.**

15 Section 9 of the Toxic Substances Control Act (15
16 U.S.C. 2608) is amended—

17 (1) in subsection (a)—

18 (A) by amending paragraph (1) to read as
19 follows:

20 “(1) If the Administrator determines that the
21 manufacture, processing, distribution in commerce,
22 use, or disposal of a chemical substance or mixture,
23 or that any combination of such activities either does
24 not meet the safety standard under this subchapter,
25 or requires conditions or restrictions in order to the

1 meet the safety standard, and the Administrator de-
2 termines that action may be taken under a Federal
3 law not administered by the Administrator to ad-
4 dress the uses of, or aggregate and cumulative expo-
5 sure to, such chemical substance or mixture, the Ad-
6 ministrator shall submit to the agency which admin-
7 isters such law a report that describes with specifica-
8 tion the activity or combination of activities that
9 prevent the chemical substance or mixture from
10 meeting the safety standard or restrictions or condi-
11 tions required to meet the safety standard under
12 this subchapter. Such report shall also request that
13 such agency—

14 “(A) determine if the action or actions
15 may be taken under such law (or laws) adminis-
16 tered by such agency;

17 “(B) if the agency determines under sub-
18 paragraph (A) that such action or actions may
19 be taken, initiate such action or actions and
20 provide a timetable for such action or actions;
21 and

22 “(C) respond to the Administrator with re-
23 spect to the matters described in the report.

24 Any report of the Administrator shall include a de-
25 tailed statement of the information on which it is

1 based and shall be promptly published in the Fed-
2 eral Register. The agency receiving a request under
3 such a report shall make the requested determina-
4 tion, take the action or actions necessary to ensure
5 that the chemical substance or mixture meets the
6 safety standard under this subchapter, if appro-
7 priate, and respond to the Administrator's request
8 within such time as the Administrator specifies in
9 the request, but such time specified may not be less
10 than 90 days from the date the request was made.
11 The response of an agency shall be accompanied by
12 a detailed statement of the findings and conclusions
13 of the agency and shall be promptly published in the
14 Federal Register.”;

15 (B) by amending paragraph (2) to read as
16 follows:

17 “(2) If the Administrator submits a report
18 under paragraph (1) with respect to a chemical sub-
19 stance or mixture and the agency to which such re-
20 port was made initiates, within such time specified
21 in the request under paragraph (1), action or actions
22 under the law (or laws) administered by such agency
23 to ensure that a chemical substance or mixture in-
24 cluding an restrictions or conditions meets the safety
25 standard under this subchapter, the Administrator

1 may not take action under this chapter with respect
2 to that action or actions except that the Adminis-
3 trator may take actions pursuant to section 7 of this
4 subchapter.”;

5 (C) by redesignating paragraph (3) as
6 paragraph (4);

7 (D) by inserting after paragraph (2) the
8 following new paragraph:

9 “(3) If the Administrator submits a report
10 under paragraph (1) with respect to a chemical sub-
11 stance or mixture and the agency to which such re-
12 port was submitted either—

13 “(A) determines that action cannot be
14 taken under the authorities of the agency;

15 “(B) does not initiate action, if appro-
16 priate, within such time specified in the request
17 under paragraph (1);

18 “(C) does not complete the action within
19 the timeframe provided by such agency; or

20 “(D) fails to respond,
21 the Administrator may, by order, initiate action or
22 a combination of actions under this chapter to en-
23 sure compliance with the safety standard for the
24 chemical substance or mixture under this sub-
25 chapter.”; and

1 (E) in paragraph (4), as redesignated by
2 subparagraph (C) of this paragraph—

3 (i) by striking “section 6 or 7” and
4 inserting “this chapter”; and

5 (ii) by striking “against such risk”
6 after “Federal action”; and

7 (2) in subsection (c), by inserting at the end
8 the following: “In exercising any authority under
9 this title, the Administrator shall ensure that any
10 actions to address workplace exposures that the Ad-
11 ministrator takes or requires be taken by manufac-
12 turers or processors of a chemical substance or mix-
13 ture are consistent with the industrial hygiene hier-
14 archy of controls.”; and

15 (3) in subsection (d)—

16 (A) by striking “while imposing the least
17 burdens of duplicative requirements on those
18 subject to the Act and for other purposes”; and

19 (B) by striking “, in the report required by
20 section 30,”.

21 **SEC. 11. INSPECTIONS AND SUBPOENAS.**

22 Section 11 of the Toxic Substances Control Act (15
23 U.S.C. 2610) is amended to read as follows:

1 **“SEC. 11. INSPECTIONS AND SUBPOENAS.**

2 “(a) IN GENERAL.—For purposes of administering
3 this chapter, the Administrator, and any duly designated
4 representative of the Administrator, may inspect any es-
5 tablishment, facility, or other premises in which chemical
6 substances, mixtures or articles subject to this chapter are
7 manufactured, processed, stored, or held before or after
8 their distribution in commerce; any conveyance being used
9 to transport such chemical substances, mixtures, or arti-
10 cles in connection with distribution in commerce; and any
11 place where records relating to such chemical substances,
12 mixtures, or articles, or otherwise relating to compliance
13 with this chapter, are held. Each such inspection shall be
14 commenced and completed with reasonable promptness
15 and shall be conducted at reasonable times, within reason-
16 able limits, and in a reasonable manner. The Adminis-
17 trator, and any duly designated representative of the Ad-
18 ministrator, may also inspect and obtain samples of any
19 such chemical substances, mixtures, or articles, and any
20 containers or labeling of such chemical substances, mix-
21 tures, or articles.

22 “(b) SCOPE.—Except as provided in paragraph (2),
23 an inspection conducted under subsection (a) of this sec-
24 tion shall extend to all things within the premises or con-
25 veyance inspected (including records, files, papers, proc-
26 esses, controls, and facilities) bearing on whether the re-

1 requirements of this chapter applicable to the chemical sub-
2 stances, mixtures, articles or records subject to this chap-
3 ter have been complied with.

4 “(c) INFORMATION GATHERING.—In carrying out
5 this chapter, the Administrator may require the attend-
6 ance and testimony of witnesses and the production of
7 such reports, papers, documents, items, answers to ques-
8 tions, and other information, including the development of
9 analyses and other information, that the Administrator
10 deems necessary. Witnesses shall be paid the same fees
11 and mileage that are paid witnesses in the courts of the
12 United States.

13 “(d) WARRANTS.—For purposes of enforcing the pro-
14 visions of this chapter and upon a showing to an officer
15 or court of competent jurisdiction that there is reason to
16 believe that the provisions of this chapter have been vio-
17 lated, officers or employees duly designated by the Admin-
18 istrator are empowered to obtain and to execute warrants
19 authorizing—

20 “(1) entry, inspection, and copying of records
21 for purposes of this chapter;

22 “(2) the seizure of any chemical substance, mix-
23 ture or article which is in violation of this chapter.”.

1 **SEC. 12. EXPORTS.**

2 Section 12 of the Toxic Substances Control Act (15
3 U.S.C. 2611) is amended—

4 (1) by striking subsection (a);

5 (2) by redesignating subsections (b) and (c) as
6 subsections (a) and (b), respectively;

7 (3) in subsection (a), as redesignated by para-
8 graph (2) of this section—

9 (A) in paragraph (1)—

10 (i) by striking “or intends to export”;

11 (ii) by striking “section 4 or 5(b)”
12 and inserting “section 5 or 6(b)”;

13 (iii) by striking “or intent to export”
14 and inserting “not later than 30 days after
15 the date of exportation of the substance or
16 mixture”; and

17 (iv) by inserting “promptly there-
18 after” before “furnish”;

19 (B) in paragraph (2)—

20 (i) by striking “or intends to export”;

21 (ii) by striking “an order has been
22 issued under section 5 or a rule has been
23 proposed or promulgated under section 5
24 or 6, or with respect to which an action is
25 pending or relief has been granted under
26 section 5 or 7” and inserting “an action

1 has been taken pursuant to section 6 or
2 section 7”;

3 (iii) by striking “or intent to export”
4 and inserting “not later than 30 days after
5 the date of exportation of the substance or
6 mixture”;

7 (iv) by inserting “promptly there-
8 after” before “furnish”; and

9 (v) by striking “such rule, order, ac-
10 tion, or relief” and inserting “such action
11 taken pursuant to section 6 or section 7”;
12 and

13 (C) by adding at the end the following new
14 paragraph:

15 “(3)(A) Any person that has notified the Ad-
16 ministrator of the exportation of a chemical sub-
17 stance or mixture under this section shall notify the
18 Administrator of any change in the export status of
19 the substance or mixture not later than 30 days
20 after such a change in status.

21 “(B) The Administrator shall promptly furnish
22 an updated notice to the governments that have been
23 notified pursuant to paragraphs (1) and (2) regard-
24 ing the exportation of any chemical substance or
25 mixture subject to this section if—

1 “(i) data for such substance or mixture
2 have been received by the Administrator pursu-
3 ant to section 4, 6(b), or 8;

4 “(ii) a change has occurred in the export
5 status of such substance or mixture; or

6 “(iii) a change has been made in any risk
7 management action taken pursuant to section 6
8 or 7 for such substance or mixture.”.

9 (4) in subsection (b), as redesignated by para-
10 graph (2) of this section—

11 (A) by striking paragraph (2); and

12 (B) by redesignating paragraphs (3), (4),
13 (5), and (6) as paragraphs (2), (3), (4), and
14 (5), respectively; and

15 (5) by adding at the end the following new sub-
16 section:

17 “(c) PUBLIC RECORDS.—The Administrator shall—

18 “(1) maintain copies of all current notices pro-
19 vided to other governments under this section; and

20 “(2) make such copies available to the public in
21 electronic format.”.

22 **SEC. 13. ENTRY INTO CUSTOMS TERRITORY OF THE**
23 **UNITED STATES.**

24 Section 13 of the Toxic Substances Control Act (15
25 U.S.C. 2612) is amended—

1 (1) by striking “Secretary of the Treasury”
2 each place it appears and inserting “Secretary of
3 Homeland Security”; and

4 (2) in subsection (a)(1), by striking the em
5 dash and subparagraphs (A) and (B) and inserting
6 “the substance, mixture, or article fails to comply
7 with or is offered for entry in violation of any rule
8 or order in effect under this chapter.”.

9 **SEC. 14. DISCLOSURE OF DATA.**

10 Section 14 of the Toxic Substances Control Act (15
11 U.S.C. 2613) is amended—

12 (1) by redesignating subsections (a) through (e)
13 as subsections (c) through (g), respectively;

14 (2) by inserting before subsection (c), as redес-
15 igned by paragraph (1) of this section, the fol-
16 lowing new subsections:

17 “(a) AGENCY RESPONSIBILITIES.—The Adminis-
18 trator shall ensure that—

19 “(1) information control designations under this
20 section are not a determinant of public disclosure
21 pursuant to section 552 of title 5, United States
22 Code (commonly referred to as the ‘Freedom of In-
23 formation Act’); and

24 “(2) all information in the agency’s possession
25 that is releasable pursuant to an appropriate request

1 under section 552 of title 5, United States Code
2 (commonly referred to as the ‘Freedom of Informa-
3 tion Act’), is made available to members of the pub-
4 lic.

5 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall be construed to prevent or discourage the Ad-
7 ministrator from voluntarily releasing to the public any
8 unclassified information that is not exempt from disclo-
9 sure under section 552 of title 5, United States Code
10 (commonly referred to as the ‘Freedom of Information
11 Act’).”;

12 (3) in subsection (c), as redesignated by para-
13 graph (1) of this subsection—

14 (A) by striking “subsection (b)” and in-
15 serting “subsection (d)”;

16 (B) by redesignating paragraphs (3) and
17 (4) as paragraphs (4) and (5), respectively;

18 (C) by adding after paragraph (2) the fol-
19 lowing new paragraph:

20 “(3) shall be disclosed upon request to a State,
21 tribal, or municipal government, including identifica-
22 tion of the location of the manufacture, processing,
23 or storage of a chemical substance upon the request
24 of the government—

1 “(A) for the purpose of administration or
2 enforcement of a law; and

3 “(B) in accordance with any applicable
4 agreements that ensure that the recipient gov-
5 ernment takes appropriate steps to maintain
6 the confidentiality of the information in accord-
7 ance with this section and section 350.27 of
8 title 40, Code of Federal Regulations or any
9 successor to such regulation;” and

10 (D) in paragraph (4), as redesignated by
11 subparagraph (B) of this paragraph, by striking
12 “an unreasonable risk of injury” and inserting
13 “an imminent and substantial endangerment”;
14 (4) in subsection (d), as redesignated by para-
15 graph (1) of this section—

16 (A) in the subsection heading, by striking
17 “DATA FROM HEALTH AND SAFETY STUDIES”
18 and inserting “INFORMATION NOT ELIGIBLE
19 FOR PROTECTION”;

20 (B) by amending paragraph (1) to read as
21 follows:

22 “(1) The following types of information shall
23 not be eligible for protection under this section, and
24 the Administrator shall not approve a request to

1 treat information of the following types as confiden-
2 tial under this section:

3 “(A) The identity of a chemical substance,
4 except as provided in section 5.

5 “(B) Any safety standard determination
6 developed under section 6, including supporting
7 information developed by the Administrator.

8 “(C) Any health and safety study which is
9 submitted under this chapter with respect to—

10 “(i) any chemical substance or mix-
11 ture—

12 “(I) which, on the date on which
13 such study is to be disclosed has been
14 offered for commercial distribution; or

15 “(II) for which testing is re-
16 quired under section 4 or for which
17 notification is required under section
18 5 of this subchapter; and

19 “(ii) any data reported to, or other-
20 wise obtained by, the Administrator from a
21 health and safety study which relates to a
22 chemical substance or mixture described in
23 clause (i) or (ii) of subparagraph (C).

24 “(D) Any information indicating the pres-
25 ence of a chemical substance in a consumer ar-

1 title intended for use or reasonably expected to
2 be used by children or to which children can
3 otherwise be reasonably expected to be exposed.

4 This paragraph does not authorize the release of any
5 data which discloses processes used in the manufac-
6 turing or processing of a chemical substance or mix-
7 ture or, in the case of a mixture, the release of data
8 disclosing the portion of the mixture comprised by
9 any of the chemical substances in the mixture.”.

10 (C) in paragraph (2)—

11 (i) by striking “the first sentence of
12 paragraph (1)” and inserting “clause (i) or
13 (ii) of subparagraph (C) of paragraph
14 (1)”;

15 (ii) by striking “in the second sen-
16 tence of such paragraph” and inserting “in
17 the last sentence of paragraph (1)”;

18 (5) in subsection (e), as redesignated by para-
19 graph (1) of this section—

20 (A) by amending paragraph (1) to read as
21 follows:

22 “(1) DUTIES OF MANUFACTURERS AND PROC-
23 ESSORS.—In submitting data under this chapter, a
24 manufacturer, processor, or distributor in commerce
25 may—

1 “(A) designate the data which such person
2 believes is entitled to confidential treatment
3 under subsection (a) of this section; and

4 “(B) submit such designated data sepa-
5 rately from other data submitted under this
6 chapter. A designation under this paragraph
7 shall be made in writing and in such manner as
8 the Administrator may prescribe, and shall in-
9 clude—

10 “(i) justification for each claim for
11 confidentiality;

12 “(ii) a certification that the informa-
13 tion is not otherwise publicly available; and

14 “(iii) separate copies of all submitted
15 information, with 1 copy containing and 1
16 copy excluding the information to which
17 the request applies.”;

18 (B) by redesignating paragraph (2) as
19 paragraph (3);

20 (C) by inserting after paragraph (1) the
21 following new paragraph:

22 “(2) DUTIES OF THE ADMINISTRATOR.—The
23 Administrator shall—

24 “(A) not later than 1 year after the date
25 of enactment of the Safe Chemicals Act of

1 2010, by order develop and make publicly avail-
2 able standards that specify—

3 “(i) the acceptable bases on which
4 written requests to maintain confidentiality
5 of information may be approved, which
6 shall be no more restrictive of public dis-
7 closure than section 552 of title 5, United
8 States Code; and

9 “(ii) the documentation that must ac-
10 company those requests;

11 “(B) not later than 90 days after the date
12 of receipt of information designated under para-
13 graph (1), review all requests to maintain con-
14 fidentiality of the submitted information and
15 decide whether to approve or deny such request
16 based on whether the request and accom-
17 panying documentation comply with those
18 standards that are developed under paragraph
19 (1) (except that if a request for the information
20 is received under section 552 of title 5, United
21 States Code, before the 90-day review and deci-
22 sion period has elapsed, the disclosure require-
23 ments, procedures, and judicial review provi-
24 sions under that section shall apply);

1 “(C) in the event such a request is denied,
2 make the information available to the public in
3 accordance with section 8(b)(3); and

4 “(D) if such a request is approved, specify
5 a time period of not greater than 5 years for
6 which the submitted information shall be kept
7 confidential.”; and

8 (D) in paragraph (3), as redesignated by
9 subparagraph (B) of this paragraph—

10 (i) in subparagraph (A)—

11 (I) by striking “paragraph
12 (1)(A)” and inserting “paragraph (1)
13 and approved by the Administrator
14 under paragraph (2)(B)”; and

15 (II) by striking “The Adminis-
16 trator may not release such data until
17 the expiration of 30 days after the
18 manufacture, processor, or distributor
19 in commerce submitting such data has
20 received the notice required by this
21 subparagraph.” and inserting “The
22 Administrator shall release the infor-
23 mation in accordance with the disclo-
24 sure and procedural requirements of

1 section 552 of title 5, United States
2 Code.”; and

3 (ii) in subparagraph (B)(i)—

4 (I) by striking “or (4)” and in-
5 serting “(4), or (5)”;

6 (II) by striking “subsection (a)”
7 each place it appears and inserting
8 “subsection (e)”;

9 (III) by striking “paragraph (3)”
10 and inserting “paragraph (4)”;

11 (IV) by striking “that” before “if
12 the Administrator determines that the
13 release of such data”;

14 (V) by striking “, unreasonable
15 risk of injury” before “to health or
16 the environment” and inserting “and
17 substantial endangerment then no no-
18 tice is required.”

19 (VI) by striking “, such notice
20 may be made by such means as the
21 Administrator determines will provide
22 notice at least 24 hours before such
23 release is made”; and

24 (6) by adding at the end the following new sub-
25 section:

1 “(h) RISK INFORMATION FOR WORKERS.—The Ad-
2 ministrator shall provide standards for and facilitate the
3 sharing of chemical identity, safety standard determina-
4 tion, health and safety data described in subsection (d)
5 that pertains to chemical substances or mixtures, or arti-
6 cles containing chemical substances, that workers may
7 come into contact with or otherwise be exposed to during
8 the course of work, with those workers and representatives
9 of each certified or recognized bargaining agent rep-
10 resenting such employees.”.

11 **SEC. 15. PROHIBITED ACTS.**

12 Section 15 of the Toxic Substances Control Act (15
13 U.S.C. 2614) is amended—

14 (1) by striking paragraph (1) and inserting the
15 following:

16 “(1) fail or refuse to comply with any rule,
17 order, prohibition, restriction, or other requirement
18 imposed by this chapter or by the Administrator
19 under this chapter;”;

20 (2) in paragraph (2)—

21 (A) by striking “use” and inserting “man-
22 ufacture, process, distribute in commerce, use,
23 or dispose of”;

24 (B) by striking “, or mixture” and insert-
25 ing “ mixture or article”; and

1 (C) by striking “section 5 or 6, a rule or
2 order under section 5 or 6, or an order issued
3 in action brought under section 5 or 7” and in-
4 sserting “any rule, order, prohibition, restriction,
5 or other requirement imposed by this chapter or
6 by the Administrator under this chapter”;

7 (3) in paragraph (3)—

8 (A) in subparagraph (A), by inserting “ac-
9 curate and complete” before “records”;

10 (B) in subparagraph (B)—

11 (i) by inserting “or make accurate
12 and complete” before “reports”; and

13 (ii) by inserting “information submis-
14 sions, disclosures, declarations, certifi-
15 cations,” after “notices,”; and

16 (C) in subparagraph (C), by striking “or”
17 after the semicolon;

18 (4) in paragraph (4), by striking the period at
19 the end and inserting a semicolon; and

20 (5) by adding at the end the following new
21 paragraphs:

22 “(5) make or submit a statement, declaration,
23 disclosure, certification, writing, data set, or rep-
24 resentation that is materially false, in whole or in
25 part, or to falsify or conceal any material fact, in

1 taking any action or making any communication
2 pursuant to this chapter or pursuant to any rule or
3 order promulgated or issued under this chapter; or
4 “(6) take any action prohibited by this chap-
5 ter.”.

6 **SEC. 16. PENALTIES.**

7 Section 16 of the Toxic Substances Control Act (15
8 U.S.C. 2615) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1)—

11 (i) by inserting “this chapter or a rule
12 or order promulgated or issued pursuant to
13 this chapter, as described in” before “sec-
14 tion 15 or 409 shall be”;

15 (ii) by striking “\$25,000” and insert-
16 ing “\$37,500”; and

17 (iii) by striking “violation of section
18 15 or 409” and inserting “violation of this
19 chapter”;

20 (B) by redesignating paragraphs (2), (3),
21 and (4) as paragraphs (3), (4), and (5), respec-
22 tively;

23 (C) by inserting after paragraph (1) the
24 following new paragraph:

1 “(2) In the case of any violation described in
2 paragraph (1), the Administrator may commence a
3 civil action in the appropriate United States district
4 court to assess penalties pursuant to paragraph
5 (1).”;

6 (D) in paragraph (3)(A), as redesignated
7 by subparagraph (B) of this paragraph—

8 (i) by inserting “this chapter, as de-
9 scribed in” before “section 15 or 409”;

10 and

11 (ii) by striking “within 15 days of”
12 and inserting “not later than 15 days
13 after”;

14 (E) in paragraph (4), as redesignated by
15 subparagraph (B) of this paragraph—

16 (i) by striking “paragraph (2)(A)”
17 and inserting “paragraph (3)(A)”; and

18 (ii) by striking “the United States
19 Court of Appeals for the District of Co-
20 lumbia or for any other circuit” and insert-
21 ing “the appropriate district court of the
22 United States for the district”; and

23 (F) in paragraph (5), as redesignated by
24 subparagraph (B) of this paragraph, by striking

1 “paragraph (3)” each place it appears and in-
2 serting “paragraph (4)”; and

3 (2) in subsection (b)—

4 (A) by inserting “(1)” before “Any person
5 who”;

6 (B) by striking “or willfully” before “vio-
7 lates any provision”;

8 (C) by inserting “this chapter, as described
9 in” before “section 15 or 409”;

10 (D) by striking “\$25,000” and inserting
11 “\$50,000”;

12 (E) by striking “one year” and inserting
13 “5 years”; and

14 (F) by adding at the end the following new
15 paragraph:

16 “(2) Any person who knowingly violates any
17 provision of this chapter and who knows at the time
18 that he thereby places another person in imminent
19 danger of death or serious bodily injury to any per-
20 son shall upon conviction be subject to a fine of not
21 more than \$250,000 or imprisonment of not more
22 than 15 years, or both. A person that is not an indi-
23 vidual shall, upon conviction of violating this sub-
24 paragraph, be subject to a fine of not more than
25 \$1,000,000.”.

1 **SEC. 17. SPECIFIC ENFORCEMENT AND SEIZURE.**

2 Section 17 of the Toxic Substances Control Act (15
3 U.S.C. 2616) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)—

6 (i) by striking “The district courts of
7 the United States shall have jurisdiction
8 over civil actions to” and inserting “ “The
9 Administrator may commence a civil action
10 in the appropriate United States district
11 court to compel compliance of any person
12 with any provision of this chapter or any
13 rule or order promulgated pursuant to this
14 chapter. The Administrator’s authority to
15 enforce this chapter includes the authority
16 to”;

17 (ii) by striking subparagraphs (A)
18 through (C) and inserting the following
19 subparagraphs:

20 “(A) seek civil or criminal penalties under
21 section 16 for any violation of this chapter, as
22 described in sections 15 and 409;

23 “(B) enjoin any violation of this chapter,
24 or of a rule or order promulgated or issued
25 under this chapter, as described in sections 15
26 and 409;

1 “(C) order the compliance of any person
2 with any provision of this chapter, or with any
3 rule or order promulgated or issued under this
4 chapter, through an administrative proceeding
5 (which may proceed concurrently with action
6 under this section), in which the Administrator
7 may levy penalties under section 16;” and

8 (iii) in subparagraph (D)—

9 (I) by striking “product” wher-
10 ever it appears and inserting “arti-
11 cle”;

12 (II) by striking “direct” and in-
13 serting “order”;

14 (III) by striking “product subject
15 to title IV” and inserting “article sub-
16 ject to this chapter”;

17 (IV) by striking “of section 5, 6,
18 or title IV” and inserting “this chap-
19 ter”; and

20 (V) by striking “under section 5,
21 6, or title IV” and inserting “promul-
22 gated and issued under this chapter,
23 as described in section 15 or 409;”;

24 and

25 (B) in paragraph (2)—

1 (i) by striking “A civil action de-
2 scribed in paragraph (1)” and inserting
3 “The district courts of the United States
4 shall have jurisdiction over a civil action
5 described in paragraph (1). A civil action”;

6 (ii) in subparagraph (A)—

7 (I) by striking “subparagraph
8 (A) of such paragraph” and inserting
9 “subparagraphs (A) and (B) of para-
10 graph (1)”;

11 (II) by inserting “this chapter, as
12 described in” before “section 15”; and

13 (III) by inserting “or 409” after
14 “section 15”; and

15 (iii) in subparagraph (B) by striking
16 “such paragraph” and inserting “para-
17 graph (1)”;

18 (2) in subsection (b)—

19 (A) by striking “title IV” and inserting
20 “this chapter”; and

21 (B) by striking “product” each place it ap-
22 pears and inserting “article”.

23 **SEC. 18. PREEMPTION.**

24 Section 18 of the Toxic Substances Control Act (15
25 U.S.C. 2617) is amended to read as follows:

1 **“SEC. 18. PREEMPTION.**

2 “Nothing in this chapter, or any rule, regulation, or
3 order issued or promulgated pursuant to this chapter shall
4 be construed, interpreted, or applied to preempt, displace
5 or supplant any provision of any law, including common
6 law, of any State or political subdivision of a State relating
7 to any chemical substance or mixture, or any article that
8 contains a chemical substance or mixture, which is more
9 stringent than is provided for under this chapter.”.

10 **SEC. 19. JUDICIAL REVIEW.**

11 Section 19 of the Toxic Substances Control Act (15
12 U.S.C. 2618) is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1)—

15 (i) by striking subparagraph (B);

16 (ii) by redesignating subparagraph
17 (A) as paragraph (1);

18 (iii) by inserting “or issuance” after
19 “promulgation”;

20 (iv) by striking “section 4(a), 5(a)(2),
21 5(b)(4), 6(a), 6(e), or 8, or under title II
22 or IV” and inserting “this chapter”; (v) by
23 inserting “or order” after “rule” each
24 place it appears; and

1 (v) by striking “(other than in an en-
2 forcement proceeding)” before “of such a
3 rule);

4 (B) in paragraph (2)—

5 (i) by striking “paragraph (1)(A)”
6 and inserting “paragraph (1)”; and

7 (ii) by inserting “or order” after
8 “rule”; and(C) by striking paragraph (3);
9 (2) in subsection (b), by inserting “or order”
10 after “rule” each place it appears; and

11 (3) in subsection (c), by amending paragraph
12 (1) to read as follows:

13 “(1) Upon the filing of a petition under sub-
14 section (a)(1) for judicial review of a rule or order,
15 the court shall have jurisdiction—

16 “(A) to grant appropriate relief, including
17 interim relief, as provided in chapter 7 of title
18 5, United States Code; and

19 “(B) to review such rule or order in ac-
20 cordance with such chapter 7.”.

21 **SEC. 20. CITIZENS’ CIVIL ACTION.**

22 Section 20 of the Toxic Substances Control Act (15
23 U.S.C. 2619) is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (1)—

1 (i) by striking “under section 4, 5, or
2 6, or title II or IV,”; and

3 (ii) by striking “section 5 or title II or
4 IV to restrain such violation” and inserting
5 “this chapter”; and

6 (B) in the flush language following para-
7 graph (2), by inserting “, to enforce this chap-
8 ter or any rule promulgated or order issued
9 under this chapter, or to order the Adminis-
10 trator to perform an act or duty described in
11 this chapter, as the case may be” after “cizen-
12 ship of the parties”; and

13 (2) in subsection (b)(1), by striking “to re-
14 strain” and inserting “respecting”.

15 **SEC. 21. CITIZENS’ PETITIONS.**

16 Section 21 of the Toxic Substances Control Act (15
17 U.S.C. 2620) is amended—

18 (1) in subsection (a), by striking “under section
19 4, 6, or 8 or an order under section 5(e) or
20 (6)(b)(2)” and inserting “, order, or any other ac-
21 tion authorized under this chapter”; and

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “under
24 section 4, 6, or 8 or an order under section
25 5(e), 6(b)(1)(A), or 6(b)(1)(B)” and inserting

1 “or order or to initiate other action authorized
2 under this chapter”;

3 (B) in paragraph (3), by striking “section
4 4, 5, 6, or 8” and inserting “the applicable pro-
5 visions of this chapter”; and

6 (C) in paragraph (4)—

7 (i) in subparagraph (A), by striking
8 “a rulemaking proceeding” and inserting
9 “proceedings authorized under this chap-
10 ter”; and

11 (ii) in subparagraph (B)—

12 (I) by striking “a proceeding to
13 issue a rule under section 4, 6, or 8
14 or an order under section 5(e) or
15 6(b)(2)” and inserting “proceedings
16 authorized under this Act”;

17 (II) in clause (i)—

18 (aa) by inserting “except as
19 provided in clause (ii),” before
20 “in the case of”; and

21 (bb) in subclause (II), by
22 striking “present an unreason-
23 able risk to” and inserting “sub-
24 stantial endangerment”;

25 (III) in clause (ii)—

1 (aa) by striking “issuance of
2 a rule under section 6 or 8 or an
3 order under section 6(b)(2)” and
4 inserting “imposition or issuance
5 of a restriction, use condition, or
6 order under this chapter”; and

7 (bb) by striking “an unrea-
8 sonable” and inserting “a sub-
9 stantial endangerment”.

10 **SEC. 22. EMPLOYMENT EFFECTS.**

11 Section 24 of the Toxic Substances Control Act (15
12 U.S.C. 2623) is amended—

13 (1) in subsection (a)—

14 (A) by striking “continuing” and inserting
15 “periodic”; and

16 (B) by striking the em dash and para-
17 graphs (1) and (2) and inserting “the imple-
18 mentation of this chapter.”;

19 (2) in subsection (b)—

20 (A) in paragraph (1), in the flush language
21 after subparagraph (B), by striking “section 4,
22 5, or 6 or a requirement of section 5 or 6” and
23 inserting “this chapter”;

24 (B) in paragraph (2)—

1 (i) in subparagraph (A)(ii), by strik-
2 ing “by order issued” and inserting “in
3 writing,”; and

4 (ii) in subparagraph (B)—

5 (I) in clause (i), by inserting
6 “and” after the “such request,”;

7 (II) by striking clause (ii); and

8 (III) by redesignating clause (iii)
9 as clause (ii); and

10 (C) by striking paragraph (4); and

11 (3) by adding at the end the following new sub-
12 section:

13 “(c) EFFECT.—Nothing in this section shall be con-
14 strued—

15 “(1) to require the Administrator to amend or
16 repeal any rule or order in effect under this chapter;
17 or

18 “(2) to condition the Administrator’s authority
19 to issue orders or promulgate rules under this chap-
20 ter.”.

21 **SEC. 23. ADMINISTRATION OF THE TOXIC SUBSTANCES**

22 **CONTROL ACT.**

23 Section 26 of the Toxic Substances Control Act (15
24 U.S.C. 2625) is amended—

1 (2) by redesignating subsections (b), (c), and
2 (d) as subsections (c), (d), and (e), respectively;

3 (3) by inserting after subsection (a) the fol-
4 lowing new subsection:

5 “(b) COORDINATION.—The Administrator shall es-
6 tablish a process to coordinate with States, on an on-going
7 basis, to share data and priorities relating to the manage-
8 ment of chemical substances under this title and under
9 programs operated by States, in accordance with require-
10 ments under section 14.”; and

11 (4) in subsection (c)(2), as redesignated by
12 paragraph (2) of this section, by striking “including
13 cancer, birth defects, and gene mutations,”.

14 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

15 Title I of the Toxic Substances Control Act (15
16 U.S.C. 2601 et seq.) is amended—

17 (1) by redesignating section 29 as section 39;

18 (2) by redesignating section 30 as section 38;

19 (3) by striking section 31; and

20 (4) by amending section 39, as redesignated, to
21 read as follows:

22 **“SEC. 39. AUTHORIZATION OF APPROPRIATIONS.**

23 “There are authorized to be appropriated to the Ad-
24 ministrators such sums as may be necessary for each of

1 the fiscal years 2011 through 2018 to carry out this chap-
2 ter.”.

3 **SEC. 26. ADDITIONAL REQUIREMENTS.**

4 (a) RESTRICTIONS ON CERTAIN CHEMICAL SUB-
5 STANCES.—The Toxic Substances Control Act (15 U.S.C.
6 2601 et seq.) is amended by inserting after section 28 the
7 following new sections:

8 **“SEC. 29. EXPEDITED ACTION ON CHEMICALS OF HIGHEST**
9 **CONCERN.**

10 “The Administrator shall act quickly to manage risks
11 from chemical substances that clearly pose the highest
12 risks to human health or the environment.

13 **“SEC. 30. CHILDREN’S ENVIRONMENTAL HEALTH RE-**
14 **SEARCH PROGRAM.**

15 “(a) CHILDREN’S ENVIRONMENTAL HEALTH RE-
16 SEARCH PROGRAM.—

17 “(1) ESTABLISHMENT.—Not later than 90 days
18 after the date of enactment of the Safe Chemicals
19 Act of 2010, the Administrator shall establish a
20 ‘Children’s Environmental Health Research Pro-
21 gram’ within the Environmental Protection Agency.

22 “(2) PURPOSE.—Subject to amounts made
23 available in advance in appropriations Acts, under
24 the Children’s Environmental Health Research Pro-
25 gram established under paragraph (1), the Adminis-

1 trator may enter into contracts and make grants to
2 further understanding of the vulnerability of chil-
3 dren to chemical substances and mixtures.

4 “(3) CONSULTATION.—Contracts and grants
5 under this section shall be provided in consultation
6 with Interagency Science Advisory Board on Chil-
7 dren’s Health and Toxic Substances established
8 under subsection (b).

9 “(b) INTERAGENCY SCIENCE ADVISORY BOARD ON
10 CHILDREN’S HEALTH RESEARCH.—

11 “(1) ESTABLISHMENT.—Not later than 90 days
12 after the date of enactment of the Safe Chemicals
13 Act of 2010, the Administrator shall establish an ad-
14 visory board to be known as the ‘Interagency
15 Science Advisory Board on Children’s Health Re-
16 search’. The Board shall be subject to the Federal
17 Advisory Committee Act (5 U.S.C. App.).

18 “(2) PURPOSES.—The purposes of the Board
19 shall be to provide independent advice, expert con-
20 sultation, and peer review upon request of the Ad-
21 ministrator or Congress on the scientific and tech-
22 nical aspects of issues relating to the implementation
23 of this subchapter with respect to protecting chil-
24 dren’s health and research.

25 “(3) COMPOSITION.—The Administrator shall—

1 “(A) appoint the members of the Board,
2 including, at a minimum, representatives of—

3 “(i) the National Institute of Environ-
4 mental Health Sciences;

5 “(ii) the Centers for Disease Control
6 and Prevention;

7 “(iii) the National Toxicology Pro-
8 gram;

9 “(iv) the National Cancer Institute;

10 “(v) the National Tribal Science
11 Council; and

12 “(vi) not fewer than 3 centers of chil-
13 dren’s health at leading universities;

14 “(B) ensure that at least $\frac{1}{3}$ of the mem-
15 bers of the Board have specific scientific exper-
16 tise in the relationship of chemical exposures to
17 prenatal, infant, and children’s health; and

18 “(C) ensure that no individual appointed
19 to serve on the Board has a conflict of interest
20 that is relevant to the functions performed, un-
21 less such conflict is promptly and publicly dis-
22 closed and the Administrator determines that
23 the conflict is unavoidable.

24 “(c) PRENATAL AND INFANT EXPOSURES.—

1 “(1) MONITORING.—If, through studies per-
2 formed pursuant to subsection (a), section 4, or
3 other available research, the Administrator identifies
4 a chemical substance that may be present in human
5 biological media that may have adverse effects on
6 early childhood development, the Administrator shall
7 coordinate with the Secretary of Health and Human
8 Services to conduct, not later than 2 years after the
9 date on which the Administrator makes such identi-
10 fication, a biomonitoring study to determine the
11 presence of the chemical substance in human biologi-
12 cal media in, at a minimum, pregnant women and
13 infants.

14 “(2) PUBLICATION.—Upon completion of any
15 study conducted pursuant to paragraph (1), the Sec-
16 retary of Health and Human Services shall—

17 “(A) inform the Administrator of the re-
18 sults of the study; and

19 “(B) publish the results of the study in a
20 publicly available electronic format.

21 “(3) POSITIVE RESULTS.—

22 “(A) MANUFACTURE DISCLOSURE.—When-
23 ever a chemical substance or mixture is deter-
24 mined to be present in a study conducted pur-
25 suant to paragraph (1), the manufacturers and

1 processors of the chemical substance or mixture
2 shall, not later than 180 days after the date of
3 publication of such study, disclose to the Ad-
4 ministrator, commercial customers of the manu-
5 facturers and processors, consumers, and the
6 public—

7 “(i) all known uses of the chemical
8 substance or mixture; and

9 “(ii) all articles in which the chemical
10 substance or mixture is or is expected to
11 be present.

12 “(B) COST AND FORM OF DISCLOSURE.—
13 Information under clauses (i) and (ii) of sub-
14 paragraph (A) shall be—

15 “(i) made available by the Adminis-
16 trator in electronic format; and

17 “(ii) made readily accessible and free
18 of charge by each applicable manufacturer
19 and processor in electronic format to the
20 commercial customers of such manufac-
21 turer or processor, consumers, and the
22 public.

1 **“SEC. 31. REDUCTION OF ANIMAL-BASED TESTING.**

2 “(a) ADMINISTRATION.—The Administrator shall
3 take action to minimize the use of animals in testing of
4 chemical substances or mixtures, including—

5 “(1) encouraging and facilitating, where prac-
6 ticable—

7 “(A) use of existing data of sufficient sci-
8 entific quality;

9 “(B) use of test methods that eliminate or
10 reduce the use of animals but provide data of
11 high scientific quality;

12 “(C) grouping of 2 or more chemical sub-
13 stances into scientifically appropriate categories
14 where testing of one chemical substance will
15 provide reliable and useful data on others in the
16 category;

17 “(D) formation of industry consortia to
18 jointly conduct testing to avoid unnecessary du-
19 plication of tests; and

20 “(E) parallel submission of data from ani-
21 mal-based studies and from emerging methods
22 and models; and

23 “(2) funding research and validation studies to
24 reduce, refine, and replace the use of animal tests in
25 accordance with this subsection.

1 “(b) INTERAGENCY SCIENCE ADVISORY BOARD ON
2 ALTERNATIVE TESTING METHODS.—

3 “(1) ESTABLISHMENT.—Not later than 90 days
4 after the date of enactment of the Safe Chemicals
5 Act of 2010, the Administrator shall establish an ad-
6 visory board to be known as the ‘Interagency
7 Science Advisory Board on Alternative Testing
8 Methods’. The Board shall be subject to the Federal
9 Advisory Committee Act (5 U.S.C. App.).

10 “(2) COMPOSITION.—The Administrator shall—

11 “(A) appoint the members of the Inter-
12 agency Science Advisory Board on Alternative
13 Testing Methods, including, at a minimum, rep-
14 resentatives of—

15 “(i) the National Institute of Environ-
16 mental Health Sciences;

17 “(ii) the Centers for Disease Control
18 and Prevention;

19 “(iii) the National Toxicology Pro-
20 gram;

21 “(iv) the National Cancer Institute;
22 and

23 “(v) the National Tribal Science
24 Council; and

1 “(B) ensure that no individual appointed
2 to serve on the Interagency Science Advisory
3 Board on Alternative Testing Methods has a
4 conflict of interest that is relevant to the func-
5 tions to be performed, unless such conflict is
6 promptly and publicly disclosed and the Admin-
7 istrator determines that the conflict is unavoid-
8 able.

9 “(3) PURPOSE.—The purpose of the Inter-
10 agency Science Advisory Board on Alternative Test-
11 ing Methods shall be to provide independent advice
12 and peer review to the Administrator and Congress
13 on the scientific and technical aspects of issues relat-
14 ing to the implementation of this subchapter with re-
15 spect to minimizing the use of animals in testing of
16 chemical substances or mixtures.

17 “(4) REPORT.—Not later than 1 year after the
18 date of enactment of the Safe Chemicals Act of
19 2010, and triennially thereafter, the Administrator,
20 in consultation with the Interagency Science Advi-
21 sory Board on Alternative Testing Methods estab-
22 lished under paragraph (1), shall publish a list of
23 testing methods that reduce the use of animals in
24 testing under section 4.

1 “(c) IMPLEMENTATION OF ALTERNATIVE TESTING
2 METHODS.—To promote the development and timely in-
3 corporation of new testing methods that are not animal-
4 based, the Administrator shall—

5 “(1) in consultation with the Interagency
6 Science Advisory Board on Alternative Testing
7 Methods established under subsection (b)(1), and
8 after providing an opportunity for public comment,
9 develop a strategic plan to promote the development
10 and implementation of alternative test methods and
11 testing strategies to generate information used for
12 safety standard determinations under section 6(b)
13 that do not use animals, including toxicity pathway-
14 based risk assessment, in vitro studies, systems biol-
15 ogy, computational toxicology, bioinformatics, and
16 high-throughput screening;

17 “(2) biennially report to Congress on progress
18 made in implementing this section; and

19 “(3) fund and carry out research, development,
20 performance assessment, and translational studies to
21 accelerate the development of test methods and test-
22 ing strategies that are not animal-based for use in
23 safety standard determinations under section 6(b).

24 “(d) CRITERIA FOR ADAPTING OR WAIVING ANIMAL
25 TESTING REQUIREMENTS.—Upon request from a manu-

1 factorer or processor that is required to conduct animal-
2 based testing of a chemical substance or mixture under
3 this subchapter, the Administrator may adapt or waive
4 such requirement if the Administrator determines that—

5 “(1) there is sufficient weight-of-evidence from
6 several independent sources of information to sup-
7 port a conclusion that a chemical substance or mix-
8 ture has, or does not have, a particular property, in
9 any case in which the information from each indi-
10 vidual source alone is regarded as insufficient to
11 support the conclusion;

12 “(2) testing for a specific endpoint is tech-
13 nically not practicable to conduct as a consequence
14 of 1 or more physical or chemical properties of the
15 chemical substance or mixture; or

16 “(3) a chemical substance or mixture cannot be
17 tested in animals at concentrations that do not re-
18 sult in significant pain or distress, due to physical
19 or chemical properties of the chemical substance or
20 mixture, such as potential to cause severe corrosion
21 or severe irritation to tissues.

22 **“SEC. 32. SAFER ALTERNATIVES AND GREEN CHEMISTRY**
23 **AND ENGINEERING.**

24 “(a) SAFER ALTERNATIVES PROGRAM.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of the Safe Chemicals Act of
3 2010, the Administrator shall establish a program to
4 create market incentives for the development of safer
5 alternatives to existing chemical substances that re-
6 duce or avoid the use and generation of hazardous
7 substances.

8 “(2) REQUIREMENTS.—The program under
9 paragraph (1) shall include—

10 “(A) expedited review of new chemical sub-
11 stances for which the manufacturer or proc-
12 essor submits an alternatives analysis indicating
13 that the new chemical substance is the safer al-
14 ternative for a particular use than existing
15 chemical substances used for the same purpose;

16 “(B) recognition for a chemical substance
17 or product determined by the Administrator to
18 be a safer alternative for a particular use by
19 means of a special designation intended for use
20 in marketing the safer alternative, and periodic
21 public awards or rewards; and

22 “(C) such other incentives, as the Adminis-
23 trator considers to be appropriate to encourage
24 the development, marketing, and use of chem-
25 ical substances or products determined by the

1 Administrator to be safer alternatives for the
2 particular uses, such as job training and worker
3 assistance.

4 “(b) GREEN CHEMISTRY RESEARCH NETWORK.—
5 The Administrator shall establish a network of not fewer
6 than 4 green chemistry and engineering centers, located
7 in various regions of the United States, to support the
8 development and adoption of safer alternatives to chemical
9 substances, particularly chemical substances placed on the
10 priority list under section 6(a).

11 “(c) GREEN CHEMISTRY AND ENGINEERING RE-
12 SEARCH GRANTS.—The Administrator shall make grants
13 to promote and support the research, development, and
14 adoption of safer alternatives to hazardous substances.

15 “(d) GREEN CHEMISTRY WORKFORCE EDUCATION
16 AND TRAINING PROGRAM.—

17 “(1) IN GENERAL.—The Administrator shall
18 create a program to facilitate the development of a
19 workforce, including industrial and scientific work-
20 ers, that produces safer alternatives to existing
21 chemical substances.

22 “(2) GOALS.—The goals of the program are to
23 provide workforce training on skills that will—

24 “(A) facilitate the expansion of green
25 chemistry;

1 “(B) develop scientific and technical lead-
2 ership in green chemistry;

3 “(C) facilitate the successful and safe inte-
4 gration of green chemistry into infrastructure
5 projects;

6 “(D) inform and engage communities
7 about green chemistry; and

8 “(E) promote innovation and strong public
9 health and environmental protections.

10 “(3) IMPLEMENTATION.—The Administration
11 shall implement the program to achieve its goals as
12 described in this Act, including by—

13 “(A) helping to develop a broad range of
14 skills relevant to the production and use of such
15 safer alternatives, including their design, manu-
16 facturing, and use and disposal;

17 “(B) offering to develop partnerships with
18 educational institutions, training organizations,
19 private sector companies, and community orga-
20 nizations; and

21 “(C) provide grants to state and local gov-
22 ernments and to the partnerships established
23 pursuant to paragraph (B) to promote and sup-
24 port activities consistent with achieving the
25 goals of this program.

1 **“SEC. 33. COOPERATION WITH INTERNATIONAL EFFORTS.**

2 “In cooperation with the Secretary of State and the
3 head of any other appropriate Federal agency (as deter-
4 mined by the Administrator), the Administrator shall co-
5 operate with international efforts as appropriate—

6 “(1) to develop a common protocol or electronic
7 database relating to chemical substances; or

8 “(2) to develop safer alternatives for chemical
9 substances.

10 **“SEC. 34. RELIABLE INFORMATION AND ADVICE.**

11 “Not later than 18 months after the date of enact-
12 ment of the Safe Chemicals Act of 2010, the Adminis-
13 trator shall, by order, establish and implement procedures
14 to ensure data reliability including, at a minimum, re-
15 quirements that—

16 “(1) not less than annually, the Administrator
17 randomly inspect commercial and private labora-
18 tories that develop the data required under this sub-
19 chapter on the various properties and characteristics
20 of a chemical substance;

21 “(2) annually, the Administrator perform a
22 comprehensive data audit on a subset, as chosen by
23 the Administrator, of the data submissions sub-
24 mitted by manufacturers and processors under this
25 subchapter;

1 “(3) the Administrator establish and maintain
2 a registry of all health- and safety-related studies
3 initiated in response to requirements under this sub-
4 chapter;

5 “(4) the Administrator have access to all
6 records of health- and safety-related studies initiated
7 in response to requirements under this subchapter;
8 and

9 “(5) the Administrator require the submitter of
10 any research study conducted by a third party in re-
11 sponse to requirements under this subchapter to dis-
12 close to the Administrator and the public, at the
13 time of submission, the sources of any funding used
14 for the conduct or publication of the study received
15 by the researchers who conducted the study.

16 **“SEC. 35. HOT SPOTS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) DISPROPORTIONATE EXPOSURE.—The
19 term ‘disproportionate exposure’ means residential
20 population exposure to 1 or more toxic chemical sub-
21 stances and mixtures at levels that are significantly
22 greater than the average exposure in the United
23 States, as defined and identified by the Adminis-
24 trator in accordance with the criteria under sub-
25 section (b).

1 “(2) LOCALITY.—The term ‘locality’ means any
2 geographical area in which the Administrator identi-
3 fies disproportionate exposure and may include a
4 county, city, town, neighborhood, census tract, zip
5 code, or other commonly understood political or geo-
6 graphical subdivision.

7 “(b) CRITERIA.—Not later than 180 days after the
8 date of enactment of the Safe Chemicals Act of 2010, the
9 Administrator shall promulgate a rule to establish criteria
10 consistent with this section to—

11 “(1) define disproportionate exposure; and

12 “(2) identify any locality that is disproportion-
13 ately exposed.

14 “(c) IDENTIFICATION.—

15 “(1) IN GENERAL.—Not later than 120 days
16 after promulgation of the rule under subsection (b),
17 the Administrator shall identify localities within the
18 United States subject to disproportionate exposure.

19 “(2) USE OF DATA.—In identifying localities
20 under paragraph (1), the Administrator—

21 “(A) shall use data contained in the Na-
22 tional Air Toxic Assessment Database; and

23 “(B) may use other data available to the
24 Administrator, including data developed pursu-
25 ant to—

1 “(i) the Safe Drinking Water Act (42
2 U.S.C. 300f et seq.);

3 “(ii) the Solid Waste Disposal Act (42
4 U.S.C. 6901 et seq.);

5 “(iii) the Comprehensive Environ-
6 mental Response, Compensation, and Li-
7 ability Act of 1980 (42 U.S.C. 9601 et
8 seq.); and

9 “(iv) the Emergency Planning and
10 Community Right-to-Know Act of 1986
11 (42 U.S.C. 11001 et seq.).

12 “(3) PUBLIC PARTICIPATION.—The Adminis-
13 trator shall provide an opportunity for members of
14 the public to nominate localities for which there may
15 be disproportionate exposure for inclusion in the
16 identification of localities under paragraph (1).

17 “(d) LOCALITY LIST.—

18 “(1) IN GENERAL.—Not later than 6 months
19 after completing the identification of localities under
20 subsection (c)(1), the Administrator shall, after no-
21 tice and consultation with all applicable State, local,
22 county health, and environmental officials, and
23 State, local, and county legislators and other elected
24 officials, publish a list of the localities subject to dis-
25 proportionate exposure identified pursuant to such

1 subsection in the Federal Register and make the list
2 available electronically.

3 “(2) UPDATING.—Not later than 5 years after
4 the date of publication of the list under paragraph
5 (1), and at least once every 5 years thereafter, the
6 Administrator shall update and republish the list as
7 necessary. The Administrator may update and re-
8 publish the list more frequently than every 5 years
9 to add new localities that meet the criteria under
10 subsection (b), or to remove localities when the Ad-
11 ministrator has determined that the exposure reduc-
12 tion has been achieved and no further action is need-
13 ed after actions are taken under subsection (e). The
14 Administrator shall notify all applicable State, local,
15 county health, and environmental officials, and
16 State, local, and county legislators and other elected
17 officials of the updated listing.

18 “(e) NO JUDICIAL REVIEW; NONDISCRETIONARY
19 DUTY.—

20 “(1) NO JUDICIAL REVIEW.—The following ac-
21 tions shall not be subject to judicial review:

22 “(A) A decision to identify a locality pur-
23 suant to subsection (c)(1) to be included on the
24 list published pursuant to subsection (d)(1).

1 “(B) A decision in response to nominations
2 submitted pursuant to subsection (c)(3).

3 “(C) A decision to list localities or update
4 the list pursuant to subsection (d)(2).

5 “(2) NONDISCRETIONARY DUTY.—Notwith-
6 standing paragraph (1), the failure of the Adminis-
7 trator to publish the list of list localities or update
8 the list in accordance with this section shall be—

9 “(A) considered to be a failure to perform
10 a nondiscretionary duty; and

11 “(B) subject to judicial review.

12 “(f) ACTION PLANS.—

13 “(1) IN GENERAL.—Not later than 1 year after
14 publishing or updating the list under subsection (d),
15 the Administrator shall develop and publish, for each
16 locality identified on the list, an action plan that in-
17 cludes—

18 “(A) an identification of the chemical sub-
19 stances and mixtures that contribute to the dis-
20 proportionate exposure (including exposure lev-
21 els, sources, and pathways); and

22 “(B) a description of actions to be under-
23 taken by the Administrator, to reduce dis-
24 proportionate exposure within the locality.

1 applicable requirements of this chapter, both substantive
2 and procedural, in the same manner, and to the same ex-
3 tent, as any person subject to such requirements. The sub-
4 stantive and procedural requirements referred to in this
5 subsection include—

6 “(1) any administrative order;

7 “(2) any civil or administrative penalty or fine,
8 regardless of whether such penalty or fine is punitive
9 or coercive in nature or is imposed for isolated,
10 intermittent, or continuing violations;

11 “(3) any requirement for reporting;

12 “(4) any provision for injunctive relief and such
13 sanctions as may be imposed by a court to enforce
14 such relief; and

15 “(5) payment of reasonable service charges.

16 “(b) WAIVER OF IMMUNITY.—The United States ex-
17 pressly waives any immunity otherwise applicable to the
18 United States with respect to any substantive or proce-
19 dural requirement referred to under subsection (a).

20 “(c) CIVIL PENALTIES.—No agent, employee, or offi-
21 cer of the United States shall be personally liable for any
22 civil penalty under this chapter with respect to any act
23 or omission within the scope of the official duties of the
24 agent, employee, or officer.

1 “(d) CRIMINAL SANCTIONS.—An agent, employee, or
2 officer of the United States shall be subject to any crimi-
3 nal sanction (including any fine or imprisonment) under
4 this chapter, but no department, agency, or instrumen-
5 tality of the executive, legislative, or judicial branch of the
6 Federal Government shall be subject to any such sanction.

7 “(e) EXEMPTION.—

8 “(1) IN GENERAL.—If the President determines
9 it is in the paramount interest of the United States,
10 the President may grant an exemption for any Fed-
11 eral agency from compliance with any requirement
12 of this chapter.

13 “(2) LACK OF APPROPRIATION.—No exemption
14 shall be granted under paragraph (1) due to lack of
15 appropriation unless the President has specifically
16 requested such appropriation as a part of the budg-
17 etary process and the Congress has failed to make
18 available such requested appropriation.

19 “(3) PERIOD OF EXEMPTION.—Any exemption
20 granted under paragraph (1) shall be for a period of
21 not more than 1 year, but additional exemptions
22 may be granted for periods not to exceed 1 year
23 upon the President’s making a new determination
24 that such exemption is in the paramount interest of
25 the United States.

1 “(4) REPORT.—Each January after the date of
2 enactment of this section, the President shall report
3 to the Congress all exemptions under this subsection
4 granted during the preceding calendar year, together
5 with the reason for granting each such exemption.

6 “(f) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

7 “(1) IN GENERAL.—The Administrator may
8 commence an administrative enforcement action
9 against any Federal agency pursuant to the enforce-
10 ment authorities contained in this chapter. The Ad-
11 ministrator shall initiate an administrative enforce-
12 ment action against such a department, agency, or
13 instrumentality in the same manner and under the
14 same circumstances as an action would be initiated
15 against another person. Any voluntary resolution or
16 settlement of an administrative enforcement action
17 shall be set forth in a consent order.

18 “(2) FINAL.—No administrative order issued to
19 a Federal department, agency, or instrumentality
20 shall become final until such department, agency, or
21 instrumentality has had the opportunity to confer
22 with the Administrator.

1 **“SEC. 37. IMPLEMENTATION OF STOCKHOLM CONVENTION,**
2 **THE LRTAP POPS PROTOCOL, AND THE ROT-**
3 **TERDAM CONVENTION.**

4 “(a) DEFINITIONS.—

5 “(1) CHEMICAL.—The term ‘chemical’ includes
6 any substance or mixture of substances, including as
7 part of an article.

8 “(2) MEETING OF THE PARTIES.—The phrase
9 ‘meeting of the parties’ means—

10 “(A) the Conference of the Parties estab-
11 lished by and operating under Article 19 of the
12 Stockholm Convention;

13 “(B) the Executive Body established by
14 and operating under Article 10 of the LRTAP
15 POPs Convention; and

16 “(C) the Conference of the Parties estab-
17 lished by and operating under Article 18 of the
18 Rotterdam Convention.

19 “(3) LRTAP CONVENTION.—The term
20 ‘LRTAP Convention’ means the Convention on
21 Long-Range Transboundary Air Pollution, done at
22 Geneva on November 13, 1979 (TIAS 10541), and
23 any subsequent amendments to which the United
24 States is a party.

25 “(4) LRTAP POPS CHEMICAL.—The term
26 ‘LRTAP POPs chemical’ means any chemical listed

1 on any Annex of the LRTAP POPs Protocol, if such
2 listing has entered into force for the United States.

3 “(5) LRTAP POPS PROTOCOL.—The term
4 ‘LRTAP POPs Protocol’ means the Protocol on Per-
5 sistent Organic Pollutants to the LRTAP Conven-
6 tion, done at Aarhus on June 24, 1998, and any
7 subsequent amendment to which the United States
8 is a party.

9 “(6) PIC CHEMICAL.—The term ‘PIC chemical’
10 means any chemical identified by notification to the
11 Secretariat of the Rotterdam Convention by the
12 United States as banned or severely restricted in the
13 United States, and any chemical listed on any Annex
14 of the Rotterdam Convention, if such listing has en-
15 tered into force for the United States.

16 “(7) POPS CHEMICAL.—The term ‘POPs chem-
17 ical’ means any chemical that is listed on any Annex
18 of the Stockholm Convention, if such listing has en-
19 tered into force for the United States.

20 “(8) ROTTERDAM CONVENTION.—The term
21 ‘Rotterdam Convention’ means the Rotterdam Con-
22 vention on the Prior Informed Consent Procedure
23 for Certain Hazardous Chemicals and Pesticides in
24 International Trade, done at Rotterdam on Sep-

1 tember 10, 1998, and any subsequent amendment to
2 which the United States is a party.

3 “(9) STOCKHOLM CONVENTION.—The term
4 ‘Stockholm Convention’ means the Stockholm Con-
5 vention on Persistent Organic Pollutants, done at
6 Stockholm on May 22, 2001, and any subsequent
7 amendment to which the United States is a party.

8 “(b) CORE IMPLEMENTATION PROVISIONS.—

9 “(1) IN GENERAL.—The Administrator, in co-
10 operation with any appropriate Federal agency, shall
11 implement and support the implementation by the
12 United States of the provisions, that have entered
13 into force for the United States, of the Stockholm
14 Convention, the LRTAP POPs Protocol, and the
15 Rotterdam Convention.

16 “(2) PROHIBITIONS.—Notwithstanding any
17 other provision of law, no person may manufacture,
18 process, distribute in commerce, use, dispose of, or
19 take any other action with respect to a POPs chem-
20 ical, LRTAP POPs chemical, or PIC chemical in a
21 manner inconsistent with applicable obligations for
22 that chemical under the Stockholm Convention,
23 LRTAP POPs Protocol, or Rotterdam Convention.

24 “(3) PUBLIC NOTICE AND COMMENT.—

1 “(A) The Administrator shall provide time-
2 ly public notice and opportunity to comment on
3 a chemical proposed for listing to any Annex to
4 the Stockholm Convention, the LRTAP POPs
5 Protocol, or the Rotterdam Convention. The
6 Administrator shall identify in the notice any
7 relevant toxicity, exposure, and risk information
8 on the chemical known to the Administrator,
9 and any domestic activities involving the chem-
10 ical known to the Administrator. Any interested
11 person may provide relevant comment and in-
12 formation on the chemical in response to that
13 notice. The Administrator may, if the Adminis-
14 trator determines it to be necessary to assist
15 the United States in its review, require the pro-
16 vision of relevant information related to a pro-
17 posed chemical from any person. Such comment
18 and information shall be considered in the Ad-
19 ministrator’s review of the proposal and shall be
20 placed in an established public docket.

21 “(B) The Administrator shall also provide
22 timely public notice and opportunity to com-
23 ment after a recommendation is made to list a
24 chemical on any Annex to the Stockholm Con-
25 vention, the LRTAP POPs Protocol, or the

1 Rotterdam Convention. The Administrator shall
2 provide such notice in advance of the Meeting
3 of the Parties at which the recommendation is
4 to be considered. The Administrator shall re-
5 quest comment and information on all aspects
6 of such recommendation and may, if the Ad-
7 ministrator determines it to be necessary to as-
8 sist the United States in its review, require the
9 provision of relevant information related to a
10 proposed chemical from any person. Such com-
11 ment and information shall be considered in the
12 Administrator's review of the listing rec-
13 ommendation and shall be placed in an estab-
14 lished public docket.

15 “(C) The Administrator shall also provide
16 public notice and opportunity to comment on
17 any decision by the Meeting of the Parties to
18 list a chemical on any Annex to the Stockholm
19 Convention. No later than 30 days after such
20 decision becomes available, the Administrator
21 shall provide in the notice a description of the
22 amendments to the instruments and shall iden-
23 tify changes to any current domestic activities
24 that the Administrator believes, based on infor-
25 mation available to the Administrator, would be

1 necessary should the United States choose to be
2 bound by the listing decision. Any interested
3 person may provide relevant comment and in-
4 formation in response to that notice. Such com-
5 ment and information shall be considered in the
6 Administrator's review of the decision and shall
7 be placed in an established public docket.

8 “(D) No later than 30 days after the
9 United States deposits its instrument of ratifi-
10 cation for the Stockholm Convention, the
11 LRTAP POPs Protocol, or the Rotterdam Con-
12 vention, or no later than 30 days after the list-
13 ing of any chemical subsequently added under
14 those instruments has entered into force for the
15 United States (whichever comes sooner), the
16 Administrator shall provide notice of the chemi-
17 cals that are subject to those instruments and
18 shall provide similar public notice of any chem-
19 ical subsequently added under those instru-
20 ments. In providing such notice, the Adminis-
21 trator may specify the requirements that are
22 applicable for individual chemicals.

23 “(4) GENERAL RULEMAKING AUTHORITY.—The
24 Administrator may prescribe regulations to carry out
25 the provisions of the Stockholm Convention, the

1 LRTAP POPs Protocol, and the Rotterdam Conven-
2 tion, or to ensure compliance with any obligations
3 under such instruments.

4 “(5) APPLICABLE OBLIGATION.—If a chemical
5 is subject to obligations under more than one of the
6 instruments listed in paragraph (4), the most strin-
7 gent of such obligations shall apply to ensure com-
8 pliance with each of those instruments.

9 “(c) ENFORCEMENT.—The prohibitions and any
10 other requirements of this part shall be enforced in the
11 same manner as final rules or orders under section 2605
12 of the Toxic Substances Control Act.”.

13 (b) CONFORMING AMENDMENTS.—The table of con-
14 tents for the Toxic Substances Control Act (15 U.S.C.
15 2601 et seq.) is amended—

16 (1) by striking the item relating to section 2
17 and inserting the following:

“Sec. 2. Findings, policy, and goal.”;

18 (2) by striking the item relating to section 4
19 and inserting the following:

“Sec. 4. Minimum data set and testing of chemical substances and mixtures.”.

20 (3) by striking the item relating to section 6
21 and inserting the following:

“Sec. 6. Prioritization, safety standard determination, and risk management.”;

22 (4) by striking the items relating to sections 29
23 through 31; and

