

111TH CONGRESS
2^D SESSION

H. R. 5820

To amend the Toxic Substances Control Act to ensure that the public and the environment are protected from risks of chemical exposure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2010

Mr. RUSH (for himself, Mr. WAXMAN, Ms. CASTOR of Florida, Ms. DEGETTE, Ms. SCHAKOWSKY, and Mr. SARBANES) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Toxic Substances Control Act to ensure that the public and the environment are protected from risks of chemical exposure, 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 “Toxic Chemicals Safety
5 Act of 2010”.

6 **SEC. 2. FINDINGS, POLICY, AND GOAL.**

7 (a) FINDINGS, POLICY, AND GOAL.—Section 2 of the
8 Toxic Substances Control Act (15 U.S.C. 2601) is amend-
9 ed—

1 (1) by striking “**INTENT**” in the section head-
2 ing and inserting “**GOAL**”; and

3 (2) by striking subsections (a) through (c) and
4 inserting the following:

5 “(a) FINDINGS.—Congress finds that—

6 “(1) the chemical industry is an important part
7 of the United States economy and provides valuable
8 products that are used in diverse manufacturing in-
9 dustries and other commercial, institutional, and
10 consumer applications;

11 “(2) more than 3 decades after the enactment
12 of the Toxic Substances Control Act, the public and
13 the environment in the United States are still ex-
14 posed to thousands of chemicals whose safety has
15 not been adequately reviewed;

16 “(3) biomonitoring reveals that people in the
17 United States have many hazardous chemicals in
18 their bodies;

19 “(4) the potential for adverse effects from
20 chemical exposures is modulated by developmental
21 changes in metabolism, physiology, and pathways of
22 exposure, with increased potential for adverse effects
23 from exposures that occur in utero, during infancy,
24 and during other critical periods of development;

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

9 “(6) a revised policy on the safety of chemicals
10 will assist in renewing the manufacturing sector of
11 the United States, create new and safer jobs, spur
12 innovations in green chemistry, restore confidence
13 domestically and internationally in the safety of
14 products of the United States, and ensure that prod-
15 ucts of the United States remain competitive in the
16 global market.

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

18 “(1) to protect the health of children, workers,
19 consumers, and the public, and to protect the envi-
20 ronment from adverse effects of exposures to chemi-
21 cals;

22 “(2) to promote the use of safer alternatives
23 and other actions that reduce use of and exposure
24 to hazardous chemicals and reward innovation in de-
25 veloping safer chemicals, processes, and products;

1 “(3) to require that all chemicals in commerce
2 meet a risk-based safety standard that protects dis-
3 proportionately vulnerable and affected populations
4 and the environment;

5 “(4) to require manufacturers and processors to
6 provide sufficient health and environmental informa-
7 tion for the chemicals which they manufacture or
8 process as a condition of allowing distribution of
9 such chemicals in commerce;

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

12 “(6) to guarantee the right of the public and
13 workers to know about the risks associated with
14 chemicals that they may be exposed to by maxi-
15 mizing public access to information on such chemi-
16 cals;

17 “(7) to strengthen cooperation between and
18 among the Federal Government and State, munic-
19 ipal, tribal, and foreign governments;

20 “(8) to ensure the Administrator has the au-
21 thority to develop sufficient information to assess
22 chemical safety, and to act effectively when the Ad-
23 ministrator obtains information that indicates there
24 are risks of harmful chemical exposure; and

1 “(9) to replace, reduce, and refine testing on
2 animals by promoting and funding the development
3 of more efficient test methods and strategies.

4 “(c) GOAL.—It is the goal of the United States to
5 protect health and the environment by addressing expo-
6 sure to harmful chemicals distributed in commerce, includ-
7 ing exposure of vulnerable or disproportionately affected
8 populations, by—

9 “(1) determining whether all chemicals in com-
10 merce meet the safety standard under this title;

11 “(2) restricting the manufacture, processing,
12 use, distribution in commerce, or disposal of a chem-
13 ical, where warranted; and

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

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for the Toxic Substances Control Act is amended
18 by amending the item relating to section 2 to read as fol-
19 lows:

 “Sec. 2. Findings, policy, and goal.”.

20 **SEC. 3. DEFINITIONS AND DETERMINATIONS.**

21 (a) DEFINITIONS AND DETERMINATIONS.—Section 3
22 of the Toxic Substances Control Act (15 U.S.C. 2602) is
23 amended—

24 (1) by striking—

1 **“SEC. 3. DEFINITIONS.**

2 “As used in this Act:” and inserting the following:

3 **“SEC. 3. DEFINITIONS AND DETERMINATIONS.**

4 “(a) DEFINITIONS.—As used in this Act:”;

5 (2) in subsection (a), (relating to definitions, as
6 designated by paragraph (1))—

7 (A) in paragraph (2)—

8 (i) in subparagraph (A)—

9 (I) by striking “Except as pro-
10 vided in subparagraph (B), the term”
11 and inserting “The term”;

12 (II) in clause (i), by striking
13 “and” after “nature,”;

14 (III) in clause (ii), by striking
15 the period at the end and inserting “,
16 and”;

17 (IV) by adding at the end the fol-
18 lowing new clause:

19 “(iii) any form of a substance determined
20 by the Administrator to be a chemical sub-
21 stance under subsection (b)(1).”; and

22 (ii) in subparagraph (B)—

23 (I) by striking clause (ii) and in-
24 serting the following:

1 “(ii) any alcoholic beverage (as de-
2 fined in section 214 of the Federal Alcohol
3 Administration Act),”;

4 (II) in clause (iii), by striking
5 “product,” inserting “product (as de-
6 fined in section 201 of the Federal
7 Food, Drug, and Cosmetic Act), and”;
8 and

9 (III) by striking clauses (v) and
10 (vi) and the matter following clause
11 (vi);

12 (B) in paragraph (4)—

13 (i) by striking “or” after “or article;”;

14 and

15 (ii) by inserting “; or to export or
16 offer for export the substance, mixture, or
17 article, except for demonstrated use solely
18 as a pesticide (as defined in the Federal
19 Insecticide, Fungicide, and Rodenticide
20 Act), food, food additive, drug, cosmetic, or
21 device (as such terms are defined in sec-
22 tion 201 of the Federal Food, Drug, and
23 Cosmetic Act) and including poultry, poul-
24 try products, meat, meat food products (as
25 defined in section 1(j) of the Federal Meat

1 Inspection Act), eggs, and egg products (as
2 defined in section 4 of the Egg Products
3 Inspection Act)” after “article after its in-
4 troduction into commerce”;

5 (C) in paragraph (5), by inserting “ambi-
6 ent and indoor” after “includes water,”;

7 (D) in paragraph (7), by inserting “, ex-
8 cept for demonstrated use solely as a pesticide
9 (as defined in the Federal Insecticide, Fun-
10 gicide, and Rodenticide Act), food, food addi-
11 tive, drug, cosmetic, or device (as such terms
12 are defined in section 201 of the Federal Food,
13 Drug, and Cosmetic Act) and including poultry,
14 poultry products, meat, meat food products (as
15 defined in section 1(j) of the Federal Meat In-
16 spection Act), eggs, and egg products (as de-
17 fined in section 4 of the Egg Products Inspec-
18 tion Act)” after “produce, or manufacture”;

19 (E) in paragraph (9), by striking “which is
20 not included in the chemical substance list com-
21 piled and published under section 8(b)” and in-
22 serting “for which no declaration has been sub-
23 mitted under section 8(a)(2), except that, with
24 respect to the first year after the date of enact-
25 ment of the Toxic Chemicals Safety Act of

1 2010, such term shall not include a chemical
2 substance distributed in commerce as of such
3 date of enactment”;

4 (F) in paragraph (10), after subparagraph
5 (B), by adding the following:

6 “Except such term shall not include preparation for
7 demonstrated use solely as a pesticide (as defined in
8 the Federal Insecticide, Fungicide, and Rodenticide
9 Act), food, food additive, drug, cosmetic, or device
10 (as such terms are defined in section 201 of the
11 Federal Food, Drug, and Cosmetic Act) and includ-
12 ing poultry, poultry products, meat, meat food prod-
13 ucts (as defined in section 1(j) of the Federal Meat
14 Inspection Act), eggs, and egg products (as defined
15 in section 4 of the Egg Products Inspection Act).
16 Relabeling or redistributing a container holding a
17 chemical substance or mixture where no repackaging
18 of the chemical substance or mixture occurs does not
19 constitute processing of the chemical substance or
20 mixture. Relabeling, redistributing, or repackaging
21 an article containing a chemical substance or mix-
22 ture, including incorporating the article into another
23 article, does not constitute processing of the chem-
24 ical substance or mixture.”.

1 (G) by striking paragraph (12) and redesi-
2 gnating paragraphs (13) and (14) as para-
3 graphs (12) and (13), respectively; and

4 (H) by adding at the end the following new
5 paragraphs:

6 “(14) The term ‘adverse effect’ means a chem-
7 ical or biochemical change, anatomic change, or
8 functional impairment, or a known precursor to such
9 a change or impairment, that—

10 “(A) has the potential to impair the per-
11 formance of an anatomic structure of a vital
12 system of an organism or progeny of an orga-
13 nism;

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

16 “(C) increases the susceptibility of an or-
17 ganism or progeny of an organism to other
18 chemical or biological stressors or reduces the
19 ability of an organism or progeny of an orga-
20 nism to respond to additional health or environ-
21 mental challenges; or

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

1 In order to reflect best available science, the Admin-
2 istrator may, by rule, revise the definition of such
3 term for purposes of this Act in such a way that re-
4 flects the state of the science and provides for equal
5 or greater protection of health and the environment.

6 “(15) The term ‘aggregate exposure’ means all
7 exposure from—

8 “(A) manufacture, processing, distribution,
9 use, and disposal;

10 “(B) manufacturing or processing of the
11 substance for use as a pesticide, food, food ad-
12 ditive, drug, cosmetic, or device;

13 “(C) contamination of food, air, water,
14 soil, house dust, and any other environmental
15 media from current or prior uses or activity;

16 “(D) permitted sources of pollution;

17 “(E) nonpoint sources of pollution; and

18 “(F) documented background levels from
19 natural and anthropogenic sources.

20 “(16) The term ‘bioaccumulative’ means, with
21 respect to a chemical substance or mixture, that the
22 chemical substance or mixture, as determined by the
23 Administrator, can significantly accumulate in biota,
24 as indicated through monitoring data, or is highly
25 likely to accumulate in biota, as indicated by other

1 evidence. In order to reflect best available science,
2 the Administrator may, by rule, revise the definition
3 of such term for purposes of this Act in such a way
4 that reflects the state of the science and provides for
5 equal or greater protection of health and the envi-
6 ronment.

7 “(17) The term ‘chemical identity’ means, with
8 respect to a chemical substance—

9 “(A) each common and trade name of the
10 chemical substance;

11 “(B) the name of the chemical substance
12 appearing in International Union of Pure and
13 Applied Chemistry nomenclature and 9th Col-
14 lective Index format;

15 “(C) the Chemical Abstracts Service reg-
16 istration number of the chemical substance; and

17 “(D) the molecular structure and the mo-
18 lecular identity of the chemical substance.

19 “(18) The term ‘cumulative exposure’ means
20 the sum of aggregate exposure to—

21 “(A) each of the chemical substances that
22 are known or, where supported by scientific
23 consensus, suspected to contribute appreciably
24 to the risk of the same adverse effect; and

1 “(B) mixtures containing chemical sub-
2 stances described in subparagraph (A).

3 “(19) The term ‘Federal agency’ means any de-
4 partment, agency, or other instrumentality of the
5 Federal Government, any independent agency or es-
6 tablishment of the Federal Government including
7 any Government corporation, and the Government
8 Printing Office.

9 “(20) The term ‘importer’ means any person
10 who imports a chemical substance or mixture, or any
11 article containing a chemical substance or mixture,
12 for distribution in commerce.

13 “(21) The term ‘persistent’ means, with respect
14 to a chemical substance or mixture, that the chem-
15 ical substance or mixture, as determined by the Ad-
16 ministrator, significantly persists in 1 or more envi-
17 ronmental media, as indicated by monitoring data or
18 other evidence. In order to reflect best available
19 science, the Administrator may, by rule, revise the
20 definition of such term for purposes of this Act in
21 such a way that reflects the state of the science and
22 provides for equal or greater protection of health
23 and the environment.

24 “(22) The term ‘substance characteristic’
25 means, with respect to a particular chemical sub-

1 stance, the physical and chemical characteristics
2 that may vary for such substance, and whose vari-
3 ation may bear on the toxicological properties or the
4 exposure potential of the substance, including—

5 “(A) structure and composition;

6 “(B) size or size distribution;

7 “(C) shape;

8 “(D) surface structure;

9 “(E) reactivity; and

10 “(F) other characteristics and properties

11 that may bear on toxicological properties or ex-
12 posure potential.

13 “(23) The term ‘toxic’, with respect to a chem-
14 ical substance or mixture, means that the chemical
15 substance or mixture, or a metabolite or degradation
16 product of such substance or mixture, has a toxi-
17 cological property—

18 “(A) that causes an adverse effect that has
19 been demonstrated in humans or other orga-
20 nisms; or

21 “(B) for which the weight of evidence
22 (such as demonstration of such an adverse ef-
23 fect as described in subparagraph (A) in labora-
24 tory studies or data for a chemical from the
25 same chemical class that exhibits such an ad-

1 verse effect) demonstrates the potential for an
2 adverse effect in humans or other organisms.

3 “(24) The term ‘toxicological property’ means
4 established toxicity, adverse effects, or established
5 precursors to such toxicity or adverse effects, includ-
6 ing effects of exposure to a chemical substance or
7 mixture on—

8 “(A) mortality;

9 “(B) morbidity, including carcinogenesis;

10 “(C) genetics, including mutagenicity,
11 genotoxicity, and epigenetics;

12 “(D) reproduction;

13 “(E) growth and development;

14 “(F) the immune system;

15 “(G) the endocrine system;

16 “(H) the brain or nervous system;

17 “(I) other organ systems; or

18 “(J) any other biological functions in hu-
19 mans or other organisms.

20 “(25) The term ‘use’ means any utilization of
21 a chemical substance or mixture that is not other-
22 wise covered by the terms manufacture or process,
23 and may include—

24 “(A) any composition of the chemical sub-
25 stance with other chemical substances;

1 “(B) any group of utilizations determined
2 by the Administrator to be a single use under
3 subsection (b)(2).

4 Relabeling or redistributing a container holding a
5 chemical substance or mixture where no repackaging
6 of the chemical substance or mixture occurs does not
7 constitute use of the chemical substance or mixture.

8 “(26) The term ‘vulnerable population’ means a
9 population that is subject to a disproportionate expo-
10 sure to, or potential for a disproportionate adverse
11 effect from exposure to, a chemical substance or
12 mixture, including—

13 “(A) infants, children, and adolescents;

14 “(B) pregnant women (including effects on
15 fetal development);

16 “(C) the elderly;

17 “(D) individuals with preexisting medical
18 conditions;

19 “(E) workers; and

20 “(F) members of any other appropriate
21 population identified by the Administrator
22 based on consideration of—

23 “(i) socioeconomic status;

24 “(ii) racial or ethnic background;

1 “(iii) culturally influenced dietary or
2 other practices or factors; or

3 “(iv) other similar factors identified
4 by the Administrator.”; and

5 (3) by adding at the end the following new sub-
6 section:

7 “(b) DETERMINATIONS.—

8 “(1) The Administrator may determine dif-
9 ferent forms of a chemical substance with a par-
10 ticular molecular identity to be different chemical
11 substances for purposes of this Act, based on vari-
12 ations in the substance characteristics. New forms of
13 existing chemical substances so determined shall be
14 considered new chemical substances for purposes of
15 this Act.

16 “(2) The Administrator may determine dif-
17 ferent uses of a chemical substance or mixture to be
18 the same use for purposes of this Act, based on in-
19 dustry classification systems or factors determined
20 by the Administrator to indicate similarity in use
21 and exposure, provided that such systems or factors
22 ensure that the different uses treated as the same
23 use under this paragraph do not involve materially
24 different patterns, pathways, or degrees of expo-
25 sure.”.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents for the Toxic Substances Control Act is amended
3 by amending the item relating to section 3 to read as fol-
4 lows:

“Sec. 3. Definitions and Determinations.”.

5 **SEC. 4. MINIMUM DATA SET AND TESTING OF CHEMICAL**
6 **SUBSTANCES AND MIXTURES.**

7 Section 4 of the Toxic Substances Control Act (15
8 U.S.C. 2603) is amended as follows:

9 (1) By amending subsection (a) to read as fol-
10 lows:

11 “(a) MINIMUM DATA SET.—

12 “(1) Not later than 1 year after the date of en-
13 actment of the Toxic Chemicals Safety Act of 2010,
14 the Administrator shall establish, by rule, the data
15 that constitute the minimum data set for substances
16 described in paragraph (2). The rule shall—

17 “(A) require manufacturers and processors
18 to submit a minimum data set that the Admin-
19 istrator determines will be useful in conducting
20 safety standard determinations pursuant to sec-
21 tion 6(b) or carrying out any provision of this
22 Act, and shall include information on—

23 “(i) chemical identity;

24 “(ii) substance characteristics;

1 “(iii) biological and environmental
2 fate and transport;

3 “(iv) toxicological properties;

4 “(v) volume manufactured, processed,
5 or imported;

6 “(vi) intended uses; and

7 “(vii) exposures from all stages of the
8 chemical substance or mixture’s lifecycle
9 that are known or reasonably foreseeable
10 to the party submitting the data set;

11 “(B) provide for varied or tiered testing;

12 “(C) establish requirements for manufac-
13 turers and processors to update their minimum
14 data set submissions, as appropriate; and

15 “(D) be updated by the Administrator not
16 less often than once every 5 years.

17 “(2) Except as provided in paragraph (3), the
18 manufacturers and processors of a chemical sub-
19 stance or mixture shall submit the minimum data
20 set established by the rule under paragraph (1), ac-
21 companied by the certification described in section
22 8(i), to the Administrator—

23 “(A) for an existing chemical substance or
24 mixture, not later than the earlier of—

1 “(i) 18 months after the date on
2 which the Administrator lists the chemical
3 substance or mixture on the priority list
4 under section 6(a); or

5 “(ii) for chemical substances pro-
6 duced—

7 “(I) at high volumes, as deter-
8 mined by the Administrator, 3 years
9 after the date of enactment of the
10 Toxic Chemicals Safety Act of 2010;

11 “(II) at moderate volumes, as de-
12 termined by the Administrator, 4
13 years after the date of enactment of
14 the Toxic Chemicals Safety Act of
15 2010; or

16 “(III) at low volumes, as deter-
17 mined by the Administrator, 5 years
18 after the date of enactment of the
19 Toxic Chemicals Safety Act of 2010;
20 or

21 “(B) for a new chemical substance, the
22 date on which the notice required under section
23 5(a)(1)(A) is submitted.

24 “(3) No minimum data set shall be required to
25 be submitted by manufacturers and processors of a

1 chemical substance listed under section 6(a)(1)(A)
2 or exempted from the requirement pursuant to sec-
3 tion 39 or section 32 or for a safer alternative ap-
4 proved pursuant to section 35.

5 “(4) If a manufacturer or processor is in viola-
6 tion of paragraph (2), the Administrator may impose
7 penalties, pursuant to section 16, on such manufac-
8 turer or processor, or, by order, impose conditions,
9 including prohibitions, on the manufacture, proc-
10 essing, or distribution in commerce of the chemical
11 substance, or any mixture or article containing the
12 chemical substance, by such manufacturer or proc-
13 essor.”.

14 (2) In subsection (b)—

15 (A) by redesignating paragraphs (2) and
16 (3) as paragraphs (4) and (5), respectively;

17 (B) by redesignating paragraphs (4) and
18 (5) as paragraphs (7) and (8), respectively;

19 (C) in paragraph (1)—

20 (i) by striking “A rule under sub-
21 section (a) shall include” and all that fol-
22 lows through “during the period prescribed
23 under subparagraph (C)”; and

24 (D) by striking the following:

1 “(b)(1) TESTING REQUIREMENT RULE.—” and in-
2 serting the following:

3 “(b) TESTING RULES AND ORDERS.—

4 “(1) The Administrator may, by rule or order,
5 after notice and opportunity for comment, require
6 testing in addition to the requirements for the min-
7 imum data set under subsection (a) with respect to
8 any chemical substance or mixture and the submis-
9 sion of test results by a specified date, as necessary
10 for making a safety standard determination under
11 section 6(b) or carrying out any provision of this
12 Act.

13 “(2) If a manufacturer or processor is in viola-
14 tion of paragraph (1), the Administrator may impose
15 penalties, pursuant to section 16, on such manufac-
16 turer or processor, or, by order, impose conditions,
17 including prohibitions, on the manufacture, proc-
18 essing, or distribution in commerce of the chemical
19 substance, or any mixture or article containing the
20 chemical substance, by such manufacturer or proc-
21 essor.

22 “(3) A rule or order under paragraph (1) shall
23 include—

24 “(A) identification of the chemical sub-
25 stance or mixture for which testing is required;

1 “(B) the testing required and justification
2 for such testing, and may specify test protocols
3 and methodology for testing for such substance
4 or mixture in accordance with section 34(c);
5 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 a method-
11 ology referred to in subparagraph (B).

12 In determining the testing, test protocols, and meth-
13 odology, and period to be included, pursuant to sub-
14 paragraphs (B) and (C), in a rule or order under
15 paragraph (1), the Administrator shall consider the
16 relative costs of the various test protocols and meth-
17 odologies which may be required under the rule or
18 order and the reasonably foreseeable availability of
19 the facilities and personnel needed to perform the
20 testing required under the rule or order. Any such
21 rule or order may require the submission to the Ad-
22 ministrator of preliminary data during the period
23 prescribed under subparagraph (C).”;

1 (E) by amending paragraph (4), as reded-
2 igned by subparagraph (A) of this paragraph,
3 to read as follows:

4 “(4)(A)(i) The health and environmental effects for
5 which testing may be prescribed include any toxicological
6 property and any other adverse effect which may be con-
7 sidered in a safety standard determination under section
8 6(b).

9 “(ii) The exposure information for which test-
10 ing may be prescribed includes biological or environ-
11 mental fate and transport, monitoring for the pres-
12 ence of the chemical substance or mixture (or a me-
13 tabolite or degradation byproduct of the chemical
14 substance or mixture) in animal or human biological
15 media or environmental media, and any other expo-
16 sure information which may be considered in a safe-
17 ty standard determination under section 6(b).

18 “(iii) The characteristics of chemical substances
19 and mixtures for which testing may be prescribed in-
20 clude persistence, bioaccumulation, and any other
21 relevant substance characteristic which may be con-
22 sidered in a safety standard determination under
23 section 6(b).

24 “(B) The methodologies that may be prescribed in
25 testing include epidemiologic studies, industrial hygiene

1 surveys, biomonitoring studies, serial or hierarchical tests,
2 in vitro tests, and whole animal tests consistent with sec-
3 tion 34, except that before prescribing epidemiologic stud-
4 ies or industrial hygiene surveys of employees, the Admin-
5 istrator shall consult with the Director of the National In-
6 stitute for Occupational Safety and Health.

7 “(C) From time to time, but not less than once each
8 12 months, the Administrator shall review the adequacy
9 of the methodology for testing prescribed in rules or orders
10 under paragraph (1) and shall, if necessary, institute pro-
11 ceedings to make appropriate revisions of such method-
12 ology.”;

13 (F) in paragraph (5), as redesignated by
14 subparagraph (A) of this paragraph—

15 (i) by striking subparagraph (B);

16 (ii) by striking “(A) A rule under sub-
17 section (a) respecting a chemical substance
18 or mixture shall require the persons de-
19 scribed in subparagraph (B)” and insert-
20 ing “A rule or order under paragraph (1)
21 respecting a chemical substance or mixture
22 shall specify the persons required”; and

23 (iii) by inserting “in which case all
24 parties remain individually liable for the

1 testing requirements” after “on behalf of
2 the persons making the designation”;

3 (G) by inserting after paragraph (5), as re-
4 designated by subparagraph (A) of this para-
5 graph, the following new paragraph:

6 “(6) Any biomonitoring study of the public regarding
7 a chemical substance or any metabolite or degradation by-
8 product of such substance shall be conducted by the Direc-
9 tor of the Centers for Disease Control and Prevention in
10 collaboration with the Administrator, at the expense of the
11 manufacturers and processors of the chemical substance.
12 Any biomonitoring study of employees regarding a chem-
13 ical substance or any metabolite or degradation byproduct
14 of such substance may be conducted by the relevant em-
15 ployer, at the expense of the manufacturers and processors
16 of the chemical substance, in collaboration with the Direc-
17 tor of the National Institute of Occupational Safety and
18 Health and the Administrator.”;

19 (H) in paragraph (7), as redesignated by
20 subparagraph (B) of this paragraph—

21 (i) by striking “under subsection (a)”
22 in both places it appears and inserting “or
23 order under paragraph (1)”;

1 (ii) by striking “repeals the rule” in
2 both places it appears and inserting “with-
3 draws the rule or order”; and

4 (iii) by striking “repeals the applica-
5 tion of the rule” and inserting “withdraws
6 the rule or order as applied”; and

7 (I) by amending paragraph (8), as redesign-
8 nated by subparagraph (B) of this paragraph,
9 to read as follows:

10 “(8) Rules issued under subsection (a) and para-
11 graph (1) (and any substantive amendment thereto or re-
12 peal thereof) shall be promulgated pursuant to section 553
13 of title 5, United States Code.”.

14 (3) In subsection (c)—

15 (A) in paragraph (1)—

16 (i) by inserting “or order” after
17 “rule”; and

18 (ii) by striking “subsection (a)” and
19 inserting “subsection (a) or (b)(1)”;
20

(B) in paragraph (2)—

21 (i) by striking “under subsection (a)”
22 and inserting “under subsection (b)(1)”;
23 and

24 (ii) by inserting “or order” after
25 “rule” each place it appears;

1 (C) in paragraph (3)(B)(i), by striking
2 “promulgated under subsection (a)” and insert-
3 ing “or order issued under subsection (b)(1)”;
4 (D) in paragraph (4)—
5 (i) in subparagraph (A)—
6 (I) by striking “promulgated
7 under subsection (a)” and inserting
8 “issued under subsection (b)(1)”; and
9 (II) by inserting “or order” after
10 “rule” each place it appears; and
11 (ii) in subparagraph (B)—
12 (I) by striking “promulgated
13 under subsection (a)” and inserting
14 “or order issued under subsection
15 (b)(1)”; and
16 (II) by inserting “or order” after
17 “such rule”; and
18 (III) by inserting “or order”
19 after “requirements of the rule”; and
20 (E) by adding at the end the following new
21 paragraph:
22 “(5) If a manufacturer or processor has sub-
23 mitted a declaration of permanent cessation of man-
24 ufacture or processing under section 8(a)(3) for a
25 chemical substance or mixture, the manufacturer or

1 processor shall be exempted from the requirements
2 of this section with regard to such chemical sub-
3 stance or mixture.”.

4 (4) In subsection (d)—

5 (A) by striking “under subsection (a)” and
6 inserting “or order issued under subsection (a)
7 or (b)(1)”;

8 (B) by inserting “Such notice shall not be
9 interpreted as meeting the requirements of the
10 rule or order, unless otherwise indicated.” be-
11 fore “Subject to section 14, each notice shall”;
12 and

13 (C) by inserting “and be added to the pub-
14 lic database established pursuant to section
15 8(d)” after “Administrator for examination by
16 any person”.

17 (5) In subsection (e)—

18 (A) in the subsection heading, by striking
19 “PRIORITY LIST” and inserting “INTERAGENCY
20 TESTING COMMITTEE”;

21 (B) in paragraph (1)—

22 (i) in subparagraph (A)—

23 (I) by striking “for the promul-
24 gation of a rule under subsection (a)”
25 and inserting “for listing under sec-

1 tion 6(a)(1) and promulgation of test-
2 ing rules or orders under subsection
3 (b)(1)”;

4 (II) in clause (v), by striking “an
5 unreasonable” and inserting “a sub-
6 stantial”; and

7 (III) in the matter following
8 clause (viii)—

9 (aa) by striking “cancer,
10 gene mutations, or birth defects”
11 and inserting “adverse effects on
12 health or the environment”;

13 (bb) by striking “under sub-
14 section (a)” each place it appears
15 and inserting “under subsection
16 (b)(1)”; and

17 (cc) by striking “The total
18 number of chemical substances
19 and mixtures on the list which
20 are designated under the pre-
21 ceding sentence may not, at any
22 time, exceed 50.”; and

23 (ii) in subparagraph (B), by striking
24 “rulemaking proceeding under subsection
25 (a)” and inserting “proceeding to promul-

1 gate a rule or issue an order under sub-
2 section (b)(1)”; and

3 (C) in paragraph (2)(A)—

4 (i) by striking “eight members” and
5 inserting “10 members”; and

6 (ii) by adding at the end the following
7 new clauses:

8 “(ix) One member appointed by the Com-
9 missioner of the Food and Drug Administration
10 from officers or employees of the Administra-
11 tion.

12 “(x) One member appointed by the Chair-
13 man of the Consumer Product Safety Commis-
14 sion from officers or employees of the Commis-
15 sion.”.

16 (6) By amending subsection (f) to read as fol-
17 lows:

18 “(f) REQUESTS FROM OTHER FEDERAL AGENCIES
19 FOR ADDITIONAL INFORMATION OR TESTING.—

20 “(1) IN GENERAL.—If a Federal agency deter-
21 mines that information relating to a chemical sub-
22 stance or mixture, including data derived from new
23 testing or monitoring, would assist such agency in
24 carrying out duties or exercising authority of such
25 agency, but such information is not available to the

1 agency, such agency may request the Administrator
2 to seek such information on its behalf.

3 “(2) DUTY OF ADMINISTRATOR.—Not later
4 than 60 days after the date of receipt of a request
5 under paragraph (1), the Administrator shall—

6 “(A) if in possession of the requested data,
7 make such data available to the requesting
8 agency, subject to section 14;

9 “(B) issue an order, under section 8(b)(1),
10 requiring the submission of existing data to the
11 requesting agency and to the Administrator;

12 “(C) issue a rule or order, under sub-
13 section (b), to develop such data, and require
14 such data be furnished to the requesting agency
15 and to the Administrator; or

16 “(D) publish in the Federal Register the
17 reason for not taking any of the actions de-
18 scribed in subparagraphs (A) through (C).”.

19 (7) By striking subsection (g).

20 **SEC. 5. MANUFACTURING AND PROCESSING NOTICES.**

21 Section 5 of the Toxic Substances Control Act (15
22 U.S.C. 2604) is amended as follows:

23 (1) By amending subsection (a) to read as fol-
24 lows:

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

4 “(1) Except as provided in subsection (d), no
5 person may manufacture or process a new chemical
6 substance or mixture, or manufacture or process any
7 chemical substance or mixture for a use which the
8 Administrator has determined, in accordance with
9 paragraph (2), is a new use, unless—

10 “(A) such person submits to the Adminis-
11 trator, at least 90 days before such manufac-
12 ture or processing, a notice, in accordance with
13 subsection (c) and section 8(i), of such person’s
14 intention to manufacture or process such chem-
15 ical substance or mixture and such person com-
16 plies with any applicable requirement of sub-
17 section (b); and

18 “(B) the Administrator finds that—

19 “(i) such use is a critical use as deter-
20 mined pursuant to section 6(e);

21 “(ii) in the case of a chemical sub-
22 stance or mixture that has not already
23 been determined to meet the safety stand-
24 ard under section 6(b), the chemical sub-
25 stance or mixture meets the safety stand-

1 ard under section 6(b), with or without
2 conditions; or

3 “(iii) in the case of a chemical sub-
4 stance or mixture that has already been
5 determined to meet the safety standard
6 under section 6(b) without inclusion of the
7 proposed new use, the chemical substance
8 or mixture continues to meet the safety
9 standard under section 6 for all intended
10 uses including the new use, with or without
11 conditions.

12 “(2) A use shall be determined by the Adminis-
13 trator to be new if—

14 “(A) the chemical substance or mixture
15 has already received a safety standard deter-
16 mination under section 6(b) which did not in-
17 clude the use; or

18 “(B) the proposed use will result in manu-
19 facturing or processing of the chemical sub-
20 stance or mixture at a significantly increased
21 volume, as determined by the Administrator,
22 above that considered in the safety standard de-
23 termination under section 6(b).

24 “(3) Not later than 30 days after the date on
25 which a manufacturer or processor commences man-

1 ufacturing or processing of a new chemical sub-
2 stance or mixture or commences manufacturing or
3 processing of a chemical substance or mixture for a
4 new use, the manufacturer or processor shall submit
5 to the Administrator a notice of commencement of
6 manufacture or processing.”.

7 (2) By amending subsection (b) to read as fol-
8 lows:

9 “(b) SUBMISSION OF DATA FOR USES AND MANU-
10 FACTURERS OR PROCESSORS NOT PREVIOUSLY DE-
11 CLARED.—

12 “(1) For a chemical substance or mixture which
13 is not new that has not yet received a safety stand-
14 ard determination under section 6(b), any manufac-
15 turer or processor who manufactures, processes, or
16 distributes in commerce the chemical substance or
17 mixture for a use that has not previously been de-
18 clared under section 8(a), shall submit the declara-
19 tion required by section 8(a) within 6 months of ini-
20 tiating manufacture, processing, or distribution, for
21 that use.

22 “(2) Any manufacturer or processor who manu-
23 factures, processes, or distributes in commerce a
24 chemical substance for a use that the particular
25 manufacturer or processor has not previously de-

1 clared under section 8(a), even where such use has
2 previously been declared by another party, shall sub-
3 mit the declaration required by section 8(a) within
4 6 months of initiating manufacture, processing, or
5 distribution for that use.

6 “(3) For any chemical substance subject to a
7 Significant New Use Rule pursuant to part 721 of
8 title 40, Code of Federal Regulations, as of the date
9 of enactment of the Toxic Chemicals Safety Act of
10 2010, the requirements of that rule shall apply to all
11 manufacturers and processors of the chemical sub-
12 stance whether or not the Administrator determines
13 a use to be new pursuant to subsection (a), unless
14 and until the chemical substance receives a safety
15 standard determination and, if appropriate, condi-
16 tions or prohibitions are imposed pursuant to section
17 6, after which the Significant New Use Rule shall
18 cease to apply.

19 “(4) For a chemical substance or mixture that
20 is subject to a rule or order under section 4, the
21 manufacturer or processor of such chemical for any
22 use which has not previously been declared under
23 section 8 shall submit to the Administrator any data
24 required in accordance with such rule or order with

1 the notice under subsection (a)(1)(A) or the declara-
2 tion under this subsection, as appropriate.

3 “(5) Not later than 90 days after submission of
4 a notice under subsection (a)(1)(A), and data under
5 paragraph (4), if required, the Administrator shall
6 determine, pursuant to subsection (a)(1)(B), wheth-
7 er the use is a critical use or whether a safety stand-
8 ard determination is required by that paragraph.
9 Not later than 9 months after the date of such de-
10 termination, the Administrator shall complete any
11 such required safety standard determination. The
12 Administrator’s failure to make a determination pur-
13 suant to this paragraph in a timely manner shall not
14 be deemed to satisfy subsection (a)(1)(B).”.

15 (3) By striking subsection (c) and redesignating
16 subsection (d) as subsection (c).

17 (4) By amending subsection (c), as redesign-
18 nated by paragraph (3) of this section, to read as
19 follows:

20 “(c) CONTENT OF NOTICE; PUBLICATIONS.—The no-
21 tice required by subsection (a)(1)(A) shall include—

22 “(1) the declaration under section 8(a)(2);

23 “(2) the minimum data set, as defined pursuant
24 to section 4(a); and

1 “(3) a statement that the chemical substance or
2 mixture is reasonably anticipated to meet or con-
3 tinue to meet the safety standard under section 6(b),
4 and a justification for such statement.

5 Such a notice shall be made available, subject to sec-
6 tion 14, in the public database established pursuant
7 to section 8(d).”;

8 (5) By striking subsections (e), (f), and (g),
9 and redesignating subsections (h) and (i) as sub-
10 sections (d) and (e), respectively.

11 (6) In subsection (d), as redesignated by para-
12 graph (5) of this section—

13 (A) by redesignating paragraphs (1)
14 through (3) as paragraphs (3) through (5), re-
15 spectively;

16 (B) by redesignating paragraphs (5) and
17 (6) as paragraphs (6) and (7), respectively;

18 (C) by striking paragraph (4);

19 (D) by inserting, before paragraph (3), as
20 redesignated by subparagraph (A) of this para-
21 graph, the following new paragraphs:

22 “(1) Any new chemical substance or new use of
23 a chemical substance or mixture approved pursuant
24 to section 35 as a safer alternative shall be exempt
25 from the requirements of this section.

1 “(2) The Administrator may exempt any new
2 chemical substance or new use of a chemical sub-
3 stance or mixture from the requirements of this sec-
4 tion pursuant to section 39.”;

5 (E) in paragraph (3), as redesignated by
6 subparagraph (A) of this paragraph—

7 (i) by inserting “and by order,” after
8 “upon application,”; and

9 (ii) by striking “any unreasonable”
10 and inserting “a substantial”;

11 (F) in paragraph (4), as redesignated by
12 subparagraph (A) of this paragraph—

13 (i) by amending subparagraph (A) to
14 read as follows:

15 “(A) The Administrator shall exempt any per-
16 son from the requirement to submit data for a
17 chemical substance or mixture pursuant to sub-
18 section (b)(4), if upon receipt of an application from
19 such person, the Administrator determines that—

20 “(i) the chemical substance or mixture
21 with respect to which such application was sub-
22 mitted is equivalent to a chemical substance or
23 mixture for which data has been submitted to
24 the Administrator as required by this Act; and

1 “(ii) submission of data by the applicant
2 on such substance or mixture would be dupli-
3 cative of data which has been submitted to the
4 Administrator in accordance with subsection
5 (b)(4).

6 No exemption which is granted under this subpara-
7 graph with respect to the submission of data for a
8 chemical substance or mixture may take effect be-
9 fore the beginning of the reimbursement period ap-
10 plicable to such data.”; and

11 (ii) in subparagraph (B), by striking
12 “subsection (b)(2)” each place it appears
13 and inserting “subsection (b)(4)”;

14 (G) in paragraph (6), as redesignated by
15 subparagraph (B) or this paragraph, by insert-
16 ing “, including occupational exposure” after
17 “human or environmental exposure”; and

18 (H) in paragraph (7), as redesignated by
19 subparagraph (B) of this paragraph, by striking
20 “(1) or (5)” and inserting “(3) or (6)”.

21 **SEC. 6. PRIORITIZATION, SAFETY STANDARD DETERMINA-**
22 **TION, AND RISK MANAGEMENT.**

23 (a) SAFETY STANDARD DETERMINATION.—Section 6
24 of the Toxic Substances Control Act (15 U.S.C. 2605) is
25 amended as follows:

1 (1) By amending the section heading to read as
2 follows: “**PRIORITIZATION, SAFETY STANDARD**
3 **DETERMINATION, AND RISK MANAGEMENT**”.

4 (2) By striking subsection (d).

5 (3) By redesignating subsections (e) and (f) as
6 subsections (f) and (g), respectively.

7 (4) By redesignating subsections (a) through
8 (c) as subsections (c) through (e), respectively.

9 (5) By inserting before subsection (c), as reded-
10 igned by paragraph (4) of this subsection, the fol-
11 lowing new subsections:

12 “(a) PRIORITY LIST FOR SAFETY STANDARD DETER-
13 MINATIONS.—

14 “(1) ESTABLISHMENT OF LIST.—

15 “(A) As of the date of enactment of the
16 Toxic Chemicals Safety Act of 2010, there shall
17 be established a list of chemical substances for
18 which safety standard determinations under
19 this section shall first be made, which shall con-
20 sist of the following chemical substances:

21 “(i) Bisphenol A.

22 “(ii) Formaldehyde.

23 “(iii) N-Hexane.

24 “(iv) Hexavalent chromium.

25 “(v) Methylene chloride.

- 1 “(vi) Trichloroethylene.
- 2 “(vii) Vinyl chloride.
- 3 “(viii) The following phthalates:
- 4 “(I) Benzylbutyl phthalate.
- 5 “(II) Dibutyl phthalate.
- 6 “(III) Diethylhexyl phthalate.
- 7 “(IV) Di-isodecyl phthalate.
- 8 “(V) Di-isononyl phthalate.
- 9 “(VI) Di-n-hexyl phthalate.
- 10 “(VII) Di-n-octyl phthalate.
- 11 “(ix) Perchlorate.
- 12 “(x) Tetrachloroethylene.
- 13 “(xi) Tris (1,3-dichloro-2-propyl)
- 14 phosphate.
- 15 “(xii) Tris (2-chloroethyl) phosphate.
- 16 “(xiii) Tris (2,3-dibromopropyl) phos-
- 17 phate.
- 18 “(B) Not later than 12 months after the
- 19 date of enactment of the Toxic Chemicals Safe-
- 20 ty Act of 2010, the Administrator shall update
- 21 the list established in subparagraph (A) and
- 22 publish in the Federal Register, after notice
- 23 and opportunity for comment, the updated list
- 24 which shall consist of not fewer than 300 chem-
- 25 ical substances, along with a justification for

1 such listing. Chemical substances shall be listed
2 at the Administrator’s discretion, based on
3 available scientific evidence and consideration of
4 their hazard, exposure, or risk relative to other
5 chemical substances, aggregate or cumulative
6 exposure, evidence of exposure to humans in-
7 cluding presence in human or animal biological
8 and environmental media including in the work-
9 place, use, volume of manufacture, toxicological
10 properties, persistence, bioaccumulation, or
11 other properties indicating risk.

12 “(2) UPDATING OF LIST.—The Administrator
13 shall—

14 “(A) remove a chemical substance from the
15 list under paragraph (1) only after the safety
16 standard determination has been made for such
17 chemical substance pursuant to subsection (b);
18 and

19 “(B) add chemical substances to the list
20 periodically so that the number of chemical sub-
21 stances on the list will not be fewer than 300
22 at any given time, until such time as all chem-
23 ical substances manufactured, processed, or dis-
24 tributed in commerce have been listed, have re-
25 ceived a safety standard determination, or have

1 been exempted from the requirement to receive
2 a safety standard determination pursuant to
3 section 35 or section 39. Additions to the list
4 shall be consistent with paragraph (1) and, to
5 the extent practicable, based on consideration of
6 hazard, exposure, or risk relative to listed
7 chemical substances. Such additions to the list
8 may be made in response to petitions under sec-
9 tion 21 or recommendations from the Inter-
10 agency Testing Committee under section 4(e).

11 “(3) MIXTURES.—The Administrator may add
12 a mixture to the priority list based on available sci-
13 entific evidence and the considerations for listing de-
14 scribed in paragraph (1).

15 “(b) SAFETY STANDARD DETERMINATIONS.—

16 “(1) SAFETY STANDARD.—

17 “(A) The Administrator shall apply, as the
18 safety standard under this title, a standard that
19 takes into account aggregate exposure to a
20 chemical substance or mixture and ensures
21 that, for all intended uses—

22 “(i) with regard to public health,
23 there is a reasonable certainty that no
24 harm will result, including to vulnerable
25 populations; and

1 “(ii) the public welfare is protected.

2 “(B) In making a determination under this
3 subsection, the Administrator shall consider,
4 among other relevant factors—

5 “(i) the lifecycle of the chemical sub-
6 stance or mixture; and

7 “(ii) available information concerning
8 the cumulative effects of exposure to chem-
9 ical substances or mixtures.

10 “(2) BURDEN OF PROOF.—The manufacturers
11 and processors of a chemical substance or mixture
12 shall bear the burden of proving that the chemical
13 substance or mixture meets the safety standard.

14 “(3) DETERMINATION.—

15 “(A) For each chemical substance or mix-
16 ture listed under subsection (a), the Adminis-
17 trator shall determine whether the chemical
18 substance or mixture meets the safety standard,
19 taking into account any existing conditions or
20 controls already in effect, or can be made to
21 meet the safety standard through the imposi-
22 tion of additional conditions under subsection
23 (c), and whether intended uses that do not meet
24 the safety standard are critical. In making this
25 determination, the Administrator may consider

1 exposures associated with known or foreseeable
2 uses that are not intended uses identified by the
3 manufacturers and processors of the substance
4 or mixture.

5 “(B) The determination under subpara-
6 graph (A) shall be made in keeping with stand-
7 ards for assessment developed under paragraph
8 (4).

9 “(C) Except as provided in subparagraph
10 (D), the determination under subparagraph (A)
11 shall be completed and published not later than
12 30 months after the date on which the chemical
13 substance or mixture is placed on the priority
14 list, or, for a chemical substance listed in sub-
15 section (a)(1)(A), not later than 18 months
16 after the date of enactment of the Toxic Chemi-
17 cals Safety Act of 2010.

18 “(D) In assessing risk to make the deter-
19 mination under subparagraph (A), the Adminis-
20 trator may require the submission of additional
21 information by the manufacturer or processor.
22 If additional information is required, the deter-
23 mination shall be completed and published not
24 later than 12 months after the submission of all
25 required information. Failure to submit re-

1 required information in the period specified in
2 section 4(b)(3)(C), as applicable, or by such
3 other reasonable deadlines as the Administrator
4 shall establish shall constitute grounds for de-
5 termining that the chemical substance or mix-
6 ture does not meet the safety standard.

7 “(4) STANDARDS FOR ASSESSMENT OF DATA.—

8 “(A) Not later than 18 months after the
9 date of enactment of the Toxic Chemicals Safe-
10 ty Act of 2010, the Administrator shall, after
11 providing for notice and opportunity for com-
12 ment, develop and publish guidance regarding
13 the use of science in making determinations
14 under this subsection. In developing such guid-
15 ance, the Administrator shall rely upon the rec-
16 ommendations of the National Academy of
17 Sciences report entitled ‘Science and Decisions’.

18 “(B) Not later than 5 years after the date
19 of enactment of the Toxic Chemicals Safety Act
20 of 2010, and not less often than once every 5
21 years thereafter, the Administrator shall review
22 the guidance under this paragraph and may re-
23 vise the guidance to reflect new scientific devel-
24 opments or understanding.

1 “(5) PUBLICATION.—The Administrator shall
2 make publicly available, and enter into the public
3 database established pursuant to section 8(d), the
4 determination made pursuant to paragraph (3) with
5 a list of allowed uses and any conditions on those
6 uses necessary to ensure that the safety standard is
7 met.

8 “(6) RENEWAL AND REDETERMINATION.—The
9 determination made pursuant to paragraph (3) re-
10 garding a chemical substance or mixture shall re-
11 main in effect for 15 years, except that the Adminis-
12 trator shall make a redetermination pursuant to
13 paragraph (3) if a new use of such chemical sub-
14 stance or mixture is proposed under section 5, or
15 new information related to such chemical substance
16 or mixture raises a credible question as to whether
17 the chemical substance or mixture continues to meet
18 the safety standard. The Administrator may renew
19 a determination made pursuant to paragraph (3) for
20 additional 15 year periods. The burden of proof for
21 renewal of a determination or redetermination shall
22 remain with the manufacturers and processors of
23 each chemical substance or mixture.

24 “(7) FAILURE TO MEET DEADLINES.—If the
25 Administrator fails to publish or renew a determina-

1 tion or publish a redetermination by the applicable
2 deadline pursuant to this subsection, the Adminis-
3 trator shall promptly publish notice of such failure
4 in the Federal Register, identifying the chemical
5 substance or mixture and any information gaps that
6 have impeded the determination, shall prohibit new
7 manufacturers or processors or new uses of the
8 chemical substance or mixture until the determina-
9 tion is published, and shall require manufacturers
10 and processors of the chemical substance or mixture
11 to provide, within a reasonable timeframe as deter-
12 mined by the Administrator, written notice to the
13 public, their employees and their commercial cus-
14 tomers that a safety standard determination of the
15 chemical substance or mixture is pending.”.

16 (6) By amending subsection (c), as redesignig-
17 nated by paragraph (4) of this subsection, to read
18 as follows:

19 “(c) RISK MANAGEMENT.—

20 “(1) CHEMICAL SUBSTANCES AND MIXTURES
21 DETERMINED TO MEET THE SAFETY STANDARD
22 WITHOUT CONDITIONS.—A chemical substance or
23 mixture, for which the Administrator has deter-
24 mined, pursuant to subsection (b)(3), that the chem-
25 ical substance or mixture meets the safety standard

1 without imposition of conditions under this sub-
2 section, may be manufactured, processed, and dis-
3 tributed in commerce for uses identified and in-
4 cluded in the safety standard determination. The
5 Administrator may make such determination contin-
6 gent on the continuation of conditions or controls al-
7 ready in effect, if any.

8 “(2) CHEMICAL SUBSTANCES AND MIXTURES
9 DETERMINED TO MEET THE SAFETY STANDARD
10 WITH CONDITIONS.—Except as the Administrator
11 determines pursuant to subsection (e), a chemical
12 substance or mixture, for which the Administrator
13 has determined, pursuant to subsection (b)(3), that
14 imposition of conditions under this subsection is re-
15 quired to ensure that the chemical substance or mix-
16 ture meets the safety standard, shall be subject to
17 conditions on manufacture, processing, use, distribu-
18 tion in commerce, or disposal, as specified by the
19 Administrator. Such conditions shall be identified in
20 a manner that ensures effective and efficient protec-
21 tion of health and the environment and may include:

22 “(A) A requirement—

23 “(i) prohibiting the manufacturing,
24 processing, or distribution in commerce of
25 such substance or mixture; or

1 “(ii) limiting the amount of such sub-
2 stance or mixture which may be manufac-
3 tured, processed, or distributed in com-
4 merce.

5 “(B) A requirement—

6 “(i) prohibiting the manufacture,
7 processing, or distribution in commerce of
8 such substance or mixture for—

9 “(I) a particular use; or

10 “(II) a particular use in a con-
11 centration in excess of a level specified
12 by the Administrator in the safety
13 standard determination; or

14 “(ii) limiting the amount of such sub-
15 stance or mixture which may be manufac-
16 tured, processed, or distributed in com-
17 merce for—

18 “(I) a particular use; or

19 “(II) a particular use in a con-
20 centration in excess of a level specified
21 by the Administrator in the safety
22 standard determination.

23 “(C) A requirement that such substance or
24 mixture, or any article containing such sub-
25 stance or mixture, be marked with or accom-

1 panied by clear and adequate warnings and in-
2 structions with respect to its use, distribution in
3 commerce, or disposal or with respect to any
4 combination of such activities. The form and
5 content of such warnings and instructions shall
6 be prescribed by the Administrator or by the
7 appropriate agency as determined under section
8 9, and shall be consistent with the Globally
9 Harmonized System of Labeling and Classifica-
10 tion of Chemicals.

11 “(D) A requirement that manufacturers
12 and processors of such substance or mixture
13 make and retain records of the processes used
14 to manufacture or process such substance or
15 mixture, or any article containing such sub-
16 stance or mixture, and monitor or conduct tests
17 which are reasonable and necessary to assure
18 compliance with the requirements of any rule
19 applicable under this paragraph.

20 “(E) A requirement prohibiting or other-
21 wise regulating any manner or method of man-
22 ufacturing, processing, distribution in commerce
23 or commercial use of such substance or mix-
24 ture.

1 “(F) A requirement that prescribes specific
2 control measures to reduce occupational expo-
3 sures shall reflect the industrial hygiene hier-
4 archy of controls.

5 “(G)(i) A requirement prohibiting or other-
6 wise regulating any manner or method of dis-
7 posal of such substance or mixture, or of any
8 article containing such substance or mixture, by
9 its manufacturer or processor or by any other
10 person who uses, or disposes of, it for commer-
11 cial purposes.

12 “(ii) A requirement under clause (i) may
13 not require any person to take any action which
14 would be in violation of any law or requirement
15 of, or in effect for, a State or political subdivi-
16 sion, and shall require each person subject to it
17 to notify each State and political subdivision or
18 tribe in which a required disposal may occur of
19 such disposal.

20 “(H) A requirement that the manufactur-
21 ers and processors of such chemical substance
22 or mixture, or article containing such chemical
23 substance or mixture, develop a risk reduction
24 management plan to achieve a risk reduction
25 specified by the Administrator. For all cases in

1 which a risk reduction management plan re-
2 quires a reduction in occupational exposure, the
3 specified level or risk reduction is to be achieved
4 through application of the industrial hygiene hi-
5 erarchy of controls.

6 Where the Administrator determines that conditions
7 under this subsection are necessary to ensure that a
8 chemical substance or mixture meets the safety
9 standard, the Administrator shall require that such
10 conditions be met within one year after publication
11 of the determination under subsection (b), or as
12 quickly as feasible and in no case later than 3 years
13 after such publication. The Administrator, in deter-
14 mining the deadline for compliance with conditions
15 pursuant to this subsection, shall consider human
16 health and the environment as the primary and
17 paramount concern, and shall also consider the tech-
18 nological feasibility of compliance, the economic im-
19 pact of compliance, the benefits of earlier compli-
20 ance, and other relevant considerations. After the
21 date or dates on which conditions become effective,
22 no person shall manufacture, process, use for com-
23 mercial purposes, distribute in commerce, or dispose
24 of the chemical substance or mixture, or any article
25 containing such substance or mixture, unless the ap-

1 plicable conditions of the determination are met with
2 respect to that person's activities.

3 “(3) CHEMICAL SUBSTANCES AND MIXTURES
4 DETERMINED NOT TO MEET THE SAFETY STAND-
5 ARD.—Except as the Administrator determines pur-
6 suant to subsection (e):

7 “(A) If the Administrator determines that
8 an existing chemical substance or mixture has
9 not been proven to meet the safety standard,
10 pursuant to subsection (b)(3), effective 1 year
11 after publication of that determination, or as
12 quickly as feasible and in no case later than 3
13 years after such publication, no person shall
14 manufacture, process, use for commercial pur-
15 poses or distribute in commerce the chemical
16 substance or mixture. The Administrator, in de-
17 termining the deadline for compliance with this
18 subsection, shall consider human health and the
19 environment as the primary and paramount
20 concern, and shall also consider the techno-
21 logical feasibility of compliance, the economic
22 impact of compliance, and other relevant con-
23 siderations.

24 “(B) If the Administrator determines that
25 a new chemical substance or mixture has not

1 been proven to meet the safety standard, no
2 person shall manufacture, process, or distribute
3 in commerce the new chemical substance or
4 mixture.

5 “(C) If the Administrator determines that
6 an existing chemical substance or mixture has
7 not been proven to meet the safety standard for
8 a new use, no person shall manufacture, proc-
9 ess, use, or distribute in commerce the existing
10 chemical substance or mixture for the new
11 use.”.

12 (7) In subsection (d), as redesignated by para-
13 graph (4) of this subsection, by striking “present an
14 unreasonable” each place it appears and inserting
15 “present a significant”.

16 (8) By amending subsection (e), as redesign-
17 ated by paragraph (4) of this subsection, to read
18 as follows:

19 “(e) CRITICAL USE EXEMPTIONS.—

20 “(1) Exemptions from restrictions on manufac-
21 ture, processing, use, distribution in commerce, or
22 disposal imposed under subsection (c) may be re-
23 quested for a specific use by a manufacturer or proc-
24 essor of a chemical substance or mixture, and may
25 be granted by the Administrator, after providing

1 public notice and opportunity for comment, if the
2 Administrator determines that the manufacturer or
3 processor has demonstrated by clear and convincing
4 evidence that—

5 “(A)(i) an exemption for the specific use is
6 in the paramount interest of national security
7 as determined under section 22;

8 “(ii) the restriction would significantly dis-
9 rupt the national economy; or

10 “(iii) the specific use is a critical or essen-
11 tial use; and

12 “(B)(i) no feasible safer alternative for the
13 specified use is available; or

14 “(ii) the specified use of the chemical sub-
15 stance or mixture provides a net benefit to
16 health or the environment when compared to all
17 available alternatives.

18 “(2) Exemptions granted under paragraph (1)
19 shall expire after a period not to exceed 5 years, but
20 may be renewed for one or more additional 5 year
21 periods if the Administrator finds that the use con-
22 tinues to meet the requirements of paragraph (1).

23 “(3) Notice of any exemption granted under
24 this subsection shall be provided—

1 “(A) to known commercial purchasers by
2 the manufacturers and processors of the subject
3 chemical substance or mixture; and

4 “(B) to the public by the Administrator.

5 “(4) The Administrator shall impose conditions
6 on any use receiving an exemption under this sub-
7 section to reduce risk from the chemical substance
8 or mixture to the greatest extent feasible. Such con-
9 ditions shall take effect upon the granting of such
10 exemption under paragraph (1). For cases in which
11 such conditions are related to occupational exposure,
12 exposure shall be controlled through application of
13 the industrial hygiene hierarchy of controls.”.

14 (9) In subsection (f), as redesignated by para-
15 graph (3) of this subsection—

16 (A) in paragraph (2), by striking “an un-
17 reasonable risk of injury to health or the envi-
18 ronment” and inserting “a substantial risk of
19 injury to health or the environment, and will
20 comply with section 37 and any regulations pre-
21 scribed thereunder”;

22 (B) in paragraph (3)(B)—

23 (i) in clause (i)—

24 (I) by striking “an unreasonable”
25 and inserting “a substantial”; and

1 (II) by striking “, and” and in-
2 serting a semicolon;

3 (ii) in clause (ii)—

4 (I) by striking “which does not
5 present an unreasonable risk of injury
6 to health or the environment” and in-
7 serting “that meets the safety stand-
8 ard under subsection (b)”;

9 (II) by inserting “and” after
10 “biphenyl;”; and

11 (iii) by adding at the end the fol-
12 lowing new clause:

13 “(iii) the terms of the exemption will
14 comply with section 37 and any regulations
15 prescribed thereunder.”;

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

17 (D) by redesignating paragraph (5) as
18 paragraph (4).

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents for the Toxic Substances Control Act is amended
21 by amending the item relating to section 6 to read as fol-
22 lows:

“Sec. 6. Prioritization, safety standard determination, and risk management.”.

23 **SEC. 7. IMMINENT HAZARDS.**

24 Section 7 of the Toxic Substances Control Act (15
25 U.S.C. 2606) is amended as follows:

1 (1) By amending subsection (a) to read as fol-
2 lows:

3 “(a) ACTIONS AUTHORIZED AND REQUIRED.—

4 “(1) CIVIL ACTION.—The Administrator may
5 commence a civil action in an appropriate district
6 court of the United States for—

7 “(A) seizure of a chemical substance or
8 mixture or any article containing such a sub-
9 stance or mixture, that may present an immi-
10 nent and substantial endangerment to health or
11 the environment;

12 “(B) relief (as authorized by subsection
13 (b)) against any person who manufactures,
14 processes, distributes in commerce, uses, or dis-
15 poses of, a chemical substance or mixture or
16 any article containing such a substance or mix-
17 ture, that may present an imminent and sub-
18 stantial endangerment to health or the environ-
19 ment; or

20 “(C) both such seizure described in sub-
21 paragraph (A) and relief described in subpara-
22 graph (B).

23 “(2) OTHER ACTIONS.—The Administrator may
24 issue such orders as may be necessary to protect
25 health or the environment from a chemical substance

1 or mixture or article containing such substance or
2 mixture that may present an imminent and substan-
3 tial endangerment to health or the environment.
4 Such orders may include any requirements on the
5 manufacture, processing, distribution in commerce,
6 use, or disposal of a chemical substance or mixture,
7 or article containing such substance or mixture, as
8 the Administrator determines are necessary to pro-
9 tect health or the environment, including the condi-
10 tions that may be imposed under section 6(c)(2) and
11 the relief authorized in subsection (b) of this section.

12 “(3) RELATIONSHIP TO EXISTING RULES, OR-
13 DERS, AND PROCEEDINGS.—A civil action may be
14 commenced under paragraph (1) or other action may
15 be taken under paragraph (2), notwithstanding the
16 existence of a rule or order under this Act and not-
17 withstanding the pendency of any administrative or
18 judicial proceeding under this Act.”.

19 (2) In subsection (b)—

20 (A) in paragraph (1)—

21 (i) by striking “subsection (a)” and
22 inserting “subsection (a)(1)”; and

23 (ii) by striking “unreasonable risk”
24 and inserting “imminent and substantial
25 endangerment”;

1 (B) in paragraph (2)—

2 (i) by striking “subsection (a)” and
3 inserting “subsection (a)(1)”;

4 (ii) by striking “or distributes in com-
5 merce” and inserting “distributes in com-
6 merce, uses, or disposes of”;

7 (iii) by striking “risk” each place it
8 appears and inserting “hazard”; and

9 (iv) by striking “or (E)” and inserting
10 “(E) conditions that may be imposed
11 under section 6(c); or (F)”;

12 (C) in paragraph (3), by striking “sub-
13 section (a)” and inserting “subsection (a)(1)”.

14 (3) In subsection (c), by striking “subsection
15 (a)” each place it appears and inserting “subsection
16 (a)(1)”.

17 (4) By amending subsection (d) to read as fol-
18 lows:

19 “(d) ACTION UNDER SECTION 6.—As appropriate,
20 concurrently with the filing of an action under subsection
21 (a)(1) or as soon thereafter as may be practicable, the Ad-
22 ministrator shall add the subject chemical substance or
23 mixture to the priority list under section 6(a) or initiate
24 a redetermination of whether the subject chemical sub-

1 stance or mixture meets the safety standard under section
2 6(b).”.

3 (5) In subsection (e), by striking “subsection
4 (a)” and inserting “subsection (a)(1)”.

5 (6) By striking subsection (f).

6 **SEC. 8. REPORTING AND RETENTION OF INFORMATION.**

7 Section 8 of the Toxic Substances Control Act (15
8 U.S.C. 2607) is amended—

9 (1) by striking subsection (a) and redesignating
10 subsection (b) as subsection (c);

11 (2) by redesignating subsection (e) as sub-
12 section (h);

13 (3) by redesignating subsection (c) as sub-
14 section (e);

15 (4) by striking subsection (d);

16 (5) by redesignating subsection (f) as sub-
17 section (j);

18 (6) by inserting before subsection (c), as redес-
19 igned by paragraph (1) of this section, the fol-
20 lowing new subsections:

21 “(a) DECLARATIONS.—

22 “(1) IN GENERAL.—(A) Each manufacturer or
23 processor of a chemical substance distributed in
24 commerce shall submit to the Administrator a dec-
25 laration described in paragraph (2) or (3), accom-

1 panied by the certification described in subsection
2 (i), not later than 1 year after the date of enactment
3 of the Toxic Chemicals Safety Act of 2010 or 1 year
4 after commencement of such manufacturing or proc-
5 essing, whichever is earlier.

6 “(B) The Administrator may additionally re-
7 quire submission of a declaration described in para-
8 graph (2) or (3), accompanied by the certification
9 described in subsection (i), from any manufacturer
10 or processor of a mixture determined by the Admin-
11 istrator to have substance characteristics different
12 from the substance characteristics of the constituent
13 chemical substances, in kind or degree.

14 “(2) DECLARATION OF CURRENT MANUFAC-
15 TURE OR PROCESSING.—A declaration described in
16 this paragraph is a statement that includes, for each
17 chemical substance or mixture that is manufactured
18 or processed by a manufacturer or processor—

19 “(A) the chemical identity of the chemical
20 substance or mixture;

21 “(B) the name and location of each facility
22 under the control of the manufacturer or proc-
23 essor at which the chemical substance or mix-
24 ture is manufactured or processed or from

1 which the chemical substance or mixture is dis-
2 tributed in commerce;

3 “(C) the number of individuals exposed,
4 and reasonable estimates of the number who
5 will be exposed, to such substance or mixture in
6 their places of employment and the duration of
7 such exposure;

8 “(D) a list of health and safety studies
9 conducted or initiated by or for, known to, or
10 reasonably ascertainable by the manufacturer
11 or processor with respect to the chemical sub-
12 stance or mixture, and copies of any such stud-
13 ies that have not previously been submitted to
14 the Administrator by the manufacturer or proc-
15 essor; and

16 “(E) all other information known to, in the
17 possession or control of, or reasonably ascer-
18 tainable by the manufacturer or processor that
19 has not previously been submitted to the Ad-
20 ministrator by the manufacturer or processor
21 regarding—

22 “(i) the physical, chemical, and toxi-
23 cological properties of the chemical sub-
24 stance or mixture, including classification
25 of the toxicity of the chemical in accord-

1 ance with the Globally Harmonized System
2 for Hazard Communication;

3 “(ii) the categories or proposed cat-
4 egories of intended use of each such sub-
5 stance or mixture;

6 “(iii) the total amount of each sub-
7 stance and mixture manufactured or proc-
8 essed, reasonable estimates of the total
9 amount to be manufactured or processed,
10 the amount manufactured or processed for
11 each of its categories of use, and reason-
12 able estimates of the amount to be manu-
13 factured or processed for each of its cat-
14 egories of use or proposed categories of
15 use;

16 “(iv) a description of the byproducts
17 resulting from the manufacture, proc-
18 essing, use, or disposal of each such sub-
19 stance or mixture;

20 “(v) exposure information relating to
21 the chemical substance or mixture;

22 “(vi) any condition or conditions cur-
23 rently placed on the chemical substance or
24 mixture due to regulation under any Fed-
25 eral law or due to voluntary action; and

1 “(vii) for a processor of a chemical
2 substance, any information indicating that
3 a mixture including the chemical substance
4 has substance characteristics that are dif-
5 ferent from the substance characteristics of
6 the named chemical substances, in kind or
7 degree.

8 To the extent feasible, the Administrator shall
9 not require under paragraph (1), any reporting
10 which is unnecessary or duplicative.

11 “(3) DECLARATION OF PERMANENT CESSATION
12 OF MANUFACTURING OR PROCESSING.—A manufac-
13 turer or processor that permanently ceases manufac-
14 ture or processing of a chemical substance or mix-
15 ture shall file a declaration certifying that the manu-
16 facturer or processor has permanently ceased all
17 manufacturing or processing of the chemical sub-
18 stance or mixture, not later than 180 days after ces-
19 sation is complete. A declaration under this para-
20 graph may be filed based on an intention to perma-
21 nently cease manufacture or processing, in which
22 case such cessation must be completed not later
23 than 180 days after the declaration is filed.

24 “(4) UPDATING OF DECLARATION.—Each man-
25 ufacturer or processor of a chemical substance or

1 mixture that submits to the Administrator a declara-
2 tion required under paragraph (2) shall submit an
3 update of the previously submitted declaration to the
4 Administrator, at a minimum, once every 3 years,
5 and immediately, at any time at which there be-
6 comes known or available to, in the possession or
7 control of, or reasonably ascertainable by the manu-
8 facturer or processor, significant new information re-
9 garding a physical, chemical, toxicological property
10 or use of, or exposure to, the chemical substance or
11 mixture, indicating a new potential adverse effect of
12 the chemical substance or mixture, suggesting an
13 adverse effect at a lower dose than previously dem-
14 onstrated, or otherwise reasonably relevant to an
15 analysis of whether the chemical substance or mix-
16 ture meets the safety standard under section 6.

17 “(5) RECORDS TO SUPPORT DECLARATIONS.—
18 Each manufacturer or processor of a chemical sub-
19 stance, substance, or mixture, as applicable, distrib-
20 uted in commerce shall maintain records of the in-
21 formation described in subparagraphs (A) through
22 (E) of paragraph (2).

23 “(6) PROHIBITION.—The Administrator may
24 impose penalties, pursuant to section 16, on a manu-
25 facturer or processor in violation of paragraphs (1)

1 or (4), or, by order, prohibit, or otherwise impose
2 conditions under section 6(c), on the manufacture,
3 processing, or distribution in commerce of a chem-
4 ical substance or mixture, or any article containing
5 such chemical substance or mixture, by a manufac-
6 turer or processor in violation of such paragraphs.

7 “(b) RECORDKEEPING AND REPORTS.—

8 “(1) The Administrator may, by rule or order,
9 require any person who manufactures, processes,
10 distributes in commerce, uses for commercial pur-
11 poses, repackages, or disposes of a chemical sub-
12 stance, mixture, or article containing such substance
13 or mixture (other than as described in paragraph
14 (2)) to maintain records of and submit reports by a
15 specified date, to supply any information concerning
16 the chemical substance, mixture, or article con-
17 taining such substance or mixture that, in the judg-
18 ment of the Administrator, would assist the Admin-
19 istrator in—

20 “(A) making a safety standard determina-
21 tion with respect to a chemical substance or
22 mixture under this title; or

23 “(B) administering any other provision of
24 this Act.

1 “(2) With respect to the manufacture, proc-
2 essing, distribution in commerce, use, or disposal of
3 a chemical substance or mixture in small quantities
4 (as defined by the Administrator by rule) solely for
5 purposes of scientific experimentation or analysis or
6 chemical research, including any such research or
7 analysis for the development of a product, the Ad-
8 ministrator may require a person to maintain
9 records or submit a report under paragraph (1) only
10 to the extent the Administrator determines the
11 maintenance of records or submission of reports, or
12 both, is necessary for the effective enforcement of
13 this Act.

14 “(3) The Administrator may impose penalties,
15 pursuant to section 16, on a person in violation of
16 a requirement of a rule or order under paragraph
17 (1) or, by order, prohibit, or otherwise impose condi-
18 tions under section 6(c), on the manufacture, proc-
19 essing, or distribution in commerce of a chemical
20 substance or mixture, or any article containing such
21 chemical substance or mixture, by a person in viola-
22 tion of such a requirement.”;

23 (7) in subsection (c), as redesignated by para-
24 graph (1) of this section—

1 (A) in the subsection heading, by inserting
2 “AND CATEGORIZATION” after “INVENTORY”;

3 (B) by amending paragraph (1) to read as
4 follows:

5 “(1) INVENTORY.—The Administrator shall
6 compile, keep current, publish and enter into the
7 public database established pursuant to subsection
8 (d) a list of each chemical substance, and each mix-
9 ture for which a declaration is received, which is
10 manufactured or processed in the United States.
11 Such list shall at least include each such chemical
12 substance or mixture which any person reports,
13 under section 5 or subsection (a)(2) of this section,
14 is manufactured or processed in the United States,
15 but shall not include any chemical substance or mix-
16 ture for which all manufacturers and processors
17 have submitted declarations under subsection (a)(3).
18 In the case of a chemical substance or mixture for
19 which a notice is submitted in accordance with sec-
20 tion 5, the date of such notice shall be included in
21 the list under this section, in addition to the date on
22 which the chemical substance or mixture was first
23 added to the list. The Administrator shall first pub-
24 lish such a list not later than 24 months after the
25 effective date of the Toxic Chemicals Safety Act of

1 2010. The Administrator shall not include in such
2 list any chemical substance or mixture which is man-
3 ufactured or processed only in small quantities (as
4 defined by the Administrator by rule) solely for pur-
5 poses of scientific experimentation or analysis or
6 chemical research on, or analysis of, such substance
7 or mixture or another substance or mixture, includ-
8 ing such research or analysis for the development of
9 a product.”; and

10 (C) by amending paragraph (2) to read as

11 follows:

12 “(2) CATEGORIZED INVENTORY.—Not later
13 than 5 years after the date of enactment of the
14 Toxic Chemicals Safety Act of 2010, and no less
15 than every 3 years thereafter, the Administrator
16 shall publish in the Federal Register and enter in
17 the public database established pursuant to sub-
18 section (d) a list of all chemical substances and mix-
19 tures manufactured, processed, or distributed in
20 commerce that categorizes the chemical substances
21 and mixtures, based on existing information avail-
22 able to the Administrator, based upon health or en-
23 vironmental adverse effects, exposure, or other cri-
24 teria that the Administrator determine appro-
25 priate.”;

1 (8) by inserting after subsection (c), as redesignated by paragraph (1) of this section, the following
2 new subsection:
3

4 “(d) PUBLIC DATABASE AND ACCESS TO SIGNIFICANT INFORMATION.—

5 “(1) PUBLIC DATABASE.—Not later than 1 year
6 after the date of the enactment of Toxic Chemicals
7 Safety Act of 2010, the Administrator shall establish—
8
9

10 “(A) an electronic database that is searchable, sortable, downloadable, and publicly accessible on the Internet for storing and sharing of
11 information relating to the toxicity and use of,
12 and exposure to, chemical substances and mixtures; and
13
14

15 “(B) procedures for use in maintaining and updating the database.
16
17

18 “(2) PUBLIC ACCESS TO SIGNIFICANT INFORMATION.—Not later than 90 days after the date of any
19 significant decision made by the Administrator or receipt by the Administrator of any significant information submitted pursuant to this title, the Administrator shall, subject to section 14, make available
20 to the public on the public database established pursuant to paragraph (1) such significant decision
21
22
23
24
25

1 made by the Administrator under this title or such
2 significant information submitted pursuant to this
3 title.”;

4 (9) in subsection (e), as redesignated by para-
5 graph (3) of this section—

6 (A) in the subsection heading, by inserting
7 “OF SIGNIFICANT ADVERSE REACTIONS” after
8 “RECORDS”; and

9 (B) by inserting “Such records shall be
10 submitted to the Administrator on an annual
11 basis, or immediately upon request by the Ad-
12 ministrator.” after the first sentence;

13 (10) by inserting after subsection (e), as redesi-
14 gnated by paragraph (3) of this section, the fol-
15 lowing new subsections:

16 “(f) DISCLOSURES TO COMMERCIAL PURCHASERS.—
17 Effective 1 year after the date of enactment of the Toxic
18 Chemicals Safety Act of 2010, all manufacturers and
19 processors of chemical substances and mixtures subject to
20 this section shall provide, with shipment or promptly
21 thereafter and by request, to all known commercial pur-
22 chasers of the chemical substances and mixtures they
23 manufacture or process a disclosure, subject to section 14,
24 of—

1 “(1) the chemical identity of the chemical sub-
2 stance or, for mixtures, the chemical identity of all
3 chemical ingredients;

4 “(2) all information regarding toxicological
5 properties of the chemical substance or mixture sub-
6 mitted to the Administrator under subsection (a);

7 “(3) the list of health and safety studies sub-
8 mitted to the Administrator under subsection (a),
9 with copies of the individual studies available upon
10 request; and

11 “(4) any records of significant adverse reactions
12 submitted to the Administrator under subsection (e).

13 “(g) INFORMATION IN THE POSSESSION OF OTHER
14 FEDERAL AGENCIES.—

15 “(1) The Administrator may request, and upon
16 such request a Federal agency shall submit to the
17 Administrator, any information in the possession or
18 control of such Federal agency relating to a hazard
19 of, use of, exposure to, or risk of a chemical sub-
20 stance or mixture, or a report, including copies of
21 the data and records in the possession or control of
22 such Federal agency that may be useful to the Ad-
23 ministrator in carrying out the purposes of this Act.

1 “(2) The Administrator shall specify the for-
2 mat, content, and level of detail of any report re-
3 quested under paragraph (1).

4 “(3) Each Federal agency shall make its initial
5 submission to the Administrator within 60 days of
6 receipt of the specification under paragraph (2).

7 “(4) The Administrator shall issue a request
8 pursuant to paragraph (1) to each Federal agency
9 which the Administrator reasonably expects may
10 have information on chemical substances or mixtures
11 that would assist the Administrator in making a
12 safety standard determination for a chemical sub-
13 stance or mixture under this title. Such requests
14 shall be issued by the Administrator not later than
15 12 months after the date on which the Adminis-
16 trator lists a chemical substance or mixture on the
17 priority list under section 6(a), or, for chemical sub-
18 stances identified in section 6(a)(1)(A), 12 months
19 after enactment of the Toxic Chemicals Safety Act
20 of 2010.”; and

21 (11) by inserting after subsection (h), as reded-
22 signed by paragraph (2) of this section, the fol-
23 lowing new subsection:

24 “(i) CERTIFICATION.—Each submission required
25 pursuant to this title, or pursuant to a rule or an order

1 promulgated or issued by the Administrator under this
2 title, other than a submission under subsection (g), shall
3 be accompanied by a certification signed by a responsible
4 official of the submitting party that each statement con-
5 tained 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 **SEC. 9. RELATIONSHIP TO OTHER FEDERAL LAWS.**

11 Section 9(a)(1) of the Toxic Substances Control Act
12 (15 U.S.C. 2608(a)(1)) is amended—

13 (1) by striking “the manufacture, processing,
14 distribution in commerce, use, or disposal of” after
15 “If the Administrator has reasonable basis to con-
16 clude that”;

17 (2) by striking “, or that any combination of
18 such activities, presents or will present an unreason-
19 able risk of injury to health or the environment” and
20 inserting “does not meet the safety standard under
21 section 6(b)”;

22 (3) by striking “such risk may be prevented”
23 and inserting “that the risk associated with the
24 chemical substance or mixture may be prevented”;

1 (4) by striking “describes such risk” and insert-
2 ing “describes the risk associated with the chemical
3 substance or mixture”; and

4 (5) in the matter following subparagraph (B)—

5 (A) by striking “Any report” and inserting
6 “Any such report”;

7 (B) by striking “information on which it is
8 based and shall be published in the Federal
9 Register” and inserting “information on which
10 it is based and shall be promptly published in
11 the Federal Register and entered into the pub-
12 lic database established pursuant to section
13 8(d)”;

14 (C) by inserting “and not more than 180
15 days” after “but such time specified may not be
16 less than 90 days”; and

17 (D) by inserting “and entered into the
18 public database established pursuant to section
19 8(d)” after “conclusions of the agency and shall
20 be published in the Federal Register”.

21 **SEC. 10. MIXTURES.**

22 (a) MIXTURE DEFINITION AND DETERMINATION.—
23 Section 3 of the Toxic Substances Control Act (15 U.S.C.
24 2602), as amended by section 3 of this Act, is further
25 amended—

1 (1) by amending paragraph (8) to read as fol-
2 lows:

3 “(8) The term ‘mixture’ means any composition
4 of two or more chemical substances if the composi-
5 tion does not occur in nature, and is not, in whole
6 or in part, the result of a chemical reaction.”; and

7 (2) by inserting after paragraph (b)(2) the fol-
8 lowing new paragraph:

9 “(3) The Administrator may determine dif-
10 ferent mixtures comprised of the same chemical sub-
11 stances to be the same mixture for purposes of this
12 Act, if the substance characteristics of the mixtures
13 are identical. Mixtures which would be considered
14 new mixtures but for grouping under this paragraph
15 shall not be considered new mixtures for purposes of
16 this Act.”.

17 (b) QUANTIFICATION.—Subsection (c) of section 8 of
18 the Toxic Substances Control Act (15 U.S.C. 2607), as
19 amended by section 8 of this Act, is further amended by
20 adding at the end the following new paragraph:

21 “(3) MIXTURE SURVEY.—Not later than 6
22 years after the date of enactment of the Toxic
23 Chemicals Safety Act of 2010, the Administrator
24 shall, based on declarations under this section and
25 a survey of processors as necessary and appropriate,

1 characterize the number of mixtures, including mix-
2 tures grouped pursuant to paragraph (b)(3) of sec-
3 tion 3, introduced into commerce in the United
4 States, and the number of such mixtures that have
5 or may have substance characteristics that are dif-
6 ferent, in kind or degree, from the substance charac-
7 teristics of the constituent chemical substances, and
8 shall publish such characterization in the Federal
9 Register and enter it in the public database estab-
10 lished in subsection (d).”.

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

12 Section 11 of the Toxic Substances Control Act (15
13 U.S.C. 2610) is amended—

14 (1) in subsection (a)—

15 (A) by inserting “commercial” after “es-
16 tablishment, facility, or other”;

17 (B) by striking “premises in which chem-
18 ical substances, mixtures” and inserting “prem-
19 ises in which chemical substances or mixtures
20 subject to this Act, articles containing such sub-
21 stances or mixtures”;

22 (C) by inserting “and any place where
23 records relating to such chemical substances,
24 mixtures, articles, or products or otherwise re-
25 lating to compliance with this Act, are held”

1 after “or such articles in connection with dis-
2 tribution in commerce”; and

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

4 “The Administrator, and any duly designated representa-
5 tive of the Administrator, may also inspect and obtain
6 samples of any such chemical substances, mixtures, or ar-
7 ticles, and any containers or labeling of such chemical sub-
8 stances, mixtures, or articles.”; and

9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking “chem-
11 ical substances, mixtures, or products” and in-
12 serting “chemical substances or mixtures sub-
13 ject to this Act, articles containing such sub-
14 stances or mixtures, or products”; and

15 (B) in paragraph (2)(E), by inserting “or
16 order” after “rule”.

17 **SEC. 12. EXPORTS.**

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

20 (1) by striking subsection (a) and redesignating
21 subsections (b) and (c) as subsections (a) and (b),
22 respectively;

23 (2) in subsection (a), as redesignated by para-
24 graph (1) of this section—

25 (A) in paragraph (1)—

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

2 (ii) by striking “or 5(b)”;

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”; and

7 (iv) by inserting “promptly there-

8 after” before “furnish”;

9 (B) in paragraph (2)—

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

11 (ii) by striking “an order has been

12 issued under section 5 or a rule has been

13 proposed or promulgated under section 5

14 or 6, or with respect to which an action is

15 pending, or relief has been granted under

16 section 5 or 7” and inserting “a condition

17 has been imposed pursuant to section

18 6(c)(2) or an action has been taken pursu-

19 ant to section 7”;

20 (iii) by striking “or intent to export”

21 and inserting “not later than 30 days after

22 the date of exportation of the substance or

23 mixture”;

24 (iv) by inserting “promptly there-

25 after” before “furnish”; and

1 (v) by striking “such rule, order, ac-
2 tion, or relief” and inserting “such condi-
3 tion imposed pursuant to section 6(c)(2) or
4 such action taken pursuant to section 7”;
5 and

6 (C) by adding at the end the following new
7 paragraph:

8 “(3)(A) Any person that has previously notified
9 the Administrator of the exportation of a chemical
10 substance or mixture under this section shall notify
11 the Administrator of any change in the information
12 provided in the original notice not later than 30
13 days after such a change.

14 “(B) The Administrator shall furnish, as
15 promptly as feasible, an updated notice to the gov-
16 ernments that have been notified pursuant to para-
17 graphs (1) and (2) regarding the exportation of any
18 chemical substance or mixture subject to this section
19 if—

20 “(i) new data for such substance or mix-
21 ture have been received by the Administrator
22 pursuant to section 4, section 5(b), section 8(e),
23 or section 8(h);

1 “(ii) the Administrator has received notice
2 under subparagraph (A) of a change in the in-
3 formation provided in the original notice; or

4 “(iii) a change has been made in any con-
5 ditions imposed pursuant to section 6(c) or sec-
6 tion 7 for such substance or mixture.”;

7 (3) in subsection (b), as redesignated by para-
8 graph (1), by striking paragraph (2) and redesign-
9 nating paragraphs (3), (4), (5), and (6) as para-
10 graphs (2), (3), (4), and (5), respectively; and

11 (4) by adding at the end the following new sub-
12 sections:

13 “(c) CHEMICALS LISTED UNDER THE PIC CONVEN-
14 TION.—If any person intends to export to a foreign coun-
15 try a chemical substance or mixture listed in Annex III
16 of the PIC Convention as of the date of enactment of the
17 Toxic Chemicals Safety Act of 2010, such person shall file
18 the notice required under subsection (a) not later than 30
19 days prior to the date of exportation of such substance
20 or mixture and shall include therein the information re-
21 quired for export under such Convention as of the date
22 of enactment of the Toxic Chemicals Safety Act of 2010.

23 “(d) PUBLIC RECORDS.—The Administrator shall
24 maintain copies of all current notices provided to other

1 governments under this section, and make such copies
2 available to the public in electronic format.

3 “(e) DEFINITION.—For purposes of this title, the
4 term ‘PIC Convention’ means the Rotterdam Convention
5 on the Prior Informed Consent Procedure for Certain
6 Hazardous Chemicals and Pesticides in International
7 Trade, adopted in Rotterdam on September 10, 1998, and
8 any subsequent amendment or protocol.”.

9 **SEC. 13. ENTRY INTO CUSTOMS TERRITORY OF THE**
10 **UNITED STATES.**

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

13 (1) by redesignating subsections (a) and (b) as
14 subsections (b) and (c), respectively;

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

18 “(a) DUTIES OF IMPORTERS.—The importer of any
19 chemical substance, mixture, or article containing a chem-
20 ical substance or mixture for distribution in commerce
21 shall satisfy all requirements under sections 4, 5, 6, and
22 8 of this Act, without regard to whether the chemical sub-
23 stance or mixture has been formed into or contained in
24 an article prior to importation.”;

1 (3) in subsection (b), as redesignated by para-
2 graph (1) of this section—

3 (A) by amending the subsection heading to
4 read as follows:

5 “(b) ENTRY.—”;

6 (B) by striking “Secretary of the Treas-
7 ury” each place it appears and inserting “Sec-
8 retary of Homeland Security”; and

9 (C) in paragraph (1), by striking the em
10 dash and subparagraphs (A) and (B) and in-
11 serting “the substance, mixture, or article fails
12 to comply with or is offered for entry in viola-
13 tion of any rule or order in effect under this
14 Act.”; and

15 (4) in subsection (c), as redesignated by para-
16 graph (1) of this section—

17 (A) by striking “Secretary of the Treas-
18 ury” and inserting “Secretary of Homeland Se-
19 curity”; and

20 (B) by striking “subsection (a)” and in-
21 serting “subsection (b)”.

22 **SEC. 14. DISCLOSURE OF DATA.**

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

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

3 (2) by redesignating subsections (c) through (e)
4 as subsections (f) through (h), respectively;

5 (3) by inserting, before subsection (c), as reded-
6 igned by paragraph (1) of this section, the fol-
7 lowing new subsections:

8 “(a) ADMINISTRATOR RESPONSIBILITIES.—The Ad-
9 ministrator shall ensure that—

10 “(1) information control designations under this
11 section are not a determinant of public disclosure
12 pursuant to section 552 of title 5, United States
13 Code (commonly referred to as the ‘Freedom of In-
14 formation Act’); and

15 “(2) all information in the Administrator’s pos-
16 session that is releasable pursuant to an appropriate
17 request under section 552 of title 5, United States
18 Code (commonly referred to as the ‘Freedom of In-
19 formation Act’), is made available to members of the
20 public.

21 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed to prevent or discourage the Ad-
23 ministrator from voluntarily releasing to the public any
24 unclassified information that is not exempt from dislo-
25 sure under section 552 of title 5, United States Code

1 (commonly referred to as the ‘Freedom of Information
2 Act’).”;

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

5 (A) by striking “Except as provided by
6 subsection (b)” and all that follows through
7 “subsection (b)(4) of such section,” and insert-
8 ing “Except as provided by subsection (d), in-
9 formation submitted to the Administrator pur-
10 suant to this Act may be designated for infor-
11 mation protection by the submitter of such in-
12 formation based on the submitter’s reasonable
13 belief that the information is eligible for protec-
14 tion under section 552 of title 5, United States
15 Code. Information designated for protection
16 under this section”;

17 (B) by inserting “unless the designation is
18 determined to be inappropriate,” after “Admin-
19 istrator or by any officer or employee of the
20 United States,”;

21 (C) by redesignating paragraphs (3) and
22 (4) as paragraphs (4) and (5), respectively;

23 (D) by adding after paragraph (2) the fol-
24 lowing new paragraph:

1 “(3) shall be disclosed upon request to a State,
2 tribal, or municipal government, including identifica-
3 tion of the location of the manufacture, processing,
4 or storage of a chemical substance upon the request
5 of the government for the purpose of administration
6 or enforcement of a law, if one or more applicable
7 agreements ensure that the recipient government
8 will take appropriate steps to maintain the confiden-
9 tiality of the information in accordance with this sec-
10 tion and section 350.27 of title 40, Code of Federal
11 Regulations, or any successor to such regulation;”;
12 and

13 (E) in paragraph (4), as redesignated by
14 subparagraph (C) of this paragraph, by striking
15 “an unreasonable” and inserting “a substan-
16 tial”;

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

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

23 (B) by amending paragraph (1) to read as
24 follows:

1 “(1) The following types of information shall
2 not be eligible for protection under this section, and
3 the Administrator shall not approve a request to
4 protect information of the following types under this
5 section:

6 “(A) The identity of a chemical substance
7 when included in a health and safety study,
8 safety standard determination under section
9 6(b), or information indicating the presence of
10 the chemical substance in a consumer article in-
11 tended for use or reasonably expected to be
12 used by children or indicating exposure to the
13 chemical substance in children.

14 “(B) The components of a mixture, when
15 included in a health and safety study, safety
16 standard determination under section 6(b), or
17 information indicating the presence of the mix-
18 ture in a consumer article intended for use or
19 reasonably expected to be used by children or
20 indicating exposure to the mixture in children.

21 “(C) Any safety standard developed under
22 section 6(b).

23 “(D) Any health and safety study which is
24 submitted under this Act with respect to—

1 “(i) any chemical substance or mix-
2 ture—

3 “(I) which, on the date on which
4 such study is to be disclosed has been
5 offered for commercial distribution; or

6 “(II) for which testing is re-
7 quired under section 4 or for which
8 notification is required under section
9 5 of this title; and

10 “(ii) any data reported to, or other-
11 wise obtained by, the Administrator from a
12 health and safety study which relates to a
13 chemical substance or mixture described in
14 clause (i).

15 “(E) Any information indicating the pres-
16 ence of a chemical substance or mixture in a
17 consumer article intended for use or reasonably
18 expected to be used by children or indicating
19 exposure to the chemical substance or mixture
20 in children.

21 This paragraph does not authorize the release of any
22 data which discloses processes used in the manufac-
23 turing or processing of a chemical substance or mix-
24 ture or, in the case of a mixture, the release of data

1 disclosing the portion of the mixture comprised by
2 any of the chemical substances in the mixture.”; and

3 (C) in paragraph (2)—

4 (i) by striking “the first sentence of
5 paragraph (1)” and inserting “paragraph
6 (1)(D)”;

7 (ii) by striking “in the second sen-
8 tence of such paragraph” and inserting “in
9 the last sentence of paragraph (1)”;

10 (6) by inserting after subsection (d), as redesign-
11 nated by paragraph (1) of this section, the following
12 new subsection:

13 “(e) GUIDANCE.—Not later than 1 year after the
14 date of enactment of the Toxic Chemicals Safety Act of
15 2010, the Administrator shall by order develop and make
16 publicly available guidance that specifies—

17 “(1) the format for and manner for designating
18 information for protection;

19 “(2) the acceptable bases on which written re-
20 quests to protect information under this section may
21 be approved, which shall be no more restrictive of
22 public disclosure than section 552 of title 5, United
23 States Code; and

24 “(3) the documentation that must accompany
25 such requests.”;

1 (7) by amending subsection (f), as redesignated
2 by paragraph (2) of this section, to read as follows:

3 “(f) DESIGNATION AND RELEASE OF CONFIDENTIAL
4 INFORMATION.—

5 “(1) DUTIES OF MANUFACTURERS AND PROC-
6 ESSORS.—In submitting information under this Act,
7 a manufacturer, processor, or distributor in com-
8 merce may designate the information which such
9 person believes is entitled to protection under this
10 section, and submit such designated information sep-
11 arately from other information submitted under this
12 Act. A designation under this paragraph shall be ac-
13 companied by the appropriate fee under subsection
14 (i), shall be made in writing and in such manner as
15 the Administrator may prescribe, and shall in-
16 clude—

17 “(A) justification for each claim of con-
18 fidentiality;

19 “(B) a certification that the information is
20 not otherwise publicly available; and

21 “(C) separate copies of all submitted infor-
22 mation, with 1 copy containing and 1 copy ex-
23 cluding the information to which the request
24 applies.

1 Designations shall last for 5 years, at which time the
2 information shall be made public unless the manu-
3 facturer or processor has submitted a request for re-
4 newal, accompanied by the appropriate fee under
5 subsection (i), made in writing and in such manner
6 as the Administrator may prescribe, including all of
7 the elements required for the initial submission.

8 “(2) DUTIES OF THE ADMINISTRATOR.—The
9 Administrator shall—

10 “(A) evaluate a representative sample of
11 all submitted designations and requests for re-
12 newal within 60 days of their submission to de-
13 termine whether—

14 “(i) each claim of confidentiality is
15 justified under section 552 of title 5,
16 United States Code, and any applicable
17 guidance published under subsection (e);

18 “(ii) the designation was accompanied
19 by the appropriate fee, made in writing
20 and in such manner as prescribed by the
21 Administrator, and included the necessary
22 components; and

23 “(iii) the information is not publicly
24 available;

1 “(B) release all information previously des-
2 signed for protection if one or more of the cri-
3 teria in subparagraph (A) are not found;

4 “(C) determine whether the criteria in sub-
5 paragraph (A) were met at the time the des-
6 ignation was made; and

7 “(D) make such determinations publicly
8 available.

9 “(3) NOTIFICATION.—(A) Except as provided
10 by subparagraph (B), if the Administrator proposes
11 to release for inspection data which has been des-
12 ignated under paragraph (1) but not released under
13 paragraph (2), the Administrator shall notify, in
14 writing and by certified mail, the manufacturer,
15 processor, or distributor in commerce who submitted
16 such information of the intent to release such data.
17 If the release of such data is to be made pursuant
18 to a request made under section 552(a) of title 5,
19 such notice shall be given immediately upon approval
20 of such request by the Administrator. The Adminis-
21 trator shall release the information in accordance
22 with the disclosure and procedural requirements of
23 section 552 of title 5, United States Code.

24 “(B)(i) Subparagraph (A) shall not apply to the
25 release of information under paragraph (1), (2), (3),

1 (4), or (5) of subsection (c) of this section, except
2 that the Administrator may not release data under
3 paragraph (4) of subsection (c) of this section unless
4 the Administrator has notified each manufacturer,
5 processor, and distributor in commerce who sub-
6 mitted such data of such release. Such notice shall
7 be made in writing by certified mail at least 15 days
8 before the release of such data, except if the Admin-
9 istrator determines that the release of such data is
10 necessary to protect against an imminent risk of in-
11 jury to health or the environment.

12 “(ii) Subparagraph (A) shall not apply to the
13 release of information described in subsection (c)(1)
14 of this section other than information described in
15 the last sentence of such subsection.”;

16 (8) in subsection (g), as redesignated by para-
17 graph (2) of this section—

18 (A) by amending the subsection heading to
19 read as follows:

20 “(g) PENALTIES FOR WRONGFUL DESIGNATION OR
21 DISCLOSURE.—”;

22 (B) by redesignating paragraphs (1) and
23 (2) as paragraphs (3) and (4), respectively;

1 (C) by inserting before paragraph (3), as
2 redesignated by subparagraph (B) of this para-
3 graph, the following new paragraphs:

4 “(1) Any manufacturer or processor whose des-
5 ignation of information for protection under this sec-
6 tion is found by the Administrator not to have met
7 the criteria for protection under this section at the
8 time the designation was made may be subject to
9 administrative penalties under section 15.

10 “(2) Any manufacturer or processor who, know-
11 ing that information does not meet the criteria for
12 protection under this section, willfully designates
13 such information for protection, shall be guilty of a
14 misdemeanor and fined not more than \$5,000 or im-
15 prisoned for not more than one year, or both.”; and

16 (D) in paragraph (4), as redesignated by
17 subparagraph (B) of this paragraph—

18 (i) by striking “paragraph (1)” and
19 inserting “paragraph (3)”; and

20 (ii) by striking “subsection (a)(2)”
21 and inserting “subsection (c)(2)”; and

22 (9) by adding at the end the following new sub-
23 sections:

24 “(i) FEES.—The Administrator may, by rule, require
25 the payment of a reasonable fee from any person desig-

1 nating information for protection under this section or
2 seeking to renew such a designation to defray the cost of
3 administering this section. In setting a fee under this sub-
4 section, the Administrator shall take into account the abil-
5 ity to pay of the person designating or seeking renewal
6 and the cost to the Administrator of reviewing such des-
7 ignations.

8 “(j) RISK INFORMATION FOR WORKERS.—The Ad-
9 ministrator shall provide standards for and facilitate the
10 provision of the chemical identity, safety standard deter-
11 mination, health and safety data, and any other informa-
12 tion determined by the Administrator to be necessary to
13 ensure worker safety, that pertains to chemical substances
14 or mixtures, that workers may come into contact with or
15 otherwise be exposed to during the course of their work,
16 to such workers and representatives of each certified or
17 recognized bargaining agent representing such workers.”.

18 **SEC. 15. PROHIBITED ACTS.**

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

21 (1) in paragraph (1), by striking “(A)” and all
22 that follows through “under title II” and inserting
23 “any rule, order, prohibition, restriction, or other re-
24 quirement imposed by this Act or by the Adminis-
25 trator under this Act”;

1 (2) by amending paragraphs (2) and (3) to
2 read as follows:

3 “(2) manufacture, process, distribute in com-
4 merce, use for commercial purposes, or dispose of a
5 chemical substance or mixture, or an article con-
6 taining a chemical substance or mixture, which such
7 person knew or had reason to know was manufac-
8 tured, processed, or distributed in commerce in vio-
9 lation of any rule, order, prohibition, restriction, or
10 other requirement imposed by this Act or by the Ad-
11 ministrator under this Act;

12 “(3) fail or refuse to (A) establish or maintain
13 accurate and complete records, (B) submit or make
14 accurate and complete reports, notices, disclosures,
15 declarations, certifications, or other information, or
16 (C) permit access to or copying of records, as re-
17 quired by this Act or a rule thereunder;”;

18 (3) in paragraph (4), by striking the final pe-
19 riod and inserting “; or”; and

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

22 “(5) make or submit a statement, declaration,
23 disclosure, certification, data set, or any oral, writ-
24 ten, or electronic representation that is materially
25 false, in whole or in part, or to falsify or conceal any

1 material fact, in taking any action or making any
2 communication pursuant to this Act or pursuant to
3 any rule or order promulgated or issued under this
4 Act;

5 “(6) introduce or deliver for introduction into
6 commerce or knowingly distribute in commerce a
7 chemical substance or mixture, or an article con-
8 taining a chemical substance or mixture—

9 “(A) that lacks or fails to comply in any
10 material respect with any applicable labeling re-
11 quirements imposed pursuant to section 6(c); or

12 “(B) the label, labeling or advertising of
13 which is misleading in any material respect, in-
14 cluding by reason of representations, either ex-
15 plicit or implicit, that the chemical substance or
16 mixture is available for a use other than an in-
17 tended use; or

18 “(7) forge, counterfeit, simulate, falsely rep-
19 resent, or use without proper authority any mark,
20 stamp, tag, label, or other identification device au-
21 thorized or required by this Act or by the Adminis-
22 trator under this Act.”.

23 **SEC. 16. PENALTIES.**

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

1 (1) in subsection (a)—

2 (A) in paragraph (1)—

3 (i) by striking “provision of section 15
4 or 409” and inserting “provision of this
5 Act or a rule promulgated or order issued
6 pursuant to this Act, as described in sec-
7 tion 15”;

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

10 (iii) by striking “violation of section
11 15 or 409” and inserting “violation of this
12 Act”;

13 (B) by redesignating paragraphs (2), (3),
14 and (4) as paragraphs (3), (4), and (5), respec-
15 tively;

16 (C) by inserting after paragraph (1) the
17 following new paragraph:

18 “(2) In the case of any violation described in
19 paragraph (1), the Administrator may commence a
20 civil action in the appropriate United States district
21 court to assess penalties pursuant to paragraph (1)
22 or commence administrative action to assess pen-
23 alties pursuant to paragraph (3).”;

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

4 (i) by striking “A civil penalty for a
5 violation of section 15 or 409” and insert-
6 ing “In any administrative action to assess
7 penalties for a violation described in para-
8 graph (1), a civil penalty for a violation”;
9 and

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

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

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

17 (ii) by striking “the United States
18 Court of Appeals for the District of Co-
19 lumbia Circuit or for any other circuit”
20 and inserting “the appropriate district
21 court of the United States for the dis-
22 trict”; 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 inserting “this Act, as described in”
7 before “section 15”;

8 (C) by striking “or 409”;

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

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

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

15 “(2) Any person who knowingly or willfully violates
16 any provision of this Act and who knows that such viola-
17 tion may result in imminent danger of death or serious
18 bodily injury to any person shall, upon conviction, be sub-
19 ject to a fine of not more than \$250,000 or imprisonment
20 of not more than 15 years, or both. A person that is not
21 an individual shall, upon conviction of violating this para-
22 graph, be subject to a fine of not more than \$1,000,000.”.

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

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

1 (1) in subsection (a)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by striking
4 “or 409”;

5 (ii) in subparagraph (B), by striking
6 “section 5, 6, or title IV, or by a rule or
7 order under section 5, 6, or title IV” and
8 inserting “this Act or a rule or order pro-
9 mulgated or issued under this Act”; and

10 (iii) in subparagraph (D)—

11 (I) by striking “chemical sub-
12 stance, mixture, or product” and in-
13 sserting “ chemical substance or mix-
14 ture subject to this Act, article con-
15 taining such substance or mixture, or
16 product”;

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

20 (III) by striking “under section
21 5, 6, or title IV” and inserting “pro-
22 mulgated or issued under this Act, as
23 described in section 15”;

24 (IV) by inserting “, article” be-
25 fore “, or product and, to the extent”;

1 (V) by inserting “, article” before
2 “, or product or exposed to such sub-
3 stance”;

4 (VI) by inserting “, article” be-
5 fore “, or product, (ii) to give”; and

6 (VII) by inserting “, article” be-
7 fore “, or product, whichever the per-
8 son to which the requirement”; and

9 (B) in paragraph (2)—

10 (i) by striking “A civil action de-
11 scribed in paragraph (1)” and inserting
12 “The district courts of the United States
13 shall have jurisdiction over a civil action
14 described in paragraph (1). A civil action”;
15 and

16 (ii) in subparagraph (A), by inserting
17 “this Act, as described in” before “section
18 15”; and

19 (2) in subsection (b), by striking “chemical sub-
20 stance, mixture, or product” and inserting “chemical
21 substance or mixture subject to this Act, or prod-
22 uct”.

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 Act affects the right of a State or
3 political subdivision of a State or a tribe to adopt or en-
4 force any regulation, requirement, or standard of perform-
5 ance that is different from or in addition to a regulation,
6 requirement, liability, or standard of performance estab-
7 lished pursuant to this Act unless compliance with both
8 this Act and the State or political subdivision of a State
9 or tribe regulation, requirement, or standard of perform-
10 ance is impossible.”.

11 **SEC. 19. JUDICIAL REVIEW.**

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

14 (1) in subsection (a)—

15 (A) in paragraph (1)—

16 (i) by striking subparagraph (B);

17 (ii) by striking “(A)”;

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 Act”;

23 (v) by inserting “or order” after
24 “rule” each place it appears;

25 (vi) by inserting “except that if such
26 petition is based solely on grounds arising

1 after such sixtieth day, then any petition
2 for judicial review of such rule or order
3 shall be filed within 60 days after such
4 grounds arise” after “such person’s prin-
5 cipal place of business is located”;

6 (vii) by striking “(other than in an
7 enforcement proceeding)”;

8 (viii) by striking “subparagraph” and
9 inserting “paragraph”;

10 (B) in paragraph (2)—

11 (i) by striking “paragraph (1)(A)”
12 and inserting “paragraph (1)”;

13 (ii) by striking “rulemaking”; and

14 (iii) by inserting “or order” after
15 “rule”; and

16 (C) by striking paragraph (3);

17 (2) in subsection (b), by inserting “or order”
18 after “rule” each place it appears; and

19 (3) in subsection (c)—

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

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

1 “(A) to grant appropriate relief, including
2 interim relief, as provided in chapter 7 of title
3 5, United States Code; and

4 “(B) to review such rule or order in ac-
5 cordance with chapter 7 of title 5, United
6 States Code.”; and

7 (B) in paragraph (2), by inserting “or
8 order” after “rule”.

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

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

12 (1) in subsection (a)—

13 (A) in paragraph (1)—

14 (i) by striking “under section 4, 5, or
15 6, or title II or IV,”; and

16 (ii) by striking “section 5 or title II or
17 IV to restrain such violation” and inserting
18 “this Act”; and

19 (B) in the matter following paragraph (2),
20 by inserting “, to enforce this Act or any rule
21 promulgated or order issued under this Act, or
22 to order the Administrator to perform an act or
23 duty under this Act which is not discretionary,
24 as the case may be” after “citizenship of the
25 parties”; and

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

3 **SEC. 21. CITIZENS’ PETITIONS.**

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

6 (1) in subsection (a), by striking “under section
7 4, 6, or 8 or an order under section 5(e) or
8 (6)(b)(2)” and inserting “, order, or any other ac-
9 tion authorized under this Act”; and

10 (2) in subsection (b)—

11 (A) in paragraph (1), by striking “under
12 section 4, 6, or 8 or an order under section
13 5(e), 6(b)(1)(A), or 6(b)(1)(B)” and inserting
14 “or order or to initiate other action authorized
15 under this Act”;

16 (B) in paragraph (3), by striking “section
17 4, 5, 6, or 8” and inserting “the applicable pro-
18 visions of this Act”; and

19 (C) in paragraph (4)—

20 (i) in subparagraph (A), by striking
21 “a rulemaking proceeding” and inserting
22 “a proceeding authorized under this Act”;
23 and

24 (ii) in subparagraph (B)—

1 (I) by striking “a proceeding to
2 issue a rule under section 4, 6, or 8
3 or an order under section 5(e) or
4 6(b)(2)” and inserting “a proceeding
5 authorized under this Act”;

6 (II) in clause (i)—

7 (aa) by inserting “or order”
8 after “issuance of a rule”;

9 (bb) by striking “or an
10 order under section 5(e)”; and

11 (cc) by striking “an unrea-
12 sonable” and inserting “a sub-
13 stantial”; and

14 (III) in clause (ii)—

15 (aa) by inserting “except as
16 provided in clause (i)” before “in
17 the case of”;

18 (bb) by striking “issuance of
19 a rule under section 6 or 8 or an
20 order under section 6(b)(2)” and
21 inserting “promulgation of a
22 rule, issuance of an order, or im-
23 position or issuance of a restric-
24 tion or use condition under this
25 Act”; and

1 (cc) by striking “an unrea-
2 sonable” and inserting “a sub-
3 stantial”.

4 **SEC. 22. EMPLOYEE PROTECTION.**

5 Section 23 of the Toxic Substances Control Act (15
6 U.S.C. 2622) is amended as follows:

7 (1) In subsection (a)—

8 (A) by striking “employer may discharge”
9 and inserting “manufacturer, processor, or dis-
10 tributor may discharge”;

11 (B) by redesignating paragraphs (1), (2),
12 and (3) as paragraphs (2), (3), and (4), respec-
13 tively;

14 (C) by inserting before paragraph (2), as
15 redesignated by subparagraph (B) of this para-
16 graph, the following new paragraph:

17 “(1) provided, caused to be provided, or is
18 about to provide or cause to be provided to the em-
19 ployer, the Federal Government, the appropriate of-
20 ficial of the tribe, or the attorney general of a State
21 information relating to any violation of, or any act
22 or omission the employee reasonably believes to be a
23 violation of any provision of this Act;”;

24 (D) in paragraph (3), as redesignated by
25 subparagraph (B) of this paragraph—

1 (i) by inserting “concerning any such
2 violation or” after “testified or is about to
3 testify”; and

4 (ii) by striking “or” after “Act;”;

5 (E) in paragraph (4), as redesignated by
6 subparagraph (B) of this paragraph, by insert-
7 ing “or” after “Act;” and

8 (F) by adding at the end the following new
9 paragraph:

10 “(5) objected to, or refused to participate in,
11 any activity, policy, practice, or assigned task that
12 the employee (or other such person) reasonably be-
13 lieved to be in violation of any provision of this
14 Act.”.

15 (2) By striking subsection (e) and amending
16 subsections (b), (c), and (d) to read as follows:

17 “(b) REMEDY.—(1) Any employee who believes that
18 the employee has been discharged or otherwise discrimi-
19 nated against by any person in violation of subsection (a)
20 of this section may, not later than 180 days after the date
21 on which such alleged violation occurs, file (or have any
22 person file on the employee’s behalf) a complaint with the
23 Secretary of Labor (hereinafter in this section referred to
24 as the ‘Secretary’) alleging such discharge or discrimina-
25 tion and identifying the person responsible for such act.

1 Upon receipt of such a complaint, the Secretary shall no-
2 tify, in writing, the person named in the complaint of the
3 filing of the complaint, of the allegations contained in the
4 complaint, of the substance of evidence supporting the
5 complaint, and of the opportunities that will be afforded
6 to such person under paragraph (2).

7 “(2)(A) Not later than 60 days after the date
8 of receipt of a complaint filed under paragraph (1)
9 and after affording the complainant and the person
10 named in the complaint an opportunity to submit to
11 the Secretary a written response to the complaint
12 and an opportunity to meet with a representative of
13 the Secretary to present statements from witnesses,
14 the Secretary shall initiate an investigation and de-
15 termine whether there is reasonable cause to believe
16 that the complaint has merit and notify, in writing,
17 the complainant and the person alleged to have com-
18 mitted a violation of subsection (a) of the Sec-
19 retary’s findings. If the Secretary concludes that
20 there is reasonable cause to believe that a violation
21 of subsection (a) of this section has occurred, the
22 Secretary shall accompany the Secretary’s findings
23 with a preliminary order providing the relief pre-
24 scribed by paragraph (3)(B). Not later than 30 days
25 after the date of notification of findings under this

1 paragraph, either the person alleged to have com-
2 mitted the violation or the complainant may file ob-
3 jections to the findings or preliminary order, or
4 both, and request a hearing on the record. The filing
5 of such objections shall not operate to stay any rein-
6 statement remedy contained in the preliminary
7 order. Any such hearing shall be conducted expedi-
8 tiously. If a hearing is not requested in such 30-day
9 period, the preliminary order shall be deemed a final
10 order that is not subject to judicial review.

11 “(B)(i) The Secretary shall dismiss a com-
12 plaint filed under this subsection and shall not
13 conduct an investigation otherwise required
14 under subparagraph (A) unless the complainant
15 makes a prima facie showing that any behavior
16 described in paragraphs (1) through (5) of sub-
17 section (a) was a contributing factor in the un-
18 favorable personnel action alleged in the com-
19 plaint.

20 “(ii) Notwithstanding a finding by the Sec-
21 retary that the complainant has made the
22 prima facie showing required under clause (i),
23 no investigation otherwise required under sub-
24 paragraph (A) shall be conducted if the em-
25 ployer demonstrates, by clear and convincing

1 evidence, that the employer would have taken
2 the same unfavorable personnel action in the
3 absence of that behavior.

4 “(iii) The Secretary may determine that a
5 violation of subsection (a) has occurred only if
6 the complainant demonstrates that any behavior
7 described in paragraphs (1) through (5) of sub-
8 section (a) was a contributing factor in the un-
9 favorable personnel action alleged in the com-
10 plaint.

11 “(iv) Relief may not be ordered under sub-
12 paragraph (A) if the employer demonstrates by
13 clear and convincing evidence that the employer
14 would have taken the same unfavorable per-
15 sonnel action in the absence of that behavior.

16 “(3)(A) Not later than 120 days after the date
17 of conclusion of any hearing under paragraph (2),
18 the Secretary shall issue a final order providing the
19 relief prescribed by this paragraph or denying the
20 complaint. At any time before issuance of a final
21 order, a proceeding under this subsection may be
22 terminated on the basis of a settlement agreement
23 entered into by the Secretary, the complainant, and
24 the person alleged to have committed the violation.

1 “(B) If, in response to a complaint filed under
2 paragraph (1), the Secretary determines that a vio-
3 lation of subsection (a) has occurred, the Secretary
4 shall order the person who committed such viola-
5 tion—

6 “(i) to take affirmative action to abate the
7 violation;

8 “(ii) to reinstate the complainant to the
9 complainant’s former position together with the
10 compensation (including back pay), terms, con-
11 ditions, and privileges of the complainant’s em-
12 ployment;

13 “(iii) to provide compensatory damages;
14 and

15 “(iv) where appropriate, exemplary dam-
16 ages.

17 If such an order is issued, the Secretary, at the re-
18 quest of the complainant, shall assess against the
19 person against whom the order is issued a sum equal
20 to the aggregate amount of all costs and expenses
21 (including attorney’s and expert witness fees) rea-
22 sonably incurred, as determined by the Secretary, by
23 the complainant for, or in connection with, the
24 bringing of the complaint upon which the order was
25 issued.

1 “(C) If the Secretary finds that a complaint
2 under paragraph (1) is frivolous or has been brought
3 in bad faith, the Secretary may award to the pre-
4 vailing employer a reasonable attorney’s fee, not ex-
5 ceeding \$1,000, to be paid by the complainant.

6 “(4) If the Secretary has not issued a final de-
7 cision within 210 days after the filing of the com-
8 plaint, the complainant may bring an action at law
9 or equity for de novo review in the appropriate dis-
10 trict court of the United States with jurisdiction,
11 which shall have jurisdiction over such an action
12 without regard to the amount in controversy, and
13 which action shall, at the request of either party to
14 such action, be tried by the court with a jury. The
15 proceedings shall be governed by the same legal bur-
16 dens of proof specified in paragraph (2)(B). The
17 court shall have jurisdiction to grant all relief nec-
18 essary to make the employee whole, including injunc-
19 tive relief and compensatory damages, including—

20 “(A) reinstatement with the same seniority
21 status that the employee would have had, but
22 for the discharge or discrimination;

23 “(B) the amount of back pay, with inter-
24 est; and

1 “(C) compensation for any special damages
2 sustained as a result of the discharge or dis-
3 crimination, including litigation costs, expert
4 witness fees, and reasonable attorney’s fees.

5 “(5)(A) Unless the complainant brings an ac-
6 tion under paragraph (4), any employee or employer
7 adversely affected or aggrieved by a final order
8 issued under paragraph (3) may obtain review of the
9 order in the United States Court of Appeals for the
10 circuit in which the violation, with respect to which
11 the order was issued, allegedly occurred or the cir-
12 cuit in which the complainant resided on the date of
13 such violation. The petition for review must be filed
14 within 60 days from the issuance of the final order
15 of the Secretary. Such review shall conform to chap-
16 ter 7 of title 5, United States Code. The commence-
17 ment of proceedings under this subparagraph shall
18 not, unless ordered by the court, operate as a stay
19 of the order.

20 “(B) An order of the Secretary, with respect to
21 which review could have been obtained under sub-
22 paragraph (A) shall not be subject to judicial review
23 in any criminal or other civil proceeding.

24 “(6) Whenever a person has failed to comply
25 with an order issued under paragraph (3), the Sec-

1 retary shall file a civil action in the United States
2 district court for the district in which the violation
3 was found to occur, or in the United States district
4 court for the District of Columbia, to enforce such
5 order. In actions brought under this paragraph, the
6 district courts shall have jurisdiction to grant all ap-
7 propriate relief, including injunctive relief and com-
8 pensatory damages.

9 “(7)(A) A person on whose behalf an order was
10 issued under paragraph (3) may commence a civil
11 action against the person to whom such order was
12 issued to require compliance with such order. The
13 appropriate United States district court shall have
14 jurisdiction, without regard to the amount in con-
15 troversy or the citizenship of the parties, to enforce
16 such order.

17 “(B) The court, in issuing any final order
18 under this paragraph, may award costs of litigation
19 (including reasonable attorney’s and expert witness
20 fees) to any party whenever the court determines
21 such award is appropriate.

22 “(c) NONDISCRETIONARY DUTY.—Any nondis-
23 cretionary duty imposed by this section shall be enforce-
24 able in a mandamus proceeding brought under section
25 1361 of title 28, United States Code.

1 “(d) DELIBERATE VIOLATION.—Subsection (a) shall
2 not apply with respect to an employee of a manufacturer,
3 processor, or distributor who, acting without direction
4 from such manufacturer, processor, or distributor (or such
5 person’s agent), deliberately causes a violation or alleged
6 violation of any rule, order, regulation, or safety standard
7 under this Act or any other law enforced by the Adminis-
8 trator.”.

9 **SEC. 23. EMPLOYMENT EFFECTS.**

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

12 (1) in subsection (a)—

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

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

18 (2) in subsection (b)—

19 (A) in paragraph (1), by striking “section
20 4, 5, or 6 or a requirement of section 5 or 6”
21 and inserting “this Act”;

22 (B) in paragraph (2)—

23 (i) in subparagraph (A), by striking
24 “by order issued” and inserting “in writ-
25 ing,”; and

1 (ii) in subparagraph (B)—

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

4 (II) by striking clause (ii) and re-
5 designating clause (iii) as clause (ii);
6 and

7 (C) by amending paragraph (4) to read as
8 follows:

9 “(4) This section shall not be construed—

10 “(A) to require the Administrator to
11 amend or repeal any rule or order under this
12 Act; or

13 “(B) to impose a condition on the Admin-
14 istrator’s authority to issue orders or promul-
15 gate rules under this Act.”.

16 **SEC. 24. ADMINISTRATION OF THE ACT.**

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

19 (1) by amending subsection (b) to read as fol-
20 lows:

21 “(b) FEES.—The Administrator shall, by rule, re-
22 quire the payment of a reasonable fee from any person
23 required to submit data under this Act to defray the cost
24 of administering this Act. In setting a fee under this sub-
25 section, the Administrator shall take into account the abil-

1 ity to pay of the person required to submit the data and
2 the cost to the Administrator of reviewing such data. Such
3 rules may provide for sharing such a fee in any case in
4 which the expenses of data production are shared under
5 this Act.”; and

6 (2) by redesignating subsections (d) through (g)
7 as subsections (f) through (i), respectively;

8 (3) by inserting after subsection (c) the fol-
9 lowing new subsections:

10 “(d) ACTION WITH RESPECT TO SPECIFIC CHEM-
11 ICAL SUBSTANCES.—Any action authorized under this Act
12 to be taken by the Administrator through rule or order
13 shall be made through order if the action applies to a sin-
14 gle chemical substance or single category of chemical sub-
15 stances.

16 “(e) ACTION WITH RESPECT TO ARTICLES CON-
17 TAINING A CHEMICAL SUBSTANCE OR MIXTURE.—No ac-
18 tion taken under this title with respect to articles con-
19 taining a chemical substance or mixture shall apply to ar-
20 ticles already introduced or delivered for introduction into
21 commerce, unless the action is taken pursuant to section
22 7 to address an imminent hazard and the Administrator
23 has determined that action against articles introduced or
24 delivered for introduction into commerce is necessary to
25 protect health or the environment.”; and

1 (4) by adding at the end the following new sub-
2 section:

3 “(j) RULEMAKING.—In carrying out this Act, the Ad-
4 ministrator is authorized to prescribe such regulations as
5 are necessary to carry out this Act.”.

6 **SEC. 25. STATE PROGRAMS.**

7 Section 28 of the Toxic Substances Control Act (15
8 U.S.C. 2627) is amended—

9 (1) in subsection (a)—

10 (A) by amending the subsection heading to
11 read as follows:

12 “(a) STATE GRANTS.—”;

13 (B) before “For the purpose of comple-
14 menting”, by inserting the following:

15 “(1) IN GENERAL.—”;

16 (C) by inserting “and tribes” after “may
17 make grants to States”;

18 (D) by striking “unreasonable risks within
19 the States” and inserting “risks within the
20 States and tribes”;

21 (E) by striking “is unable or is not likely
22 to take” and inserting “has not taken”; and

23 (F) by inserting “or tribe” after “no grant
24 for any State”;

1 (2) by redesignating subsections (b), (c), and
2 (d) as paragraphs (2), (3), and (4), respectively;

3 (3) in paragraph (2), as redesignated by para-
4 graph (2) of this section—

5 (A) by redesignating paragraphs (1) and
6 (2) as subparagraphs (A) and (B), respectively;

7 (B) in subparagraph (A), as redesignated
8 by subparagraph (A) of this paragraph—

9 (i) by redesignating subparagraphs
10 (A) through (F) as clauses (i) through (vi),
11 respectively;

12 (ii) in clause (ii), as redesignated by
13 clause (i), by inserting “or tribe”; and

14 (iii) by striking “subsection (a)” each
15 place it appears and inserting “paragraph
16 (1)”;

17 (C) in subparagraph (B), as redesignated
18 by subparagraph (B) of this paragraph—

19 (i) by striking “paragraph (1)” and
20 inserting “subparagraph (A)”;

21 (ii) by inserting “or tribe” after
22 “State” each place it appears; and

23 (iii) by striking “including cancer,
24 birth defects, and gene mutations,”;

1 (4) in paragraph (3), as redesignated by para-
2 graph (2) of this section, by striking “subsection
3 (a)” and inserting “this subsection”;

4 (5) in paragraph (4), as redesignated by para-
5 graph (2) of this section, by striking “subsection
6 (a)” and inserting “this subsection”; and

7 (6) by inserting at the end the following new
8 subsection:

9 “(b) STATE COORDINATION.—Not later than 18
10 months after enactment of the Toxic Chemicals Safety Act
11 of 2010, the Administrator shall establish a process to co-
12 ordinate with State and tribal governments, on an on-
13 going basis, to share data and priorities relating to the
14 management of chemical substances and mixtures under
15 this title and under programs operated by States and
16 tribes, in keeping with requirements of section 14. The
17 areas for coordination shall include the following:

18 “(1) Grant funding under subsection (a).

19 “(2) Design and development of the public
20 database established pursuant to section 8(d).

21 “(3) Development of a process by which con-
22 fidential business information may be shared with
23 the States under section 14.

24 “(4) Development of action plans under section
25 38(d).”.

1 **SEC. 26. AUTHORIZATION FOR APPROPRIATIONS.**

2 (a) AUTHORIZATION.—Section 29 of the Toxic Sub-
3 stances Control Act (15 U.S.C. 2628) is amended to read
4 as follows:

5 **“SEC. 29. AUTHORIZATION FOR APPROPRIATIONS.**

6 “There are authorized to be appropriated to the Ad-
7 ministrator to carry out this Act such sums as necessary
8 for each of fiscal years 2011 through 2018.”.

9 **SEC. 27. ADDITIONAL REQUIREMENTS.**

10 (a) ADDITIONAL REQUIREMENTS.—The Toxic Sub-
11 stances Control Act (15 U.S.C. 2601 et seq.) is amended
12 by adding after section 31 the following new sections:

13 **“SEC. 32. CHEMICAL SUBSTANCES AND MIXTURES THAT**
14 **ARE PERSISTENT, BIOACCUMULATIVE, AND**
15 **TOXIC.**

16 “(a) IDENTIFICATION.—Not later than 1 year after
17 the date of enactment of the Toxic Chemicals Safety Act
18 of 2010, the Administrator shall by rule establish criteria
19 to identify chemical substances and mixtures that are per-
20 sistent, bioaccumulative, and toxic, or are degraded or me-
21 tabolized into chemical substances that are persistent, bio-
22 accumulative, and toxic, and for which there is docu-
23 mented evidence of exposure to humans or the environ-
24 ment.

25 “(b) PUBLICATION.—Not later than 6 months after
26 the promulgation of the rule under subsection (a), and

1 every 3 years thereafter, the Administrator shall publish
2 a list of all chemical substances and mixtures that meet
3 those criteria, based on available scientific information.

4 “(c) RISK MANAGEMENT.—

5 “(1) EXPEDITED EXPOSURE REDUCTION.—As
6 promptly as feasible and not later than 18 months
7 after the listing of a chemical substance or mixture
8 under subsection (b), the Administrator shall impose
9 conditions authorized under section 6(c) on the man-
10 ufacture, processing, use, distribution in commerce,
11 and disposal of such chemical substance or mixture
12 necessary to achieve the greatest practicable reduc-
13 tions in exposure to the chemical substance or mix-
14 ture.

15 “(2) RESIDUAL RISK ASSESSMENT.—Within one
16 year after the effective date of such conditions, the
17 Administrator shall determine whether the chemical
18 substance or mixture meets the safety standard with
19 the conditions imposed, taking into account the re-
20 sidual risk posed by continued exposure to the chem-
21 ical substance or mixture, and shall impose any fur-
22 ther conditions authorized under section 6(c) nec-
23 essary to ensure that the chemical substance or mix-
24 ture meets the safety standard.

25 “(d) MANUFACTURER DUTIES.—

1 “(1) NO MINIMUM DATA SET.—Notwith-
2 standing the requirements of section 4(a) of this
3 title, manufacturers and processors of chemical sub-
4 stances or mixtures listed pursuant to subsection (b)
5 shall not be required to submit a minimum data set
6 for such chemical substances or mixtures, unless re-
7 quested to do so by the Administrator.

8 “(2) DECLARATION.—Not later than 6 months
9 after a chemical substance or mixture is listed under
10 subsection (b), manufacturers and processors of
11 such chemical substance or mixture shall submit the
12 declaration required by section 8(a)(2).

13 “(e) NEW CHEMICAL SUBSTANCES AND NEW
14 USES.—

15 “(1) For each new chemical substance subject
16 to section 5(a)(1), the Administrator shall determine
17 whether the chemical substance or mixture, or a
18 degradation product or metabolite of the chemical
19 substance or mixture, meets the criteria established
20 under subsection (a) of this section.

21 “(2) For each chemical substance or mixture
22 identified in paragraph (1), and for any proposed
23 new use of a chemical substance subject to section
24 5(a)(1) that is identified in subsection (b), the Ad-
25 ministrator shall allow manufacture, processing, and

1 distribution in commerce of the substance only for a
2 use which the Administrator determines meets the
3 requirements of section 6(e).

4 **“SEC. 33. CHILDREN’S ENVIRONMENTAL HEALTH.**

5 “(a) CHILDREN’S ENVIRONMENTAL HEALTH RE-
6 SEARCH.—

7 “(1) IN GENERAL.—Subject to amounts made
8 available in advance in appropriations Acts, the Ad-
9 ministrator shall enter into contracts and make
10 grants to further understanding of the vulnerability
11 of children to chemical substances.

12 “(2) CONSULTATION.—Contracts and grants
13 under this section shall be made in consultation with
14 Science Advisory Board on Children’s Health and
15 Toxic Substances established under subsection (b)
16 and the Children’s Health Protection Advisory Com-
17 mittee established in response to Executive Order
18 13045.

19 “(b) SCIENCE ADVISORY BOARD ON CHILDREN’S
20 HEALTH AND TOXIC SUBSTANCES.—

21 “(1) ESTABLISHMENT.—Not later than 90 days
22 after the date of enactment of the Toxic Chemicals
23 Safety Act of 2010, the Administrator shall consult
24 with the head of any other appropriate Federal
25 agency to establish an advisory board to be known

1 as the ‘Science Advisory Board on Children’s Health
2 and Toxic Substances’. The Board, and any sub-
3 committee thereof, shall be subject to the Federal
4 Advisory Committee Act (5 U.S.C. App.).

5 “(2) PURPOSES.—The purposes of the Science
6 Advisory Board on Children’s Health and Toxic
7 Substances shall be to provide independent advice,
8 expert consultation, and peer review upon the re-
9 quest of the Administrator on the scientific and
10 technical aspects of issues relating to the implemen-
11 tation of this title with respect to protecting chil-
12 dren’s health under this Act.

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

14 “(A) appoint the members of the Board,
15 including, at a minimum, one employee of—

16 “(i) the National Institute of Environ-
17 mental Health Sciences;

18 “(ii) the Centers for Disease Control
19 and Prevention;

20 “(iii) the National Toxicology Pro-
21 gram;

22 “(iv) the National Cancer Institute;

23 “(v) the National Tribal Science
24 Council; and

1 “(vi) not fewer than 3 centers of chil-
2 dren’s health at leading universities;

3 “(B) ensure that at least $\frac{1}{3}$ of the mem-
4 bers of the Board have specific scientific exper-
5 tise in the relationship of chemical exposures to
6 prenatal, infant, and children’s health; and

7 “(C) ensure that all appointments shall be
8 made without regard to political affiliation or
9 political activity, unless required by Federal
10 statute.

11 “(4) DISCLOSURE.—

12 “(A) The Administrator shall make pub-
13 licly available in accordance with subparagraph
14 (B) the following information:

15 “(i) A description of the process used
16 to establish and appoint the members of
17 the advisory committee, including the fol-
18 lowing:

19 “(I) The process for identifying
20 prospective members.

21 “(II) The process of selecting
22 members for balance of viewpoints or
23 expertise.

24 “(ii) A list of all current members, in-
25 cluding, for each member, the following:

1 “(I) The name of any person or
2 entity that nominated the member.

3 “(II) The reason the member was
4 appointed to the committee.

5 “(III) Whether the member is
6 designated as a special government
7 employee or a representative.

8 “(IV) In the case of a represent-
9 ative, the individuals or entity whose
10 viewpoint the member represents.

11 “(iii) A list of all members designated
12 as special government employees for whom
13 written certifications were made under sec-
14 tion 208(b) of title 18, United States
15 Code, a summary description of the con-
16 flict necessitating the certification, and the
17 reason for granting the certification.

18 “(iv) Transcripts or audio or video re-
19 cordings of all meetings of the committee.

20 “(v) Any additional information con-
21 sidered relevant by the head of the agency
22 to which the advisory committee reports.

23 “(B)(i) Except as provided in clause (ii),
24 the Administrator shall make the information
25 required to be disclosed under subparagraph

1 (A) available electronically on the official public
2 internet site of the agency at least 15 calendar
3 days before each meeting of an advisory com-
4 mittee. If the Administrator determines that
5 such timing is not practicable for any required
6 information, the information shall be made
7 available as soon as practicable but no later
8 than 48 hours before the next meeting of the
9 committee. The Administrator may withhold
10 from disclosure any information that would be
11 exempt from disclosure under section 552 of
12 title 5, United States Code.

13 “(ii) The Administrator shall make avail-
14 able electronically, on the official public internet
15 site of the agency, a transcript or audio or
16 video recording of each advisory committee
17 meeting not later than 30 calendar days after
18 the meeting.

19 “(c) BIOMONITORING.—

20 “(1) STUDY.—

21 “(A) If, through studies performed pursu-
22 ant to grants and contracts under subsection
23 (a), testing or biomonitoring under section 4, or
24 other available research, the Administrator
25 identifies a chemical substance (or a metabolite

1 or degradation product of such substance) that
2 is likely to be present in human biological
3 media at a level above that normally found in
4 such media that is likely to have adverse effects
5 on early childhood development, the Adminis-
6 trator shall, except as provided in subparagraph
7 (B), coordinate with the Secretary of Health
8 and Human Services to conduct, not later than
9 2 years after the date on which the Adminis-
10 trator makes such identification, a biomoni-
11 toring study to determine the presence of the
12 chemical substance in human biological media
13 in, at a minimum, pregnant women and infants.

14 “(B) A biomonitoring study under sub-
15 paragraph (A) shall not be required if—

16 “(i) the Administrator determines
17 that the chemical substance is already sub-
18 ject to equivalent testing;

19 “(ii) the Administrator has deter-
20 mined that the chemical substance meets
21 the safety standard; or

22 “(iii) a safety standard determination
23 is pending, and the Administrator deter-
24 mines that such a study is not required to
25 complete the determination.

1 “(2) PUBLICATION.—Upon completion of any
2 biomonitoring study conducted pursuant to para-
3 graph (1), the Administrator shall publish the re-
4 sults of the study on the public database established
5 pursuant to section 8(d).

6 “(3) POSITIVE RESULTS.—

7 “(A) DISCLOSURE.—Whenever a chemical
8 substance or mixture (or a metabolite or deg-
9 radation product of such substance or mixture)
10 is determined to be present in human biological
11 media in a biomonitoring study conducted pur-
12 suant to paragraph (1), the manufacturers and
13 processors of such chemical substance or mix-
14 ture shall, not later than 180 days after the
15 date of publication of such study, disclose to the
16 Administrator, commercial customers of the
17 manufacturers and processors, consumers, and
18 the public—

19 “(i) all known uses of the chemical
20 substance or mixture; and

21 “(ii) all articles in which the chemical
22 substance or mixture is or is expected to
23 be present.

1 “(B) COST AND FORM OF DISCLOSURE.—
2 Information under clauses (i) and (ii) of sub-
3 paragraph (A) shall be—

4 “(i) added to the public database es-
5 tablished pursuant to section 8(d); and

6 “(ii) made readily accessible and free
7 of charge by each applicable manufacturer
8 and processor in electronic format to the
9 commercial customers of such manufac-
10 turer or processor, consumers, and the
11 public.

12 **“SEC. 34. REDUCTION OF ANIMAL-BASED TESTING.**

13 “(a) DUTIES OF THE ADMINISTRATOR.—The Admin-
14 istrator shall take action to minimize the use of animals
15 in testing of chemical substances or mixtures, including—

16 “(1) encouraging and facilitating, where prac-
17 ticable—

18 “(A) use of existing data of sufficient sci-
19 entific quality;

20 “(B) use of test methods that eliminate or
21 reduce the use of animals but provide data of
22 high scientific quality;

23 “(C) grouping of 2 or more chemical sub-
24 stances into scientifically appropriate categories
25 where testing of one chemical substance will

1 provide reliable and useful data on others in the
2 category;

3 “(D) formation of industry consortia to
4 jointly conduct testing to avoid unnecessary du-
5 plication of tests; and

6 “(E) parallel submission of data from ani-
7 mal-based studies and from emerging methods
8 and models;

9 “(2) funding research and validation studies to
10 reduce, refine, and replace the use of animal tests in
11 accordance with this subsection;

12 “(3) in consultation with the Interagency Co-
13 ordinating Committee on the Validation of Alter-
14 native Methods, and after providing an opportunity
15 for public comment, developing a strategic plan to
16 promote the development and implementation of al-
17 ternative test methods and testing strategies to gen-
18 erate information used for safety standard deter-
19 minations under section 6(b) that do not use ani-
20 mals, including toxicity pathway-based risk assess-
21 ment, in vitro studies, systems biology, computa-
22 tional toxicology, bioinformatics, and high-through-
23 put screening; and

24 “(4) biennially reporting to Congress on
25 progress made in implementing this section.

1 “(b) LIST OF METHODS.—Not later than 1 year after
2 the date of enactment of the Toxic Chemicals Safety Act
3 of 2010, and triennially thereafter, the Administrator, in
4 consultation with the Interagency Coordinating Com-
5 mittee on the Validation of Alternative Methods, shall pub-
6 lish a list of demonstrated testing methods that reduce
7 the use of animals in testing.

8 “(c) CRITERIA FOR ADAPTING OR WAIVING ANIMAL
9 TESTING REQUIREMENTS.—Upon request from a manu-
10 facturer or processor that is required to conduct animal-
11 based testing of a chemical substance or mixture under
12 this title, the Administrator may adapt or waive such re-
13 quirement in part or in whole if the Administrator deter-
14 mines that—

15 “(1) there is sufficient weight-of-evidence that a
16 chemical substance or mixture has, or does not have,
17 a particular property for which such testing would
18 be required;

19 “(2) testing for a specific adverse effect is tech-
20 nically not practicable to conduct as a consequence
21 of the substance characteristics; or

22 “(3) a chemical substance or mixture cannot be
23 tested in animals at concentrations that do not re-
24 sult in significant pain or distress as a consequence

1 of the substance characteristics, such as potential to
2 cause severe corrosion or severe irritation to tissues.
3 A waiver under this subsection does not waive the duty
4 of the manufacturer or processor to demonstrate that the
5 chemical substance or mixture meets the safety standard
6 under section 5(a) or section 6(b).

7 **“SEC. 35. SAFER ALTERNATIVES AND GREEN CHEMISTRY**
8 **AND ENGINEERING.**

9 “(a) SAFER ALTERNATIVES.—

10 “(1) INCENTIVES.—Not later than 1 year after
11 the date of enactment of the Toxic Chemicals Safety
12 Act of 2010, the Administrator shall, after notice
13 and opportunity for comment, establish a program
14 to create incentives for the development of safer al-
15 ternatives to existing chemical substances and mix-
16 tures that reduce or avoid the use and generation of
17 hazardous chemical substances or mixtures. The pro-
18 gram under this paragraph shall include—

19 “(A) recognition for a chemical substance
20 or mixture, an article containing such substance
21 or mixture, or a non-chemical alternative, deter-
22 mined by the Administrator under paragraph
23 (2) to be a safer alternative for all intended
24 uses or for a particular use of an existing chem-
25 ical substance or mixture by means of a special

1 designation intended for use in marketing the
2 safer alternative, and periodic public awards;
3 and

4 “(B) such other financial or non-financial
5 incentives as the Administrator considers to be
6 appropriate to encourage the development, mar-
7 keting, and use of chemical substances or mix-
8 tures, articles containing such substances or
9 mixtures, or non-chemical alternatives, deter-
10 mined by the Administrator to be safer alter-
11 natives for all uses or for particular uses of ex-
12 isting chemical substances or mixtures.

13 “(2) SAFER ALTERNATIVE ASSESSMENT.—Any
14 person seeking approval for a safer alternative under
15 this section shall submit to the Administrator an ap-
16 plication, including the safer alternative data set de-
17 scribed in subparagraph (A) and shall bear the bur-
18 den of demonstrating that the safer alternative
19 standard is met, pursuant to subparagraph (B).

20 “(A) SAFER ALTERNATIVE DATA SET.—
21 Not later than one year after the date of enact-
22 ment of the Toxic Chemicals Safety Act of
23 2010, the Administrator shall establish, by rule,
24 the data that constitute the safer alternative
25 data set. The rule shall identify the information

1 that the Administrator determines will be useful
2 for the safer alternative standard determination
3 under subparagraph (B) and shall include—

4 “(i) chemical identity for the appli-
5 cant alternative chemical substance or mix-
6 ture, article containing such substance or
7 mixture, or non-chemical alternative and
8 the chemical substance or mixture targeted
9 for substitution;

10 “(ii) the proposed use, if applicable,
11 or all intended uses of the applicant alter-
12 native;

13 “(iii) substance characteristics, toxi-
14 cological properties, and biological and en-
15 vironmental fate and transport data for
16 the applicant alternative;

17 “(iv) known and potential exposures
18 for the applicant alternative;

19 “(v) a comparative analysis of the ap-
20 plicant alternative and the chemical sub-
21 stance or mixture targeted for substitution
22 based on the best publicly-available science
23 on the targeted substance demonstrating
24 that the applicant alternative will involve
25 lower hazard, lower exposure, or both; and

1 “(vi) a demonstration that the appli-
2 cant alternative is effective for the pro-
3 posed use or for all intended uses, as appli-
4 cable.

5 The rule shall require any person applying for
6 approval of a safer alternative to submit the
7 safer alternative data set, and may provide a
8 form for such application.

9 “(B) SAFER ALTERNATIVE STANDARD DE-
10 TERMINATION.—The Administrator shall, fol-
11 lowing the submission of a safer alternative
12 data set pursuant to subparagraph (A), approve
13 the applicant alternative chemical substance or
14 mixture, article containing such substance or
15 mixture, or non-chemical alternative for the
16 proposed use or uses if the Administrator deter-
17 mines that the proposed alternative is effective
18 for the proposed use or uses and—

19 “(i) provides a reasonable certainty of
20 no harm from the aggregate exposure to
21 the alternative substance from intended
22 uses, including to vulnerable populations,
23 and protects the public welfare, considering
24 the lifecycle of the alternative substance
25 and cumulative exposures and other rel-

1 evant considerations, and, when compared
2 to the chemical substance or mixture tar-
3 geted for substitution—

4 “(I) reduces the potential for
5 harm to human health or the environ-
6 ment;

7 “(II) has been shown not to be
8 persistent or bioaccumulative, while
9 the chemical substance or mixture tar-
10 geted for substitution has not; or

11 “(III) does not require the use of
12 hazardous, persistent, or bioaccumula-
13 tive substances during its manufac-
14 ture or processing, while the chemical
15 substance or mixture targeted for sub-
16 stitution does; or

17 “(ii) in the case that the applicant al-
18 ternative cannot provide a reasonable cer-
19 tainty of no harm from the aggregate ex-
20 posure to the alternative substance from
21 intended uses, including to vulnerable pop-
22 ulations, and protect the public welfare,
23 considering the lifecycle of the alternative
24 substance and cumulative exposures and
25 other relevant considerations, the chemical

1 substance or mixture targeted for substi-
2 tution had been granted or would qualify
3 for a critical use exemption under section
4 6(e) and the applicant alternative chemical
5 substance or mixture, article containing
6 such substance or mixture, or non-chemical
7 alternative, when compared to the chemical
8 substance or mixture targeted for substi-
9 tution—

10 “(I) reduces the potential for
11 harm to human health or the environ-
12 ment;

13 “(II) has been shown not to be
14 persistent or bioaccumulative, while
15 the chemical substance or mixture tar-
16 geted for substitution has not; or

17 “(III) does not require the use of
18 hazardous, persistent, or bioaccumula-
19 tive substances during its manufac-
20 ture or processing, while the chemical
21 substance or mixture targeted for sub-
22 stitution does.

23 Any applicant alternative approved under
24 this section shall be exempt from the re-
25 quirements of sections 4, 5, and 6 for the

1 uses considered and approved in the ap-
2 proval under this section, except that any
3 approval under this section shall expire
4 after 15 years, at which time a renewal
5 will be required pursuant to section 6(b).

6 “(C) CONSIDERATION IN DETERMINA-
7 TION.—Any safer alternative standard deter-
8 mination made under this subsection shall be
9 considered by the Administrator in making a
10 safety standard determination under section
11 6(b) or in granting an exemption under section
12 6(e) for the chemical substance or mixture tar-
13 geted for substitution by the application under
14 this subsection.

15 “(b) GREEN CHEMISTRY.—

16 “(1) GREEN CHEMISTRY RESEARCH NET-
17 WORK.—Not later than 2 years after the date of en-
18 actment of the Toxic Chemicals Safety Act of 2010,
19 and subject to amounts made available in advance in
20 appropriations Acts, the Administrator shall estab-
21 lish an interdisciplinary network of regional centers,
22 to support the research, development, and adoption
23 of safer alternatives to existing chemical substances
24 and mixtures, particularly chemical substances and

1 mixtures listed on the priority list under section
2 6(a).

3 “(2) GREEN CHEMISTRY AND ENGINEERING RE-
4 SEARCH.—Subject to amounts made available in ad-
5 vance in appropriations Acts, the Administrator
6 shall make grants and enter into contracts to pro-
7 mote and support the research, development, and
8 adoption of safer alternatives to existing chemical
9 substances and mixtures.

10 “(3) GREEN CHEMISTRY WORKFORCE EDU-
11 CATION AND TRAINING PROGRAM.—

12 “(A) ESTABLISHMENT OF PROGRAM.—The
13 Administrator shall establish a program to fa-
14 cilitate the development of a workforce, includ-
15 ing industrial and scientific workers, that pro-
16 duces safer alternatives to existing chemical
17 substances and mixtures.

18 “(B) GOALS.—The goals of the program
19 established under subparagraph (A) are to pro-
20 vide workforce training on skills that will—

21 “(i) facilitate the expansion of green
22 chemistry in the United States to create
23 new and safer jobs;

1 “(ii) develop a scientifically and tech-
2 nically trained green chemistry workforce
3 in the United States;

4 “(iii) inform and engage communities
5 about green chemistry; and

6 “(iv) promote innovation and strong
7 public health and environmental protec-
8 tions.

9 “(C) IMPLEMENTATION.—The Adminis-
10 trator shall, subject to amounts made available
11 in advance in appropriations Acts, implement
12 the program established under subparagraph
13 (A) to achieve the goals under subparagraph
14 (B), including by—

15 “(i) promoting the development of a
16 broad range of skills relevant to the pro-
17 duction and use of safer alternatives to ex-
18 isting chemical substances and mixtures,
19 including their design, manufacturing, and
20 use and disposal;

21 “(ii) developing partnerships with
22 educational institutions, training organiza-
23 tions, private sector companies, community
24 organizations, labor unions, and other non-
25 profit organizations; and

1 “(iii) in coordination with the Sec-
2 retary of Labor and the Secretary of En-
3 ergy, providing grants to State and local
4 governments and to the partnerships estab-
5 lished pursuant to clause (ii) to promote
6 and support activities consistent with
7 achieving the goals under subparagraph
8 (B).

9 **“SEC. 36. INTERNATIONAL COOPERATION AND AGREE-**
10 **MENTS.**

11 “(a) COOPERATION.—In coordination with the Sec-
12 retary of State and the head of any other Federal agency,
13 as appropriate, the Administrator shall cooperate with any
14 international effort which the Administrator determines
15 has broad international support and a reasonable expecta-
16 tion of success—

17 “(1) to develop a common protocol or electronic
18 database relating to chemical substances and mix-
19 tures; or

20 “(2) to develop safer alternatives for chemical
21 substances and mixtures.

22 “(b) PROHIBITION.—

23 “(1) PROHIBITION.—Except as provided in
24 paragraph (2), notwithstanding any other provision
25 of law, effective 3 years after the date of enactment

1 of the Toxic Chemicals Safety Act of 2010, no per-
2 son shall manufacture, process, distribute in com-
3 merce, use for commercial purposes, or dispose of
4 the following chemical substances, except in a man-
5 ner determined by the Administrator to be protective
6 of health and the environment:

7 “(A) Hexabromobiphenyl.

8 “(B) Hexachlorobenzene.

9 “(C) Hexabromodiphenyl ether and
10 Heptabromodiphenyl ether and congeners in the
11 commercial OctaBDE mixture.

12 “(D) Pentachlorobenzene.

13 “(E) Tetrabromodiphenyl ether and
14 pentabromodiphenyl ether and congeners in the
15 commercial PentaBDE mixture.

16 “(2) EXCEPTION.—If the United States depos-
17 its its instrument of ratification for the Stockholm
18 Convention, the PIC Convention, or the LRTAP
19 POPs Protocol before the prohibition under para-
20 graph (1) has taken effect, the effective date of the
21 prohibition shall be determined in keeping with the
22 requirements of the applicable agreement.

23 “(c) NOTICE OF RESTRICTIONS UNDER INTER-
24 NATIONAL AGREEMENTS.—Not later than 60 days after
25 the enactment of the Toxic Chemicals Safety Act of 2010,

1 the Administrator, in consultation with the Secretary of
2 State, shall publish in the Federal Register a notice of
3 the chemical substances or mixtures that are subject to
4 the Stockholm Convention, the PIC Convention, and the
5 LRTAP POPs Protocol, including conditions or restric-
6 tions relating to such chemical substances or mixtures im-
7 posed by such agreements or by foreign governments pur-
8 suant to such agreements.

9 “(d) IMPLEMENTING AGREEMENTS.—In consultation
10 with the Secretary of State and the head of any other ap-
11 propriate Federal agency (as determined by the Adminis-
12 trator), the Administrator shall implement the provisions
13 of international agreements (and any subsequent amend-
14 ment to such agreements) related to chemical substances
15 and mixtures to which the United States becomes a party.
16 Such implementation shall provide notice at each step in
17 the listing and delisting process as required in such agree-
18 ments and include requirements that:

19 “(1) Not later than 30 days after the United
20 States deposits its instrument of ratification for the
21 Stockholm Convention, the PIC Convention, the
22 LRTAP POPs Protocol, or any other international
23 agreement related to chemical substances and mix-
24 tures, or not later than 30 days after the listing of
25 any chemical substance or mixture subsequently

1 added under such an instrument has entered into
2 force for the United States, (whichever occurs ear-
3 lier), the Administrator shall provide public notice of
4 the chemical substances or mixtures that are subject
5 to that agreement, and shall provide similar public
6 notice of any chemical substance or mixture subse-
7 quently added under such agreement. In providing
8 such notice, the Administrator may specify the appli-
9 cable requirements for individual chemical sub-
10 stances or mixtures.

11 “(2) Whenever a chemical substance or mixture
12 is proposed for listing under an international agree-
13 ment to which the United States is a party, the Ad-
14 ministrator shall publish in the Federal Register a
15 notice that—

16 “(A) includes any relevant toxicity, expo-
17 sure, and risk information related to the chem-
18 ical substance or mixture known to the Admin-
19 istrator, as well as any domestic activities in-
20 volving the chemical substance or mixture
21 known to the Administrator;

22 “(B) includes a summary of the process,
23 under the international agreement, for the list-
24 ing or delisting step that was taken, including
25 criteria applied in that process and records gen-

1 erated by the international body during that
2 process;

3 “(C) requires any person that manufac-
4 tures, processes, distributes in commerce, uses,
5 or disposes of the chemical substance or mix-
6 ture to provide to the Administrator any infor-
7 mation that the Administrator determines to be
8 necessary to assist the United States in its con-
9 sideration of the proposal; and

10 “(D) provides an opportunity for public
11 comment on the proposed listing of the chem-
12 ical substance or mixture.

13 The comments and information received under this
14 paragraph shall be placed in a public docket and
15 shall be considered in the Administrator’s review of
16 the proposal.

17 “(3) Any chemical substance or mixture listed
18 under an international agreement to which the
19 United States is a party that is not already subject
20 to conditions under section 6(c) or already listed on
21 the priority list under section 6(a) shall be promptly
22 added to the priority list under section 6(a).

23 “(4) If there are applicable obligations for a
24 chemical substance or mixture under more than one
25 international agreement to which the United States

1 is a party, the most stringent of such obligations
2 shall apply to ensure compliance with each of those
3 agreements.

4 “(e) RULES.—The Administrator may promulgate
5 such rules as the Administrator determines necessary to
6 cooperate with international efforts pursuant to subsection
7 (a) and to implement international agreements related to
8 chemical substances and mixtures pursuant to subsection
9 (d).

10 “(f) EFFECT ON OTHER PROVISIONS OF LAW.—
11 Nothing in this section shall affect the authority of the
12 Administrator to regulate a chemical substance or mixture
13 under any other provision of law, provided that such regu-
14 lation—

15 “(1) is not less stringent than actions pre-
16 scribed by this section; and

17 “(2) does not impair the ability of the United
18 States to comply with obligations under inter-
19 national agreements (and any subsequent amend-
20 ment to such agreements) related to chemical sub-
21 stances and mixtures to which the United States be-
22 comes a party.

23 “(g) DEFINITIONS.—In this section:

24 “(1) LRTAP CONVENTION.—The term
25 ‘LRTAP Convention’ means the Convention on

1 Long-Range Transboundary Air Pollution, adopted
2 in Geneva on November 13, 1979, and any subse-
3 quent amendment or protocol.

4 “(2) LRTAP POPS PROTOCOL.—The term
5 ‘LRTAP POPS Protocol’ means the Protocol on Per-
6 sistent Organic Pollutants to the LRTAP Conven-
7 tion, adopted in Aarhus on June 24, 1998, and any
8 subsequent amendment.

9 “(3) STOCKHOLM CONVENTION.—The term
10 ‘Stockholm Convention’ means the Stockholm Con-
11 vention on Persistent Organic Pollutants adopted in
12 Stockholm on May 22, 2001, and any subsequent
13 amendment or protocol.

14 **“SEC. 37. DATA QUALITY.**

15 “Not later than 18 months after the date of enact-
16 ment of the Toxic Chemicals Safety Act of 2010, the Ad-
17 ministrator shall, by order, after notice and opportunity
18 for comment, establish and implement procedures to en-
19 sure data quality under this Act including, at a minimum,
20 requirements that—

21 “(1) not less than annually, the Administrator
22 randomly inspect commercial and private labora-
23 tories that develop the data required under this title;

24 “(2) annually, the Administrator perform a
25 comprehensive data audit on a subset, as selected by

1 the Administrator, of the data submissions under
2 this title;

3 “(3) the Administrator have access to all
4 records of privately sponsored health and safety
5 studies initiated in response to requirements under
6 this title; and

7 “(4) the submitter of any study conducted by a
8 third party in response to requirements under this
9 title disclose to the Administrator and the public, at
10 the time of submission, the sources of any funding
11 used for the conduct or publication of the study re-
12 ceived by the researchers who conducted the study.

13 **“SEC. 38. HOT SPOTS.**

14 “(a) CRITERIA.—Not later than 1 year after the date
15 of enactment of the Toxic Chemicals Safety Act of 2010,
16 the Administrator shall promulgate a rule to—

17 “(1) establish criteria for the determination of
18 disproportionate exposure, which shall include cri-
19 teria for identification of average exposure levels in
20 the United States and criteria for identification of
21 exceedences that are significant based on their po-
22 tential impact on health or the environment;

23 “(2) establish criteria to identify any locality
24 that is disproportionately exposed; and

1 “(3) develop a method for data collection on
2 and categorization of patterns of disproportionate
3 exposure and associated adverse effects.

4 “(b) IDENTIFICATION.—

5 “(1) IN GENERAL.—Not later than 18 months
6 after promulgation of the rule under subsection (a),
7 the Administrator shall identify localities within the
8 United States subject to disproportionate exposure.

9 “(2) USE OF DATA.—In identifying localities
10 under paragraph (1), the Administrator—

11 “(A) shall use data contained in the Na-
12 tional Air Toxic Assessment Database; and

13 “(B) may use other data available to the
14 Administrator, including data developed pursu-
15 ant to—

16 “(i) the Safe Drinking Water Act (42
17 U.S.C. 300f et seq.);

18 “(ii) the Solid Waste Disposal Act (42
19 U.S.C. 6901 et seq.);

20 “(iii) the Comprehensive Environ-
21 mental Response, Compensation, and Li-
22 ability Act of 1980 (42 U.S.C. 9601 et
23 seq.);

1 “(iv) the Emergency Planning and
2 Community Right-to-Know Act of 1986
3 (42 U.S.C. 11001 et seq.); and

4 “(v) the National Environmental Pub-
5 lic Health Tracking program at the Cen-
6 ters for Disease Control and Prevention.

7 “(3) PUBLIC PARTICIPATION.—The Adminis-
8 trator shall provide an opportunity for State, local,
9 and tribal governments and members of the public
10 to nominate localities for which there may be dis-
11 proportionate exposure for inclusion in the identi-
12 fication of localities under paragraph (1).

13 “(c) HOT SPOT LIST.—

14 “(1) IN GENERAL.—Not later than 180 days
15 after completing the identification of localities under
16 subsection (b)(1), the Administrator shall, after no-
17 tice and consultation with all applicable State, local,
18 and tribal health and environmental officials, legisla-
19 tors and other elected officials, and members of the
20 public, publish a list of the localities subject to dis-
21 proportionate exposure identified pursuant to such
22 subsection in the Federal Register and make such
23 list available electronically. The initial list shall in-
24 clude at least 20 localities.

1 “(2) UPDATING.—Not later than 5 years after
2 the date of publication of the list under paragraph
3 (1), and at least once every 5 years thereafter, the
4 Administrator shall update and republish such list.
5 The Administrator may update and republish such
6 list to add new localities that meet the criteria under
7 subsection (a), or to remove localities when the Ad-
8 ministrator determines that the percentage exposure
9 reduction goal for such a locality established pursu-
10 ant to subsection (d) has been achieved and no fur-
11 ther action is needed. The Administrator shall notify
12 all applicable State, local, and tribal health and envi-
13 ronmental officials, legislators and other elected offi-
14 cials, and members of the public of such an updated
15 listing.

16 “(d) ACTION PLANS.—Not later than 1 year after
17 publishing or updating the list under subsection (c), the
18 Administrator shall coordinate with State, local, and tribal
19 governments and members of the public to develop, for
20 each locality identified on the list, an action plan to reduce
21 disproportionate exposure within such locality. Each such
22 action plan shall include—

23 “(1) identification of the chemical substances
24 and mixtures that contribute to the disproportionate

1 exposure (including exposure levels, sources, and
2 pathways);

3 “(2) a description of actions to be undertaken
4 by the Administrator or State, local, or tribal gov-
5 ernments, to reduce disproportionate exposure with-
6 in the locality;

7 “(3) a percentage exposure reduction goal for
8 each chemical substance and mixture identified
9 under paragraph (1); and

10 “(4) a timeline to achieve the percentage expo-
11 sure reduction goal under paragraph (3).

12 “(e) REPORT TO CONGRESS.—Beginning on the date
13 that is one year after the development of the first action
14 plan under subsection (d), and annually thereafter, the
15 Administrator shall—

16 “(1) prepare and submit to Congress an annual
17 report identifying—

18 “(A) each locality added to the list in the
19 prior year under subsection (c);

20 “(B) each action plan developed in the
21 prior year under subsection (d);

22 “(C) the progress on each action plan to
23 date; and

24 “(D) the reasons why any timelines for
25 percentage exposure reductions were not met

1 and the revised timeline for meeting those re-
2 ductions; and

3 “(2) make the report available to the public in
4 the public database established under section 8(d).

5 “(f) LOCALITY.—In this section, the term ‘locality’
6 means any geographical area in which the Administrator
7 identifies disproportionate exposure and may include a
8 county, city, town, neighborhood, census tract, zip code,
9 or other commonly understood political or geographical
10 subdivision.

11 **“SEC. 39. EXEMPTION FOR CHEMICAL SUBSTANCES OR MIX-**
12 **TURES BASED ON INTRINSIC PROPERTIES.**

13 “(a) AUTHORITY TO EXEMPT CERTAIN CHEMICAL
14 SUBSTANCES AND MIXTURES BASED ON INTRINSIC PROP-
15 ERTIES.—If the Administrator determines that scientific
16 consensus exists that the intrinsic properties of a chemical
17 substance or mixture are such that it does not and would
18 not pose any risk of injury to health or the environment
19 under any current, proposed, or anticipated levels of pro-
20 duction, patterns of use, or exposures arising at any stage
21 across the lifecycle of the substance or mixture, the Ad-
22 ministrator may, by order, exempt the substance or mix-
23 ture, or particular uses of the substance or mixture, from
24 one or more of the requirements of sections 4, 5, 6 and
25 8 of this Act. A determination under this section shall be

1 based on consideration of the intrinsic properties of the
2 substance or mixture, and shall not be based on findings
3 or assumptions of low human or environmental exposure
4 to the substance or mixture.

5 “(b) NOTICE OF DETERMINATION AND EXEMP-
6 TION.—Within 30 days of determining and exempting,
7 pursuant to subsection (a), a chemical substance or mix-
8 ture, or a particular use of a chemical substance or mix-
9 ture, the Administrator shall publish in the Federal Reg-
10 ister, and shall add to the public database established pur-
11 suant to section 8(d), a notice that provides the specific
12 identity of the chemical substance or mixture, and, for a
13 particular use determined and exempted under subsection
14 (a), the particular use of the substance or mixture, that
15 the Administrator has determined and exempted under
16 subsection (a) and that explains and documents the basis
17 for the Administrator’s determination and exemption.

18 “(c) RECONSIDERATION OF DETERMINATION AND
19 EXEMPTION.—

20 “(1) IN GENERAL.—The Administrator may re-
21 consider and revoke or modify any determination or
22 exemption under subsection (a) at any time if the
23 Administrator determines that the conditions of sub-
24 section (a) are no longer met, or that such action is
25 necessary to protect human health or the environ-

1 ment or is otherwise in the public interest. In the
2 event of such revocation or modification, the Admin-
3 istrator shall provide public notice of the grounds for
4 that determination and publish such notice on the
5 public database established pursuant to section 8(d).

6 “(2) EFFECTIVE DATE.—Any revocation or
7 modification undertaken pursuant to this subsection
8 shall not take effect prior to the date that is one
9 year after public notice of the determination, unless
10 an earlier effective date is necessary to protect
11 human health or the environment.

12 “(d) PRIOR REGULATORY EXEMPTIONS.—Not later
13 than one year after the date of enactment of the Toxic
14 Chemicals Safety Act of 2010, exemptions granted by the
15 Administrator pursuant to section 5(h)(4) of this Act prior
16 to the date of enactment of the Toxic Chemicals Safety
17 Act of 2010, as such section was in effect before such date
18 of enactment, shall be reviewed by the Administrator and
19 continued in effect under the authority granted by this
20 section, as appropriate. Such an exemption shall continue
21 to be in effect until such date as the Administrator deter-
22 mines, by order, that—

23 “(1) the exemption is not authorized or not ap-
24 propriate under this section, at which time the ex-
25 emption shall cease to be in effect; or

1 “(2) the exemption is authorized and appro-
2 priate under this section, at which time the Adminis-
3 trator may issue an order to modify or continue in
4 effect the exemption pursuant to subsection (a).

5 “(e) NO LIMITATION ON AUTHORITY.—Nothing in
6 this section shall be construed to limit or otherwise affect
7 the Administrator’s authority under any other provision
8 of this Act.

9 **“SEC. 40. APPLICATION OF THIS ACT TO FEDERAL AGEN-**
10 **CIES.**

11 “(a) IN GENERAL.—Except as provided in subsection
12 (e), each Federal agency, and any officer, agent, or em-
13 ployee thereof, shall be subject to, and comply with, all
14 applicable requirements of this Act, both substantive and
15 procedural, in the same manner, and to the same extent,
16 as any person subject to such requirements. The sub-
17 stantive and procedural requirements referred to in this
18 subsection include—

19 “(1) any rule or order;

20 “(2) any civil or administrative penalty or fine,
21 regardless of whether such penalty or fine is punitive
22 or coercive in nature or is imposed for isolated,
23 intermittent, or continuing violations;

24 “(3) any requirement for reporting;

1 “(4) any provision for injunctive relief and such
2 sanctions as may be imposed by a court to enforce
3 such relief; and

4 “(5) payment of user fees under section 26(b).

5 “(b) WAIVER OF IMMUNITY.—The United States
6 hereby expressly waives any immunity otherwise applicable
7 to the United States with respect to any substantive or
8 procedural requirement referred to under subsection (a).

9 “(c) CIVIL PENALTIES.—No agent, employee, or offi-
10 cer of the United States shall be personally liable for any
11 civil penalty under this Act with respect to any act or
12 omission within the scope of the official duties of the
13 agent, employee, or officer.

14 “(d) CRIMINAL SANCTIONS.—An agent, employee, or
15 officer of the United States shall be subject to any crimi-
16 nal sanction (including any fine or imprisonment) under
17 this Act, but no Federal agency shall be subject to any
18 such sanction.

19 “(e) EXEMPTION.—

20 “(1) IN GENERAL.—If the President determines
21 it is in the paramount interest of the United States,
22 the President may grant an exemption for any Fed-
23 eral agency from compliance with any requirement
24 of this Act.

1 “(2) LACK OF APPROPRIATION.—No exemption
2 shall be granted under paragraph (1) due to lack of
3 appropriation unless the President has specifically
4 requested such appropriation as a part of the budg-
5 etary process and the Congress has failed to make
6 available such requested appropriation.

7 “(3) PERIOD OF EXEMPTION.—Any exemption
8 granted under paragraph (1) shall be for a period of
9 not more than 1 year, but additional exemptions
10 may be granted for periods not to exceed 1 year
11 upon the President’s making a new determination
12 that such exemption is in the paramount interest of
13 the United States.

14 “(4) REPORT.—Annually after the date of en-
15 actment of the Toxic Chemicals Safety Act of 2010,
16 the President shall report to the Congress all exemp-
17 tions under this subsection granted during the pre-
18 ceding calendar year, together with the reason for
19 granting each such exemption.

20 “(f) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

21 “(1) IN GENERAL.—The Administrator may
22 commence an administrative enforcement action
23 against any Federal agency pursuant to the enforce-
24 ment authorities contained in this Act. The Adminis-
25 trator shall initiate an administrative enforcement

1 action against such agency in the same manner and
2 under the same circumstances as an action would be
3 initiated against another person. Any voluntary reso-
4 lution or settlement of an administrative enforce-
5 ment action shall be set forth in a consent order.

6 “(2) FINAL.—No administrative order issued to
7 a Federal agency shall become final until such agen-
8 cy has had the opportunity to confer with the Ad-
9 ministrator.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents for the Toxic Substances Control Act is amended
12 by adding after the item relating to section 31, the fol-
13 lowing new items:

“Sec. 32. Chemical substances and mixtures that are persistent, bioaccumula-
 tive, and toxic.

“Sec. 33. Children’s environmental health.

“Sec. 34. Reduction of animal-based testing.

“Sec. 35. Safer alternatives and green chemistry and engineering.

“Sec. 36. International cooperation and agreements.

“Sec. 37. Data quality.

“Sec. 38. Hot spots.

“Sec. 39. Exemption for chemical substances or mixtures based on intrinsic
 properties.

“Sec. 40. Application of this Act to Federal agencies.”.

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