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112TH CONGRESS  
2D SESSION

# S. 847

[Report No. 112-264]

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 14, 2011

Mr. LAUTENBERG (for himself, Ms. KLOBUCHAR, Mr. SCHUMER, Mrs. BOXER, Mr. FRANKEN, Mr. WHITEHOUSE, Mr. SANDERS, Mrs. GILLIBRAND, Mr. DURBIN, Mr. MENENDEZ, Mr. LEAHY, Mr. BLUMENTHAL, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. BEGICH, Mr. TESTER, Mr. KERRY, Mrs. MURRAY, Mr. CARDIN, Mr. HARKIN, Ms. CANTWELL, Mr. WYDEN, Mr. BAUCUS, Mr. UDALL of New Mexico, Mr. AKAKA, Mr. NELSON of Florida, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. INOUE, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

DECEMBER 27, 2012

Reported by Mrs. BOXER, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safe Chemicals Act  
3 of 2011”.

4 **SEC. 2. PURPOSES.**

5 The purpose of this Act is to ensure that risks from  
6 chemicals are adequately understood and managed.

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

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

10 (1) in the heading, by striking “**INTENT**” and  
11 inserting “**GOAL**”; and

12 (2) by striking subsections (a) through (c) and  
13 inserting the following:

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

15 “(1) each year human beings and the environ-  
16 ment are exposed to a large number of chemical sub-  
17 stances;

18 “(2) the chemical industry, an important part  
19 of the United States economy, provides valuable  
20 products that are used in diverse manufacturing in-  
21 dustries and other commercial, institutional, and  
22 consumer applications;

23 “(3) more than 3 decades after the enactment  
24 of this Act, people and the environment in the  
25 United States are still exposed to thousands of

1 chemicals whose safety has not been adequately re-  
2 viewed and may harm health and the environment;

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

6 “(5) biomonitoring of chemical substances in  
7 humans reveals that people in the United States  
8 carry hundreds of hazardous chemicals in their bod-  
9 ies;

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

16 “(7) differences in metabolism and physiology  
17 at certain stages of development can make infants  
18 and children more vulnerable than adults to the ef-  
19 fects of chemical exposure, especially exposure that  
20 occurs in utero, during infancy, and during other  
21 critical periods of development;

22 “(8) manufacturers and processors of chemicals  
23 should supply sufficient health and environmental  
24 information before distributing products in com-  
25 merce;

1           “(9) the Administrator must have and exercise  
2 the authority to develop sufficient information to as-  
3 sess chemical safety, and to act effectively when the  
4 Administrator obtains information that indicates  
5 there are risks of harmful exposure to chemical sub-  
6 stances;

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

15           “(11) a revised policy on the safety of chemical  
16 substances will assist in renewing the manufacturing  
17 sector of the United States, create new and safer  
18 jobs, spur innovations in green chemistry, restore  
19 confidence domestically and internationally in the  
20 safety of products of the United States, and ensure  
21 that products of the United States remain competi-  
22 tive in the global market.

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

24           “(1) to protect the health of children, workers,  
25 consumers, and the public, and to protect the envi-

1       ronment from harmful exposures to chemical sub-  
2       stances;

3           “(2) to promote the use of safer alternatives  
4       and other actions that reduce the use of and expo-  
5       sure to hazardous chemical substances and reward  
6       innovation toward safer chemicals, processes, and  
7       products;

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

12          “(4) to require companies to provide sufficient  
13      health and environmental information for the chem-  
14      ical substances that the companies manufacture,  
15      process, or import as a condition of allowing those  
16      companies to distribute chemical substances in com-  
17      merce;

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

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

1           “(7) to strengthen cooperation between and  
2           among the Federal Government and State, munic-  
3           ipal, tribal, and foreign governments.

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

8           “(1) reviewing all chemical substances for safe-  
9           ty and identifying the highest priority chemical sub-  
10          stances for expedited review;

11          “(2) determining whether chemical substances  
12          in commerce meet the safety standard under this  
13          title;

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

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

18 **SEC. 4. DEFINITIONS.**

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

21                 (1) by striking paragraph (12);

22                 (2) by redesignating paragraphs (2), (3), (4),  
23                 (5), (6), (7), (8), (9), (10), (11), (13), and (14), as  
24                 paragraphs (5), (6), (8), (10), (12), (13), (14), (15),  
25                 (18), (19), (21), and (24), respectively;

1           (3) by inserting after paragraph (1) the fol-  
2           lowing:

3           “(2) AGGREGATE EXPOSURE.—

4           “(A) IN GENERAL.—Subject to subpara-  
5           graph (B), the term ‘aggregate exposure’ means  
6           exposure from all sources of a chemical sub-  
7           stance, including exposure from—

8           “(i) the manufacture, processing, dis-  
9           tribution, use, and disposal of that chem-  
10          ical substance; and

11          “(ii) all other sources of that chemical  
12          substance, including—

13               “(I) contamination of food, air,  
14               water, soil, and house dust from cur-  
15               rent or prior uses or activity;

16               “(II) accidental releases;

17               “(III) permitted sources of pollu-  
18               tion;

19               “(IV) nonpoint sources of pollu-  
20               tion;

21               “(V) documented background lev-  
22               els from natural and anthropogenic  
23               sources; and

24               “(VI) a mixture or article con-  
25               taining that chemical substance.

1           “(B) INCLUSIONS.—The term ‘aggregate  
2 exposure’ includes exposure from a chemical  
3 substance that is not considered to be a chem-  
4 ical substance under this Act solely because of  
5 the use of that substance as, or in, a food, food  
6 additive, cosmetic, or device (as those terms are  
7 defined in section 201 of the Federal Food,  
8 Drug, and Cosmetic Act (21 U.S.C. 321)).

9           “(3) BIOACCUMULATIVE.—

10           “(A) IN GENERAL.—The term ‘bioaccumu-  
11 lative’ means, with respect to a chemical sub-  
12 stance or mixture, that the chemical substance  
13 or mixture, as determined by the Administrator,  
14 can significantly accumulate in biota, as indi-  
15 cated through monitoring data, or is highly  
16 likely to accumulate in biota, as indicated by  
17 other evidence.

18           “(B) UPDATE.—To reflect the best avail-  
19 able science, the Administrator may, by rule,  
20 revise the definition of the term ‘bioaccumula-  
21 tive’ in such a way that reflects the state of the  
22 science and provides for equal or greater protec-  
23 tion of human health and the environment.

24           “(4) CHEMICAL IDENTITY.—The term ‘chemical  
25 identity’ includes—



1           “(A) each common and trade name of a  
2 chemical substance;

3           “(B) the name of a chemical substance ap-  
4 pearing in International Union of Pure and Ap-  
5 plied Chemistry nomenclature and the most  
6 current Collective Index format;

7           “(C) each Chemical Abstracts Service reg-  
8 istration number of a chemical substance; and

9           “(D) the molecular structure of a chemical  
10 substance.”;

11           (4) in paragraph (5) (as redesignated by para-  
12 graph (2))—

13           (A) by striking “(2)(A) Except as provided  
14 in subparagraph (B)” and inserting the fol-  
15 lowing:

16           “(5) CHEMICAL SUBSTANCE.—

17           “(A) IN GENERAL.—Except as provided in  
18 subparagraphs (B) and (C)”;

19           (B) in subparagraph (B), by striking “(B)  
20 Such term” and inserting the following:

21           “(B) EXCLUSIONS.—The term ‘chemical  
22 substance’”; and

23           (C) by adding at the end the following:

24           “(C) INCLUSIONS.—Notwithstanding mo-  
25 lecular identity, the Administrator may deter-

1 mine that a variant of a chemical substance is  
2 a new chemical substance under section  
3 5(a)(6).”;

4 (5) by inserting after paragraph (6) (as redesignated by paragraph (2)) the following:

6 “(7) CUMULATIVE EXPOSURE.—The term ‘cumulative exposure’ means the sum of aggregate exposure to each of the chemical substances that are  
7 known or suspected to contribute appreciably to the  
8 risk of the same or a similar adverse effect.”;

11 (6) by striking paragraph (8) (as redesignated by paragraph (2)) and inserting the following:

13 “(8) DISTRIBUTE IN COMMERCE.—The terms  
14 ‘distribute in commerce’ and ‘distribution in commerce’, when used to describe an action taken with  
15 respect to a chemical substance (or mixture or article containing that chemical substance), mean—

18 “(A) to sell, or the sale of, the substance,  
19 mixture, or article in commerce;

20 “(B) to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article;

1           “(C) to hold, or the holding of, the sub-  
2           stance, mixture, or article after its introduction  
3           into commerce; or

4           “(D) to export or offer for export the sub-  
5           stance, mixture, or article.”;

6           (7) by inserting after paragraph (8) (as redesign-  
7           ated by paragraph (2)) the following:

8           “(9) END CONSUMER.—The term ‘end con-  
9           sumer’ means an individual or other entity that pur-  
10          chases and uses or consumes a chemical substance  
11          (or mixture or article containing that chemical sub-  
12          stance).”;

13          (8) in paragraph (10) (as redesignated by para-  
14          graph (2)), by inserting “ambient and indoor” after  
15          “includes water,”;

16          (9) by inserting after paragraph (10) (as redesi-  
17          gnated by paragraph (2)) the following:

18          “(11) FEDERAL AGENCY.—The term ‘Federal  
19          agency’ means any department, agency, or other in-  
20          strumentality of the Federal Government, any inde-  
21          pendent agency or establishment of the Federal Gov-  
22          ernment including any Government corporation, and  
23          the Government Printing Office.”;

24          (10) in paragraph (15) (as redesignated by  
25          paragraph (2)), by striking “which is not included in

1 the chemical substance list compiled and published  
2 under section 8(b)” and inserting “for which the  
3 manufacturer or processor of the chemical substance  
4 has not submitted a declaration under section 8(a)”;

5 (11) by inserting after paragraph (15) (as re-  
6 designated by paragraph (2)) the following:

7 “(16) PERSISTENT.—

8 “(A) IN GENERAL.—The term ‘persistent’  
9 means, with respect to a chemical substance or  
10 mixture, that the chemical substance or mix-  
11 ture, as determined by the Administrator, sig-  
12 nificantly persists in 1 or more environmental  
13 media, as indicated by monitoring data or other  
14 evidence.

15 “(B) UPDATE.—To reflect the best avail-  
16 able science, the Administrator may, by rule,  
17 revise the definition of the term ‘persistent’ in  
18 such a way that reflects the state of the science  
19 and provides for equal or greater protection of  
20 human health and the environment.

21 “(17) PERSON.—

22 “(A) IN GENERAL.—The term ‘person’  
23 means an individual, trust, firm, joint stock  
24 company, corporation (including a Government  
25 corporation), partnership, association, State,

1           municipality, commission, political subdivision  
2           of a State, or any interstate body.

3           “(B) INCLUSIONS.—The term ‘person’ in-  
4           cludes each Federal agency and any officer,  
5           agent, or employee of a Federal agency.”;

6           (12) by inserting after paragraph (19) (as re-  
7           designated by paragraph (2)) the following:

8           “(20) SPECIAL SUBSTANCE CHARACTERISTIC.—

9           “(A) IN GENERAL.—The term ‘special sub-  
10          stance characteristic’ means a physical, chem-  
11          ical, or biological characteristic, other than mo-  
12          lecular identity, that the Administrator deter-  
13          mines, by order or rule, may significantly affect  
14          the risks posed by substances exhibiting that  
15          characteristic.

16          “(B) CONSIDERATIONS.—In determining  
17          the existence of special substance characteris-  
18          tics, the Administrator may consider—

19                  “(i) size or size distribution;

20                  “(ii) shape and surface structure;

21                  “(iii) reactivity; and

22                  “(iv) any other properties that may  
23          significantly affect the risks posed.”;

24          (13) by inserting after paragraph (21) (as re-  
25          designated by paragraph (2)) the following:

1           “(22) TOXIC.—The term ‘toxic’, with respect to  
2 a chemical substance or mixture, means that the  
3 chemical substance or mixture has a toxicological  
4 property—

5           “(A) meeting the criteria for Category 1 or  
6 Category 2 for any of the toxicity endpoints es-  
7 tablished by the Globally Harmonized System  
8 for the Classification and Labeling of Haz-  
9 arduous Substances;

10           “(B) that causes an adverse effect that has  
11 been demonstrated in humans or other exposed  
12 organisms; or

13           “(C) for which the weight of evidence  
14 (such as demonstration of an adverse effect de-  
15 scribed in subparagraph (B), laboratory studies,  
16 or data for a chemical from the same chemical  
17 class that exhibits that adverse effect) dem-  
18 onstrates the potential for an adverse effect in  
19 humans or other exposed organisms.

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

- 1           “(A) mortality;
- 2           “(B) morbidity, including carcinogenesis;
- 3           “(C) reproduction;
- 4           “(D) growth and development;
- 5           “(E) the immune system;
- 6           “(F) the endocrine system;
- 7           “(G) the brain or nervous system;
- 8           “(H) other organ systems; or
- 9           “(I) any other biological functions in hu-
- 10           mans or nonhuman organisms.”; and
- 11           (14) by adding at the end the following:
- 12           “(25) VULNERABLE HUMAN POPULATION.—
- 13           The term ‘vulnerable human population’ means a
- 14           human population that is subject to disproportionate
- 15           exposure to, or the potential for disproportionate ad-
- 16           verse effect from exposure to, a chemical substance
- 17           or mixture, including—
- 18           “(A) infants, children, and adolescents;
- 19           “(B) pregnant women;
- 20           “(C) elderly;
- 21           “(D) individuals with preexisting medical
- 22           conditions;
- 23           “(E) workers that work with chemical sub-
- 24           stances and mixtures; and

1           “(F) members of any other appropriate  
2           population identified by the Administrator.”.

3 **SEC. 5. MINIMUM DATA SETS AND TESTING OF CHEMICAL**  
4 **SUBSTANCES.**

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

7 **“SEC. 4. MINIMUM DATA SETS AND TESTING OF CHEMICAL**  
8 **SUBSTANCES.**

9           ~~“(a) MINIMUM DATA SETS.—~~

10           ~~“(1) MINIMUM DATA SETS RULES.—~~

11           ~~“(A) IN GENERAL.—Subject to subpara-~~  
12 ~~graph (B), and not later than 1 year after the~~  
13 ~~date of enactment of the Safe Chemicals Act of~~  
14 ~~2011, the Administrator shall establish, by rule,~~  
15 ~~the data that constitute the minimum data sets~~  
16 ~~for chemical substances.~~

17           ~~“(B) REQUIREMENTS.—Any rule promul-~~  
18 ~~gated under subparagraph (A) shall—~~

19           ~~“(i) provide for varied or tiered data~~  
20 ~~to be provided for different chemical sub-~~  
21 ~~stances or categories of chemical sub-~~  
22 ~~stances;~~

23           ~~“(ii) identify the particular minimum~~  
24 ~~data set that applies to a chemical sub-~~  
25 ~~stance or category of chemical substances;~~



1           “(iii) require each minimum data set  
2           to include the minimum amount of infor-  
3           mation necessary for the Administrator to  
4           conduct a screening-level risk assessment  
5           of the chemical substance or category of  
6           chemical substances, including information  
7           on the characteristics, toxicological prop-  
8           erties, exposure, and use of a chemical sub-  
9           stance; and

10           “(iv) in accordance with section 30,  
11           encourage and facilitate the use of alter-  
12           native testing methods and testing strate-  
13           gies to generate information quickly, at low  
14           cost, and without the use of animal-based  
15           testing, including toxicity pathway-based  
16           risk assessment, in vitro studies, systems  
17           biology, computational toxicology,  
18           bioinformatics, and high-throughput  
19           screening.

20           “(2) SUBMISSION OF MINIMUM DATA SET.—

21           Each manufacturer and processor of a chemical sub-  
22           stance shall submit the minimum data set for the  
23           chemical substance to the Administrator—

1           “(A) for new chemical substances, concu-  
2           rent with the notice required under section  
3           (5)(a)(1)(A); and

4           “(B) for existing chemical substances, on  
5           the earlier of—

6                   “(i) 18 months after the date on  
7                   which the chemical substance is assigned  
8                   to a priority class under section 6(a); and

9                   “(ii) 5 years after the date of enact-  
10                  ment of the Safe Chemicals Act of 2011.

11           “(3) PROHIBITION.—The Administrator may,  
12           by order, take any action authorized under section  
13           6(e) if a manufacturer or processor is in violation of  
14           paragraph (2), except as authorized under section  
15           6(e).

16           “(b) TESTING.—

17                   “(1) GENERAL SUBMISSIONS.—

18                           “(A) IN GENERAL.—The Administrator  
19                           may, by rule or order, require testing with re-  
20                           spect to any chemical substance, and the sub-  
21                           mission of test results by a specified date, as  
22                           necessary for making any determination or ear-  
23                           rying out any provision of this Act.

1           “(B) EFFECT ON OTHER AUTHORITY.—

2           Nothing in this paragraph limits the authority  
3           of the Administrator under paragraph (2).

4           “(2) SAMPLE SUBMISSIONS.—

5           “(A) IN GENERAL.—The Administrator  
6           may, by rule or order, require the submission of  
7           a sample of any chemical substance in such  
8           manner as the Administrator determines en-  
9           ables the Administrator to conduct any tests  
10          necessary for making any determination or ear-  
11          rying out any provision of this Act.

12          “(B) EFFECT ON OTHER AUTHORITY.—

13          Nothing in this paragraph limits the authority  
14          of the Administrator under paragraph (1).

15          “(3) PROHIBITION.—The Administrator may,  
16          by order, take any action authorized under section  
17          6(e) if a manufacturer or processor is in violation of  
18          a rule or order under paragraph (1), except as au-  
19          thorized under section 6(e).

20          “(4) EXEMPTION.—If a manufacturer or pro-  
21          cessor has submitted a declaration of cessation of  
22          manufacture or processing under section 8(a)(3) for  
23          a chemical substance, the manufacturer or processor  
24          shall be exempted from the requirements of this sub-  
25          section.

1 “(e) TEST RULES OR ORDERS.—

2 “(1) IN GENERAL.—A rule or order issued  
3 under subsection (b) shall include—

4 “(A) identification of the chemical sub-  
5 stance for which testing is required under the  
6 rule or order;

7 “(B) standards for the development of test  
8 data for that substance; and

9 “(C) a specification of the period (which  
10 may not be of unreasonable duration) within  
11 which the persons required to conduct the test-  
12 ing shall submit to the Administrator data de-  
13 veloped in accordance with the standards re-  
14 ferred to in subparagraph (B).

15 “(2) CONSIDERATIONS.—

16 “(A) IN GENERAL.—In determining the  
17 standards and period to be required under sub-  
18 paragraphs (B) and (C) of paragraph (1), the  
19 Administrator shall consider—

20 “(i) the relative costs of the various  
21 test protocols and methodologies that may  
22 be required under the rule or order; and

23 “(ii) the reasonably foreseeable avail-  
24 ability of the facilities and personnel need-

1 ed to perform the testing required under  
2 the rule.

3 “(B) PRELIMINARY DATA.—Any rule or  
4 order issued by the Administrator under this  
5 subsection may require a manufacturer or proe-  
6 essor to submit preliminary data during the pe-  
7 riod described in paragraph (1)(C).

8 “(3) TYPES OF HEALTH AND ENVIRONMENTAL  
9 INFORMATION.—

10 “(A) IN GENERAL.—The Administrator  
11 may prescribe standards for the development of  
12 test data under this subsection for health and  
13 environmental information, including—

14 “(i) information pertaining to carcino-  
15 genesis, mutagenesis, teratogenesis, behav-  
16 ioral disorders, cumulative, synergistic, or  
17 any other effect that may be considered in  
18 a safety standard determination;

19 “(ii) information pertaining to expo-  
20 sure to the chemical substance, including  
21 information regarding the presence of the  
22 chemical substance in human blood, fluids,  
23 or tissue; and

24 “(iii) information pertaining to—

25 “(I) bioaccumulation;

- 1 “(II) persistence;  
 2 “(III) acute toxicity;  
 3 “(IV) subacute toxicity;  
 4 “(V) chronic toxicity; and  
 5 “(VI) any other characteristic  
 6 that may present an adverse effect.

7 “(B) METHODOLOGIES.—

8 “(i) IN GENERAL.—The Administrator  
 9 may prescribe methodologies in standards  
 10 for the development of test data, includ-  
 11 ing—

- 12 “(I) epidemiologic studies;  
 13 “(II) biomonitoring studies;  
 14 “(III) serial or hierarchical tests;  
 15 “(IV) in vitro tests; and  
 16 “(V) whole animal tests, con-  
 17 sistent with section 30.

18 “(ii) REQUIREMENT.—Prior to pre-  
 19 scribing epidemiologic studies of employ-  
 20 ees, the Administrator shall consult with  
 21 the Director of the National Institute for  
 22 Occupational Safety and Health.

23 “(C) REVIEW.—Periodically, but not less  
 24 frequently than once every 3 years, the Admin-  
 25 istrator shall—

1           “(i) review the adequacy of the stand-  
2           ards for development of data prescribed  
3           under subparagraph (A); and

4           “(ii) if necessary, institute pro-  
5           ceedings to make appropriate revisions of  
6           those standards.

7           “(4) PERSONS REQUIRED TO CONDUCT TESTS  
8           AND SUBMIT DATA.—

9           “(A) IN GENERAL.—Except as provided in  
10          subparagraph (B), a rule or order under sub-  
11          section (b) respecting a chemical substance  
12          shall specify the persons required to conduct  
13          tests and submit data to the Administrator on  
14          the substance.

15          “(B) EXCEPTION.—The Administrator  
16          may permit 2 or more of the persons described  
17          in subparagraph (A) to designate 1 of the per-  
18          sons or a qualified third party to conduct the  
19          tests and submit the data on behalf of the per-  
20          sons making the designation.

21          “(C) LIABILITY.—All persons described in  
22          subparagraphs (A) and (B) shall remain liable  
23          for compliance with any requirements subject to  
24          the designation.

25          “(5) EXPIRATION OF RULES AND ORDERS.—

1           “(A) IN GENERAL.—Any rule or order  
2           under subsection (b) that requires the testing  
3           and submission of data for a particular chem-  
4           ical substance shall expire at the end of the ap-  
5           plicable reimbursement period (as defined in  
6           subsection (d)(3)) unless, prior to that date, the  
7           Administrator withdraws the rule or order.

8           “(B) CATEGORY OF CHEMICAL SUB-  
9           STANCES.—A rule or order under subsection (b)  
10          that requires the testing and submission of data  
11          for a category of chemical substances shall ex-  
12          pire with respect to a chemical substance in-  
13          cluded in the category at the end of the applica-  
14          ble reimbursement period (as defined in sub-  
15          section (d)(3)) unless, prior to that date, the  
16          Administrator withdraws the rule or order with  
17          respect to the substance entirely.

18       “(d) EXEMPTIONS.—

19           “(1) IN GENERAL.—Any person required by a  
20           rule or order under subsections (a) or (b) to conduct  
21           tests and submit data for a chemical substance may  
22           apply to the Administrator (in such form and man-  
23           ner as the Administrator determines necessary) for  
24           an exemption from the requirement.



1           “(2) ACTION BY ADMINISTRATOR.—In accord-  
2           ance with paragraph (3) or (4), the Administrator  
3           shall exempt an applicant under paragraph (1); if,  
4           on receipt of the application, the Administrator de-  
5           termines that—

6                   “(A) the chemical substance for which the  
7                   application was submitted is equivalent to a  
8                   chemical substance for which—

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

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

14                   “(B) submission of data by the applicant  
15                   for the substance would be duplicative of data  
16                   that—

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

20                           “(ii) is being developed in accordance  
21                           with the rule or order.

22           “(3) REIMBURSEMENT DUE TO EXEMPTION.—

23                   “(A) DEFINITION OF REIMBURSEMENT PE-  
24                   RIOD.—In this paragraph, the term ‘reimburse-

1           ment period', with respect to any test data for  
2           a chemical substance, means a period that—

3                   “(i) begins on the date on which the  
4                   test data is submitted in accordance with  
5                   a rule or order issued under subsection (a)  
6                   or (b); and

7                   “(ii) ends on the later of—

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

10                           “(II) the date which, as deter-  
11                           mined by the Administrator, provides  
12                           the applicant with a time period which  
13                           is sufficient to develop the test data.

14           “(B) REIMBURSEMENT FOR PREVIOUSLY  
15           SUBMITTED TEST DATA.—

16                   “(i) IN GENERAL.—Except as pro-  
17                   vided in clause (ii), for an exemption under  
18                   paragraph (2)(B)(i), if the exemption is  
19                   granted during the reimbursement period  
20                   for the test data, the Administrator shall  
21                   order the person granted the exemption to  
22                   provide fair and equitable reimbursement  
23                   (in an amount determined by the Adminis-  
24                   trator) to—

1           “(I) the person who previously  
2           submitted the test data, for a portion  
3           of the costs incurred by the person in  
4           complying with the data submission  
5           requirement; and

6           “(II) any other person who has  
7           been required under this subsection to  
8           contribute with respect to the costs,  
9           for a portion of the amount the per-  
10          son was required to contribute.

11          “(ii) EXCEPTION.—Clause (i) shall  
12          not apply if there is agreement on the  
13          amount and method of reimbursement be-  
14          tween an exempted person described in  
15          clause (i) and the persons described in sub-  
16          clauses (I) and (II) of that clause.

17          “(iii) CONSIDERATIONS.—In promul-  
18          gating rules for the determination of fair  
19          and equitable reimbursement to the per-  
20          sons described in subclauses (I) and (II) of  
21          clause (i) for costs incurred with respect to  
22          a chemical substance, the Administrator  
23          shall, after consultation with the Attorney  
24          General and the Federal Trade Commis-

1                   sion, consider all relevant factors, includ-  
2                   ing—

3                   “(I) the effect on the competitive  
4                   position of the person required to pro-  
5                   vide reimbursement in relation to the  
6                   person to be reimbursed; and

7                   “(II) the share of the market for  
8                   the substance of the person required  
9                   to provide reimbursement in relation  
10                  to the share of the market of the per-  
11                  sons to be reimbursed.

12                  “(C) REIMBURSEMENT DUE TO EXEMP-  
13                  TION FOR TEST DATA BEING DEVELOPED IN  
14                  ACCORDANCE WITH A RULE OR ORDER.—

15                  “(i) IN GENERAL.—Except as pro-  
16                  vided in clause (ii), for an exemption under  
17                  paragraph (2)(B)(ii), the Administrator  
18                  shall order the person granted the exemp-  
19                  tion to provide fair and equitable reim-  
20                  bursement (in an amount determined by  
21                  the Administrator) to—

22                  “(I) each person who is devel-  
23                  oping the test data, for the portion of  
24                  the costs incurred by each person in  
25                  complying with the rule or order; and

1                   “(H) any other person who has  
2                   been required under this subsection to  
3                   contribute with respect to the costs of  
4                   complying with the rule or order, for  
5                   a portion of the amount the person  
6                   was required to contribute.

7                   “(ii) EXCEPTION.—Clause (i) shall  
8                   not apply if there is agreement on the  
9                   amount and method of reimbursement be-  
10                  tween an exempted person described in  
11                  clause (i) and the persons described in sub-  
12                  clauses (I) and (II) of that clause.

13                  “(iii) CONSIDERATIONS.—In promul-  
14                  gating rules for the determination of fair  
15                  and equitable reimbursement to the per-  
16                  sons described in subclauses (I) and (II) of  
17                  clause (i) for costs incurred with respect to  
18                  a chemical substance, the Administrator  
19                  shall, after consultation with the Attorney  
20                  General and the Federal Trade Commis-  
21                  sion, consider the factors described in sub-  
22                  paragraph (B)(iii).

23                  “(iv) LACK OF COMPLIANCE.—If any  
24                  exemption is granted under paragraph (2)  
25                  on the basis that 1 or more persons are de-

1           veloping test data pursuant to a rule or  
2           order promulgated or issued under sub-  
3           section (a) or (b); and after the exemption  
4           is granted; the Administrator determines  
5           that no person has complied with the rule  
6           or order; the Administrator shall—

7                   “(I) after providing written no-  
8                   tice and an opportunity for a hearing  
9                   to the person who holds the exemp-  
10                  tion; by order, terminate the exemp-  
11                  tion; and

12                   “(II) notify in writing the person  
13                   of the requirements of the rule or  
14                   order with respect to which the ex-  
15                   emption was granted.

16           “(e) NOTICE.—

17                   “(1) IN GENERAL.—Not later than 15 days  
18                   after the date of receipt of any test data pursuant  
19                   to a rule or order under subsection (a) or (b); the  
20                   Administrator shall publish in the Federal Register  
21                   a notice of the receipt of the test data.

22                   “(2) REQUIREMENTS.—Subject to section 14;  
23                   each notice shall—

24                           “(A) identify the chemical substance for  
25                           which data have been received;

1           “(B) list—

2                   “(i) the commercial and consumer  
3                   uses or intended commercial and consumer  
4                   uses of the substance known to the Admin-  
5                   istrator; and

6                   “(ii) the information required by the  
7                   applicable standards for the development  
8                   of test data; and

9                   “(C) describe the nature of the test data  
10                  developed.

11               “(3) AVAILABILITY.—Subject to section 14, the  
12               Administrator shall make the test data described in  
13               this subsection available on a publicly accessible  
14               Internet site.

15               “(f) REQUESTS FROM OTHER AGENCIES FOR ADDI-  
16               TIONAL INFORMATION OR TESTING.—

17                   “(1) IN GENERAL.—The head of a Federal  
18                   agency may request the Administrator to seek the  
19                   information on behalf of that agency if the head of  
20                   that Federal agency determines that—

21                           “(A) information relating to a chemical  
22                           substance, including data derived from new  
23                           testing or monitoring, would assist that Federal  
24                           agency in carrying out the duties or exercising  
25                           the authority of that agency; but

1           “(B) the requested information is not  
2           available to that agency.

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) subject to section 14,~~ make the data  
7           available to the requesting agency;

8           ~~“(B) issue a request under section 8(f) to~~  
9           require—

10           ~~“(i) the submission of existing perti-~~  
11           ~~nent data to the Administrator; and~~

12           ~~“(ii) a copy of any such submission to~~  
13           ~~be furnished to the requesting agency;~~

14           ~~“(C) issue a rule or order under subsection~~  
15           ~~(b)—~~

16           ~~“(i) to develop the data; and~~

17           ~~“(ii) to require the developed data to~~  
18           ~~be furnished to the requesting agency; or~~

19           ~~“(D) publish in the Federal Register the~~  
20           ~~reason for which none of the actions described~~  
21           ~~in this paragraph were taken.~~

22           ~~“(g) CERTIFICATION.—~~Each submission required  
23           under this section or under a rule or an order promulgated  
24           or issued by the Administrator under this section shall be  
25           accompanied by a certification signed by a responsible offi-



1 cial of the manufacturer or processor that each statement  
2 contained in the submission—

3 “(1) is accurate and reliable; and

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

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

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

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

11 “(a) **NEW CHEMICAL SUBSTANCES AND NEW USES**  
12 **OF CHEMICAL SUBSTANCES.—**

13 “(1) **NEW CHEMICAL SUBSTANCES.—**Except as  
14 provided in subsection (d), no person may manufac-  
15 ture or process a new chemical substance unless—

16 “(A) the person submits to the Adminis-  
17 trator a notice, in accordance with subsection  
18 (e), of the intention of the person to manufac-  
19 ture or process the substance;

20 “(B) the person complies with subsection  
21 (b); and

22 “(C) the Administrator finds that—

23 “(i) the manufacturers and processors  
24 have established that the chemical sub-

1                   stance meets the safety standard under  
2                   section 6(b); or

3                   “(ii) the new chemical substance, or a  
4                   metabolite or degradation product of the  
5                   chemical substance, as applicable, is not,  
6                   and is not expected to be—

7                   “(I)(aa) manufactured in a vol-  
8                   ume of more than 1,000,000 pounds  
9                   annually; or

10                  “(bb) released into the environ-  
11                  ment in a volume of more than  
12                  100,000 pounds annually;

13                  “(II) a known, probable, or sus-  
14                  pected reproductive, developmental,  
15                  neurological, or immunological toxic-  
16                  ant, carcinogen, mutagen, or endo-  
17                  crine disruptor;

18                  “(III) persistent and bioaccumu-  
19                  lative;

20                  “(IV) found in human cord  
21                  blood, or otherwise found in human  
22                  blood, fluids, or tissue, unless the  
23                  chemical substance, metabolite, or  
24                  degradation product is naturally

1 present at the level commonly found  
2 in that medium; or

3 “(V) found in food, drinking  
4 water, ambient or indoor air, residen-  
5 tial soil, or house dust, unless the  
6 chemical substance, metabolite, or  
7 degradation product is naturally  
8 present at the level commonly found  
9 in that medium.

10 “(2) NEW USES OF EXISTING CHEMICAL SUB-  
11 STANCES PRIOR TO SAFETY STANDARD DETERMINA-  
12 TION.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), with respect to an existing  
15 chemical substance for which the Administrator  
16 has not made a safety standard determination  
17 under section 6, no person may manufacture or  
18 process the chemical substance—

19 “(i) for a use that was not ongoing on  
20 the date of enactment of the Safe Chemi-  
21 cals Act of 2011; or

22 “(ii) at a volume that is significantly  
23 increased from the volume as of the date  
24 of enactment of the Safe Chemicals Act of  
25 2011.

1           “(B) EXCEPTION.—A person may manu-  
2           facture or process a chemical substance in a  
3           manner prohibited by subparagraph (A), if the  
4           person—

5                   “(i) submits to the Administrator a  
6                   new or updated declaration under section  
7                   8(a); and

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

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

11           “(A) IN GENERAL.—For an existing chem-  
12           ical substance for which the Administrator has  
13           determined under section 6(b) that the manu-  
14           facturers and processors of the chemical sub-  
15           stance have established that the substance  
16           meets the applicable safety standard, no person  
17           may manufacture or process the chemical sub-  
18           stance for uses, at production volumes, or in  
19           manners other than those the Administrator  
20           specified in the safety standard determination,  
21           unless—

22                   “(i) the manufacturer or processor  
23                   submits to the Administrator—

24                           “(I) a notice of the intention of  
25                           the manufacturer or processor to

1 manufacture or process the substance  
2 for a new use, at a new production  
3 volume, or in such other manner as is  
4 inconsistent with a specified condition  
5 or term for that substance; and

6 “(H) all updates to the minimum  
7 data set relevant to the new use, new  
8 production volume, or other new man-  
9 ner of manufacturing or processing;

10 “(ii) the notice under clause (i)(I) in-  
11 dicates that the chemical substance will  
12 continue to meet the safety standard if the  
13 allowed uses, production volumes, or other  
14 specified conditions or terms for that  
15 chemical substance are revised to encom-  
16 pass the new use, production volume, or  
17 other manner of manufacturing or proe-  
18 essing; and

19 “(iii) the Administrator determines  
20 that the manufacturer or processor submit-  
21 ting the notice has established that the  
22 chemical substance will continue to meet  
23 the safety standard if the allowed uses,  
24 production volumes, or other specified con-  
25 ditions or terms for that substance, are re-

1           vised to encompass the new use, produc-  
2           tion volume, or other manner of manufac-  
3           turing or processing.

4           “(B) AMENDMENT TO SAFETY STANDARD  
5           DETERMINATION.—If the conditions described  
6           in clauses (i) through (iii) of subparagraph (A)  
7           are satisfied, the Administrator shall, by order,  
8           amend the safety standard determination for  
9           the chemical substance to include the new use,  
10          production volume, or other manner of manu-  
11          facturing or processing among the allowed uses,  
12          production volumes, or manners of manufac-  
13          turing or processing of the chemical substance.

14          “(4) SAFETY STANDARD DETERMINATION.—

15                 “(A) IN GENERAL.—Except as provided in  
16                 subparagraphs (B) and (C), not later than 180  
17                 days after the date of receipt of a notice and  
18                 supporting data that satisfies paragraph (1)(A)  
19                 or paragraph (3)(A), the Administrator shall  
20                 determine whether the person submitting the  
21                 notice has established that the chemical sub-  
22                 stance will meet, or will continue to meet, the  
23                 safety standard under section 6(b).

24                 “(B) EXCEPTION.—In the case of a notice  
25                 under paragraph (1)(A), the Administrator

1 shall not be subject to the deadline described in  
2 subparagraph (A) if the Administrator first  
3 makes the finding specified under paragraph  
4 (1)(C)(ii).

5 “(C) EXTENSION.—The Administrator  
6 may extend the determination deadline under  
7 subparagraph (A) by 1 or more additional peri-  
8 ods not to exceed 1 year in the aggregate, in  
9 such manner as the Administrator determines  
10 necessary.

11 “(D) FAILURE TO MAKE A TIMELY DETER-  
12 MINATION.—The failure of the Administrator to  
13 make a timely determination in accordance with  
14 this paragraph shall not be sufficient to satisfy  
15 the conditions described in paragraph (1)(C)(i)  
16 or paragraph (3)(A)(iii).

17 “(5) NOTICE OF COMMENCEMENT.—Not later  
18 than 30 days after the date on which a manufac-  
19 turer or processor commences the manufacturing or  
20 processing of a new chemical substance, the manu-  
21 facturer or processor shall submit to the Adminis-  
22 trator a notice of commencement of manufacture or  
23 processing.

24 “(6) CHEMICAL SUBSTANCES EXHIBITING SPE-  
25 CIAL SUBSTANCE CHARACTERISTICS.—

1           “(A) DETERMINATION.—The Adminis-  
2           trator shall determine by order or rule that a  
3           variant of a chemical substance exhibiting 1 or  
4           more special substance characteristics—

5                   “(i) is a use that is separate from any  
6                   use of the chemical substance that does  
7                   not exhibit the special substance character-  
8                   istics; or

9                   “(ii) is a new chemical substance.

10           “(B) REQUIREMENTS FOR VARIANTS THAT  
11           ARE SEPARATE USES.—In the case of a chem-  
12           ical substance that the Administrator deter-  
13           mines to be a separate use based on the special  
14           substance characteristics of the chemical sub-  
15           stance; the manufacturer or processor shall sat-  
16           isfy such further conditions as the Adminis-  
17           trator establishes, by order or rule.

18           “(b) SUBMISSION OF DATA.—

19                   “(1) IN GENERAL.—A person shall submit to  
20                   the Administrator data in accordance with the rule  
21                   or order at the time that notice is submitted under  
22                   subsection (a) if the person is required to submit to  
23                   the Administrator—



1           “(A) under subsection (a), a notice prior to  
2 beginning the manufacture or processing of a  
3 chemical substance; and

4           “(B) under section 4(b), test data for the  
5 chemical substance prior to the submission of  
6 the notice.

7           “(2) AVAILABILITY.—Subject to section 14, the  
8 Administrator shall make any test data submitted  
9 under paragraph (1) available on a publicly acces-  
10 sible Internet site.

11       “(e) CONTENT AND AVAILABILITY OF NOTICE.—

12           “(1) CONTENT.—Notice under subsection  
13 (a)(1) shall include—

14           “(A) the declaration described in section  
15 8(a)(2);

16           “(B) the minimum data set described in  
17 section 4(a); and

18           “(C) a statement that the chemical sub-  
19 stance will meet the applicable safety standard.

20           “(2) AVAILABILITY.—Subject to section 14, the  
21 Administrator shall make the notice under para-  
22 graph (1) available on a publicly accessible Internet  
23 site.

24           “(3) PUBLIC INFORMATION.—Subject to section  
25 14, not later than 5 days (excluding Saturdays, Sun-

1 days, and legal holidays) after the date of the receipt  
2 of a notice under subsection (a) or of data under  
3 subsection (b), the Administrator shall make avail-  
4 able on a publicly accessible Internet site informa-  
5 tion that—

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

8 “(B) lists the uses or intended uses of the  
9 chemical substance;

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

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

14 “(ii) any data that were received  
15 under subsection (b) or a rule or order  
16 under section 4; and

17 “(D) references the availability of the min-  
18 imum data set.

19 “(4) LIST OF NOTICES.—At the beginning of  
20 each month, the Administrator shall make available  
21 on a publicly accessible Internet site a list of each  
22 chemical substance for which notice has been re-  
23 ceived under subsection (a).

24 “(d) EXEMPTIONS.—

1           “(1) TEST MARKETING PURPOSES.—The Ad-  
2           ministrators may, upon application, exempt any per-  
3           son from any requirement of subsection (a) or (b) to  
4           permit the person to manufacture or process a  
5           chemical substance for test marketing purposes—

6                   “(A) upon a showing by the person, in a  
7                   manner that the Administrator determines, that  
8                   the manufacture, processing, distribution in  
9                   commerce, use, and disposal of the chemical  
10                  substance (including any combination of those  
11                  activities) will not endanger human health or  
12                  the environment; and

13                  “(B) under such restrictions as the Admin-  
14                  istrator considers appropriate.

15           “(2) EQUIVALENT CHEMICAL SUBSTANCES.—

16                   “(A) IN GENERAL.—The Administrator  
17                   shall, upon application, fully or partially exempt  
18                   any person from the requirement to submit  
19                   data under subsection (a) if, on receipt of an  
20                   application, the Administrator determines  
21                   that—

22                           “(i) the chemical substance for which  
23                           the application was submitted is equivalent  
24                           to a chemical substance for which data has

1           been submitted to the Administrator as re-  
2           quired by this Act; and

3           “(ii) submission of data by the appli-  
4           cant on the chemical substance would be  
5           duplicative of data which has been sub-  
6           mitted to the Administrator in accordance  
7           with this Act.

8           “(B) EFFECTIVE DATE.—No exemption  
9           under this paragraph may take effect before the  
10          beginning of the reimbursement period applica-  
11          ble to the data.

12          “(C) FAIR AND EQUITABLE REIMBURSE-  
13          MENT.—

14               “(i) DEFINITION OF REIMBURSEMENT  
15               PERIOD.—In this subparagraph, the term  
16               ‘reimbursement period’, with respect to  
17               any previously submitted data for a chem-  
18               ical substance, means the period that—

19                       “(I) begins on the date of the  
20                       termination of the prohibition, im-  
21                       posed under this section, on the man-  
22                       ufacture or processing of the chemical  
23                       substance by the person who sub-  
24                       mitted the data to the Administrator;  
25                       and

1 “(H) ends on the later of—

2 “(aa) the date that is 5  
3 years after the date referred to in  
4 subclause (I); or

5 “(bb) at the expiration of a  
6 period that begins on the date re-  
7 ferred to in subclause (I) and  
8 ends on the date that the Admin-  
9 istrator determines to be nec-  
10 essary to develop the data.

11 “(ii) REIMBURSEMENT.—Except as  
12 provided in clause (iii), if the Adminis-  
13 trator exempts any person under subpara-  
14 graph (A)(i) and the exemption is granted  
15 during the reimbursement period for that  
16 data, the Administrator shall order the  
17 person granted the exemption to provide  
18 fair and equitable reimbursement (in an  
19 amount determined by the Adminis-  
20 trator)—

21 “(I) to the person who previously  
22 submitted the data on which the ex-  
23 emption was based, for a portion of  
24 the costs incurred by the person in

1 complying with the requirement under  
2 this title to submit the data; and

3 “(II) to any other person who  
4 has been required under this subpara-  
5 graph to contribute with respect to  
6 the costs; for a portion of the amount  
7 the person was required to contribute.

8 “(iii) EXCEPTION.—Clause (ii) shall  
9 not apply if the person exempted under  
10 that clause and the persons described in  
11 subclauses (I) and (II) of that clause agree  
12 on the amount and method of reimburse-  
13 ment.

14 “(iv) CONSIDERATIONS.—In promul-  
15 gating rules for the determination of fair  
16 and equitable reimbursement to the per-  
17 sons described in subclauses (I) and (II) of  
18 clause (ii) for costs incurred with respect  
19 to a chemical substance, the Administrator  
20 shall, after consultation with the Attorney  
21 General and the Federal Trade Commis-  
22 sion, consider all relevant factors, includ-  
23 ing—

24 “(I) the effect on the competitive  
25 position of the person required to pro-

1                   vide reimbursement in relation to the  
2                   persons to be reimbursed; and

3                   “~~(H)~~ the share of the market for  
4                   the chemical substance of the person  
5                   required to provide reimbursement in  
6                   relation to the share of the market of  
7                   the persons to be reimbursed.

8                   “~~(3)~~ SMALL QUANTITIES.—

9                   “~~(A)~~ IN GENERAL.—If the conditions de-  
10                  scribed in subparagraph ~~(B)~~ are met, sub-  
11                  sections ~~(a)~~ and ~~(b)~~ shall not apply with respect  
12                  to the manufacturing or processing of any  
13                  chemical substance that is manufactured or  
14                  processed, or proposed to be manufactured or  
15                  processed, only in small quantities (as defined  
16                  by the Administrator by rule) solely for pur-  
17                  poses of—

18                         “~~(i)~~ scientific experimentation or anal-  
19                         ysis; or

20                         “~~(ii)~~ chemical research on, or analysis  
21                         of, the substance or another substance, in-  
22                         cluding research or analysis for the devel-  
23                         opment of a product.

24                         “~~(B)~~ CONDITIONS.—All persons engaged  
25                         in the experimentation, research, or analysis

1 carried out in accordance with subparagraph  
2 (A) for a manufacturer or processor shall be  
3 notified (in such form and manner as the Ad-  
4 ministrator may prescribe) of any risk to  
5 human health that the manufacturer, processor,  
6 or the Administrator has reason to believe may  
7 be associated with that chemical substance.

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

12 “(A) that exists temporarily as a result of  
13 a chemical reaction in the manufacturing or  
14 processing of a mixture or another chemical  
15 substance; and

16 “(B) to which there is no, and will not be,  
17 any human or environmental exposure.

18 “(5) PUBLICATION.—

19 “(A) IN GENERAL.—As soon as practicable  
20 after the date of receipt of an application under  
21 paragraph (1) or (4), the Administrator shall  
22 publish in the Federal Register notice of the re-  
23 ceipt of the application.

24 “(B) REQUIREMENTS.—The Administrator  
25 shall—



1           “(i) give interested persons an oppor-  
2           tunity to comment upon any application  
3           described in subparagraph (A);

4           “(ii) not later than 45 days after the  
5           date of receipt of an application, approve  
6           or deny the application; and

7           “(iii) publish in the Federal Register  
8           notice of the approval or denial of the ap-  
9           plication.

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

16           “(1) is accurate and reliable; and

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

20       “(f) DEFINITIONS.—In this section:

21           “(1) MANUFACTURE AND PROCESS.—The terms  
22       ‘manufacture’ and ‘process’ mean to manufacture or  
23       process, respectively, for commercial purposes.

24           “(2) TEST MARKETING.—The term ‘test mar-  
25       keting’ does not include any provision of a chemical

1 substance, or a mixture or article containing that  
 2 chemical substance, to an end consumer of the  
 3 chemical substance, mixture, or article.”

4 **SEC. 7. PRIORITIZATION, SAFETY STANDARD DETERMINA-**  
 5 **TION, AND RISK MANAGEMENT.**

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

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

10 **“(a) PRIORITIZATION OF CHEMICAL SUBSTANCES.—**

11 **“(1) PRIORITIZATION LIST.—**

12 **“(A) IN GENERAL.—**Subject to subpara-  
 13 graph (B), the Administrator shall, by order,  
 14 develop and publish a list that—

15 **“(i)** contains the names of the chem-  
 16 ical substances or categories of chemical  
 17 substances that the Administrator deter-  
 18 mines warrant placement within 1 of the 3  
 19 priority classes described in paragraphs (2)  
 20 through (4); and

21 **“(ii)** identifies the priority class to  
 22 which each listed chemical substance or  
 23 category of chemical substance has been  
 24 assigned by the Administrator.

1           “(B) CONSIDERATIONS.—In determining  
2           which chemical substances to include in each  
3           priority class, the Administrator shall give due  
4           consideration to any prioritization recommenda-  
5           tion that is provided by the committee estab-  
6           lished under paragraph (5).

7           “(2) CHEMICAL SUBSTANCES REQUIRING IMME-  
8           DIATE RISK MANAGEMENT (PRIORITY CLASS 1).—

9           “(A) DEFINITION OF PRIORITY CLASS 1.—  
10          In this section, the term ‘priority class 1’ means  
11          a priority class that contains chemical sub-  
12          stances that the Administrator determines re-  
13          quire immediate risk management.

14          “(B) ASSIGNMENT TO PRIORITY CLASS  
15          1.—The Administrator shall assign a chemical  
16          substance to priority class 1 if the Adminis-  
17          trator determines that the chemical substance  
18          is, or is degraded and metabolized into, a per-  
19          sistent, bioaccumulative, and toxic substance  
20          with the potential for widespread exposure to  
21          humans or other organisms.

22          “(C) INITIAL ASSIGNMENT.—Not later  
23          than 1 year after the date of enactment of the  
24          Safe Chemicals Act of 2011, the Administrator  
25          shall assign not less than 20, but not more than

1           30, chemical substances to the initial priority  
2 class 1.

3           “(D) RISK MANAGEMENT.—

4           “(i) EXPEDITED EXPOSURE REDUC-  
5 TION.—As soon as practicable, but not  
6 later than 18 months after the date on  
7 which a chemical substance is assigned to  
8 priority class 1 under this paragraph, the  
9 Administrator shall impose conditions in  
10 accordance with subsection (c) on the man-  
11 ufacturing, processing, use, distribution in  
12 commerce, and disposal of a chemical sub-  
13 stance assigned to priority class 1 that the  
14 Administrator determines necessary to  
15 achieve the greatest practicable reductions  
16 in human or environmental exposure to the  
17 chemical substance.

18           “(ii) RESIDUAL RISK ASSESSMENT.—  
19 Not later than 1 year after the effective  
20 date of any conditions established under  
21 clause (i), the Administrator shall—

22           “(I) determine whether the chem-  
23 ical substance meets the applicable  
24 safety standard for the chemical sub-  
25 stance, taking into account the resid-

1           ual risk posed by continued exposure  
2           to the chemical substance; and

3           “~~(H)~~ impose any further condi-  
4           tions under subsection (e) that the  
5           Administrator determines necessary to  
6           ensure that the chemical substance  
7           meets the applicable safety standard.

8           “~~(E)~~ UPDATES.—

9           “~~(i)~~ REVISIONS.—The Administrator  
10          shall promptly revise the list under para-  
11          graph ~~(1)~~ whenever the Administrator de-  
12          termines that the addition or removal of a  
13          chemical substance from priority class ~~1~~ is  
14          warranted.

15          “~~(ii)~~ REMOVAL PROCEDURE.—A  
16          chemical substance may be removed from  
17          the list under paragraph ~~(1)~~ only if the  
18          Administrator finds that such substance  
19          meets the safety standard under subsection  
20          ~~(b)~~.

21          “~~(3)~~ CHEMICAL SUBSTANCES REQUIRING SAFE-  
22          TY STANDARD DETERMINATIONS (PRIORITY CLASS  
23          ~~2~~).—

24          “~~(A)~~ DEFINITION OF PRIORITY CLASS ~~2~~.—

25          In this section, the term ‘priority class ~~2~~’ means

1 a priority class that contains chemical sub-  
2 stances that Administrator determines require  
3 safety standard determinations.

4 “(B) ASSIGNMENT TO PRIORITY CLASS

5 2.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), if the Administrator determines, based  
8 on any more-than-theoretical concern, that  
9 there is uncertainty as to whether a chem-  
10 ical substance would satisfy the safety  
11 standard in a determination made under  
12 subsection (b), the Administrator shall as-  
13 sign that chemical substance priority class  
14 2.

15 “(ii) CONDITIONS.—The Adminis-  
16 trator shall assign chemical substances to  
17 priority class 2 subject to the conditions  
18 that—

19 “(I) the rate at which chemical  
20 substances are added to priority class  
21 2 shall be expeditious, but shall not  
22 exceed the rate at which the Adminis-  
23 trator reasonably anticipates com-  
24 pleting safety standard determinations  
25 under subsection (b); and

1                   “(H) the Administrator shall  
2                   first assign to priority class 2 those  
3                   chemical substances that present the  
4                   greater risks to human health or the  
5                   environment, as determined by the  
6                   Administrator.

7                   “(C) REMOVAL PROCEDURE.—The Admin-  
8                   istrator shall not remove a chemical substance  
9                   from priority class 2 until the Administrator  
10                  has made a safety standard determination for  
11                  that chemical substance under subsection (b).

12                  “(4) CHEMICAL SUBSTANCES REQUIRING NO  
13                  IMMEDIATE ACTION (PRIORITY CLASS 3).—

14                  “(A) DEFINITION OF PRIORITY CLASS 3.—  
15                  In this section, the term ‘priority class 3’ means  
16                  a priority class that contains chemical sub-  
17                  stances that the Administrator determines re-  
18                  quire no immediate action.

19                  “(B) ASSIGNMENT TO PRIORITY CLASS  
20                  3.—The Administrator shall assign a chemical  
21                  substance to priority class 3 if the chemical  
22                  substance has intrinsic properties such that the  
23                  chemical substance, as determined by the Ad-  
24                  ministrator, does not and would not, at any  
25                  stage of the lifecycle of the chemical substance,

1           pose any risk of adverse effects to human  
2           health or the environment under existing, pro-  
3           posed, or anticipated levels of exposure to, or  
4           production or patterns of use of, that chemical  
5           substance.

6           “(C) UPDATES.—The Administrator shall  
7           promptly revise the list under paragraph (1)  
8           whenever the Administrator determines that the  
9           addition or removal of a chemical substance  
10          from priority class 3 is warranted.

11          “(5) INTERAGENCY PRIORITIZATION AND TEST-  
12          ING COMMITTEE.—

13           “(A) ESTABLISHMENT.—There is estab-  
14           lished an interagency committee (referred to in  
15           this section as the ‘committee’) to make rec-  
16           ommendations to the Administrator con-  
17           cerning—

18           “(i) the issuance of test rules or or-  
19           ders for chemical substances and mixtures  
20           under section 4(e); and

21           “(ii) the prioritization of chemical  
22           substances under this subsection.

23          “(B) RECOMMENDATIONS.—

24           “(i) FACTORS.—In making a rec-  
25           ommendation concerning—



1           “(I) the issuance of test rules or  
2 orders under section 4(e), the com-  
3 mittee shall consider all factors rel-  
4 evant to risk; and

5           “(II) prioritization of chemical  
6 substances or categories of chemical  
7 substances under this subsection; the  
8 committee shall consider the criteria  
9 described in paragraphs (2)(B),  
10 (3)(B), and (4)(B).

11          “(ii) FORM.—The recommendations of  
12 the committee shall be in the form of 1 or  
13 more lists of chemical substances and mix-  
14 tures that shall specify, either by individual  
15 substance or mixture or by categories of  
16 substances or mixtures—

17           “(I) the recommendations of the  
18 committee that particular chemical  
19 substances, mixtures, or categories of  
20 chemical substances or mixtures be  
21 the subject of a test rule or order  
22 under section 4(e); or

23           “(II) the recommendations of the  
24 committee that particular chemical  
25 substances, or categories of chemical

1 substances, be prioritized under this  
2 subsection.

3 “(iii) ADDITIONS OR REVISIONS.—

4 “(I) IN GENERAL.—Not less fre-  
5 quently than once every year, the  
6 committee shall—

7 “(aa) make such additions  
8 or revisions to the recommenda-  
9 tions of the committee as the  
10 committee determines to be nec-  
11 essary; and

12 “(bb) submit to the Admin-  
13 istrator the recommendations and  
14 a statement of the reasons of the  
15 committee for any additions or  
16 revisions.

17 “(II) PUBLICATION.—On receipt  
18 of any new or revised recommenda-  
19 tions, the Administrator shall publish  
20 in the Federal Register the rec-  
21 ommendations and the statement of  
22 the reasons for the additions or revi-  
23 sions.

24 “(III) COMMENTS.—The Admin-  
25 istrator shall—

1           “(aa) provide reasonable op-  
2           portunity to any interested per-  
3           son to file with the Administrator  
4           written comments on the rec-  
5           ommendations of the committee,  
6           and any additions or revisions to  
7           the recommendations by the com-  
8           mittee;

9           “(bb) consider any com-  
10          ments received under item (aa);  
11          and

12          “(cc) make any comments  
13          received under item (aa) available  
14          to the public.

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

17               “(i) One member appointed by the  
18               Administrator from among officers or em-  
19               ployees of the Environmental Protection  
20               Agency.

21               “(ii) One member appointed by the  
22               Secretary of Labor from among officers or  
23               employees of the Department of Labor who  
24               are engaged in the activities of the Sec-  
25               retary of Labor under the Occupational

1 Safety and Health Act of 1970 (29 U.S.C.  
2 651 et seq.).

3 “(iii) One member appointed by the  
4 Chairman of the Council on Environmental  
5 Quality from among the Council or the of-  
6 ficers or employees of the Council.

7 “(iv) One member appointed by the  
8 Director of the National Institute for Oc-  
9 cupational Safety and Health from among  
10 officers or employees of the Institute.

11 “(v) One member appointed by the  
12 Director of the National Institute of Envi-  
13 ronmental Health Sciences from among of-  
14 ficers or employees of the Institute.

15 “(vi) One member appointed by the  
16 Director of the National Cancer Institute  
17 from among officers or employees of the  
18 Institute.

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

23 “(viii) One member appointed by the  
24 Secretary of Commerce from among offi-

1 eers or employees of the Department of  
2 Commerce.

3 “(D) APPOINTMENT OF MEMBERS.—

4 “(i) DESIGNEEES.—

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

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

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

14 “(bb) if the individual is an  
15 officer or employee of the entity  
16 from which the member was ap-  
17 pointed.

18 “(ii) TERMS.—

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

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

1 from which the member was ap-  
2 pointed—

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

6 “(bb) the position of the  
7 member shall be considered va-  
8 cant.

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

13 “(E) CONFLICTS OF INTEREST.—

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

23 “(ii) FINANCIAL INTERESTS.—No per-  
24 son, while serving as a member of the com-  
25 mittee or designee of a member, may own

1 any stocks or bonds of, or have any pecu-  
2 niary interest of substantial value in, any  
3 person engaged in the manufacture, proc-  
4 essing, or distribution in commerce of any  
5 chemical substance or mixture subject to  
6 this Act or of any rule promulgated or  
7 order issued under this Act.

8 “(iii) VIOLATIONS.—The Adminis-  
9 trator, acting through the Attorney Gen-  
10 eral, may bring an action in the appro-  
11 priate district court of the United States  
12 for any violation of this subparagraph.

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

19 “(6) NO JUDICIAL REVIEW.—The following ac-  
20 tions shall not be subject to judicial review:

21 “(A) The assignment of a particular chem-  
22 ical substance under this subsection.

23 “(B) A determination by the Administrator  
24 of whether a particular assignment under this  
25 subsection is warranted.

1           “(C) A response to a petition to include a  
2           particular chemical substance on the list under  
3           this subsection.

4           “(D) The issuance of a recommendation to  
5           list a chemical substance under this subsection.

6           “(b) SAFETY STANDARD DETERMINATIONS FOR  
7           CHEMICAL SUBSTANCES.—

8           “(1) IN GENERAL.—

9           “(A) APPLICATION.—This paragraph ap-  
10          plies to the determination, or redetermination,  
11          of whether a chemical substance meets the ap-  
12          plicable safety standard of this title.

13          “(B) BURDEN OF PROOF.—

14          “(i) IN GENERAL.—Under this title,  
15          the manufacturers and processors of a  
16          chemical substance, at all times, bear the  
17          burden of proving that the chemical sub-  
18          stance meets the applicable safety stand-  
19          ard.

20          “(ii) DUTIES.—Under this title, it  
21          shall be the duty of—

22                  “(I) the manufacturers and proc-  
23                  essors of a chemical substance to pro-  
24                  vide sufficient information for the Ad-  
25                  ministrators to determine whether the



1 chemical substance meets the applica-  
2 ble safety standard; and

3 “(H) the Administrator to deter-  
4 mine whether the chemical substance  
5 meets the applicable safety standard.

6 “(C) ASSESSMENT OF RISK.—

7 “(i) IN GENERAL.—Any determination  
8 that a chemical substance meets the appli-  
9 cable safety standard under subparagraph  
10 (B)(ii) shall be supported by an assess-  
11 ment of risk conducted by an employee of  
12 the Environmental Protection Agency.

13 “(ii) SAFETY STANDARD.—

14 “(I) IN GENERAL.—The Admin-  
15 istrator shall base the determination  
16 of whether the safety standard for a  
17 chemical substance has been met  
18 under this title solely on consider-  
19 ations of human health and the envi-  
20 ronment, including the health of vul-  
21 nerable human populations.

22 “(H) CONSIDERATIONS.—In  
23 making a safety standard determina-  
24 tion under this title, for each chemical  
25 substance, the Administrator shall—

1           “(aa) to the extent prac-  
2           ticable, review and incorporate  
3           any available scientific informa-  
4           tion relating to the effect of cu-  
5           mulative exposure to that chem-  
6           ical substance on human health  
7           and the environment; and

8           “(bb) find that a chemical  
9           substance meets the safety stand-  
10          ard only if the Administrator  
11          finds that there is a reasonable  
12          certainty that no harm will result  
13          to human health or the environ-  
14          ment from aggregate exposure to  
15          the chemical substance.

16          “(iii) FINANCIAL INTERESTS.—No  
17          participant or peer reviewer in an assess-  
18          ment described in clause (i) shall have a  
19          direct or indirect financial interest in the  
20          outcome of the assessment.

21          “(iv) METHODOLOGY.—

22          “(I) IN GENERAL.—Subject to  
23          subclause (II), the Administrator shall  
24          use the best available science when

1 conducting an assessment described in  
2 clause (i).

3 “(II) CONSIDERATIONS.—For the  
4 purpose of determining the current  
5 best available science, the Adminis-  
6 trator shall base the determination on  
7 the recommendations of the National  
8 Academy of Sciences in the report en-  
9 titled ‘Science and Decisions’.

10 “(III) REVIEW.—Not later than  
11 5 years after the date of enactment of  
12 the Safe Chemicals Act of 2011, and  
13 not less frequently than once every 5  
14 years thereafter, the Administrator  
15 shall review the methodology under  
16 this paragraph and may revise the  
17 methodology to reflect new scientific  
18 developments or understandings.

19 “(v) SCOPE.—An assessment de-  
20 scribed in clause (i) shall address human  
21 health or environmental impacts, including  
22 potential or demonstrated cancer and non-  
23 cancer endpoints.

24 “(vi) TRANSPARENCY.—In carrying  
25 out this subsection, the Administrator shall

1 ensure that the approaches and resulting  
2 assessments are communicated in a man-  
3 ner that is transparent and understandable  
4 to the public and to risk managers.

5 “(vii) MANUFACTURE OR PROCESSING  
6 FOR EXPORT.—In the case of a chemical  
7 substance that is manufactured or proc-  
8 essed in whole or in part for export, in de-  
9 termining whether the chemical substance  
10 meets the applicable safety standard under  
11 subparagraph (B)(ii), the Administrator  
12 shall take into account any risks that the  
13 chemical substance may pose in the United  
14 States, including risks involving long-range  
15 transport of the chemical substance in the  
16 environment and risks involving the import  
17 of articles and mixtures containing the  
18 chemical substance.

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

1           “(D) NO JUDICIAL REVIEW.—A determina-  
2           tion by the Administrator that a manufacturer  
3           or processor has not established that the chem-  
4           ical substance meets the applicable safety  
5           standard under this subsection shall not be sub-  
6           ject to judicial review.

7           “(2) DUTIES.—

8           “(A) MANUFACTURER AND PROCESSOR  
9           DUTIES.—

10           “(i) INITIAL SAFETY STANDARD DE-  
11           TERMINATION SUBMISSION.—

12           “(I) IN GENERAL.—By the date  
13           that is 30 months after the date on  
14           which a chemical substance is as-  
15           signed to priority class 2 under sub-  
16           section (a), the manufacturers and  
17           processors of a chemical substance  
18           shall—

19           “(aa) update the minimum  
20           dataset, if the data set was sub-  
21           mitted prior to the assignment of  
22           the chemical substance to priority  
23           class 2 under subsection (a);

24           “(bb) submit to the Admin-  
25           istrator any additional informa-

1 tion the Administrator may re-  
2 quire to make a safety standard  
3 determination, including any in-  
4 formation the Administrator de-  
5 termines is necessary to be devel-  
6 oped by testing; and

7 “(cc) indicate whether the  
8 chemical substance, including  
9 specified uses to be evaluated and  
10 any proposed conditions on the  
11 specified uses, meets the safety  
12 standard.

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

23 “(III) LIABILITY.—All manufac-  
24 turers and processors described in  
25 subclause (II) shall remain liable for

1 compliance with any requirements  
2 subject to the designation.

3 “(ii) RENEWAL OF SAFETY STANDARD  
4 DETERMINATION SUBMISSION.—

5 “(I) IN GENERAL.—Not later  
6 than 15 years after the date of the  
7 previous submission under clause (i),  
8 this clause, or section 5(e)(1), the  
9 manufacturers and processors of each  
10 chemical substance shall—

11 “(aa) submit to the Admin-  
12 istrator an updated minimum  
13 data set for the chemical sub-  
14 stance, as established under sec-  
15 tion 4(a); and

16 “(bb) indicate whether the  
17 chemical substance, including  
18 specified uses to be evaluated and  
19 any proposed conditions on the  
20 specified use meets the safety  
21 standard.

22 “(II) SUBMITTING MANUFACTUR-  
23 ERS AND PROCESSORS.—The Admin-  
24 istrator may permit the manufactur-  
25 ers and processors of a chemical sub-

1                    stance to designate 1 or more manu-  
2                    facturers or processors to submit the  
3                    information required under subclause  
4                    (I) on behalf of the manufacturers  
5                    and processors making the designa-  
6                    tion.

7                    “(III) LIABILITY.—All manufac-  
8                    turers and processors described in  
9                    subclause (II) shall remain liable for  
10                   compliance with any requirements  
11                   subject to the designation.

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



1           trator by rule or order, a written notice  
2           that a determination by the Administrator  
3           of the safety of the chemical substance is  
4           pending.

5           “(iv) FAILURE OF MANUFACTURER OR  
6           PROCESSOR TO MEET DUTIES.—If a manu-  
7           facturer or processor fails to meet any  
8           duty under this subparagraph for a chem-  
9           ical substance, the Administrator may, by  
10          order, take any action authorized under  
11          subsection (e) if a manufacturer or proe-  
12          cessor is in violation of a duty under this  
13          subparagraph, except as authorized sub-  
14          section (e).

15          “(B) ADMINISTRATOR DUTIES.—

16          “(i) SAFETY STANDARD DETERMINA-  
17          TION.—Not later than 1 year after the ear-  
18          lier of the date of receipt of a complete  
19          submission or the applicable submission  
20          deadline under clause (i) or (ii) of subpara-  
21          graph (A), or after initiating a redeter-  
22          mination under clause (iii) of this subpara-  
23          graph, with respect to a chemical sub-  
24          stance, the Administrator shall by order  
25          determine, or redetermine, as appropriate,

1 whether the manufacturers and processors  
2 of the chemical substance have established  
3 that the chemical substance meets the  
4 safety standard.

5 “(ii) USES AND CONDITIONS.—If the  
6 Administrator determines that the chem-  
7 ical substance meets the safety standard,  
8 the Administrator shall specify in the  
9 order—

10 “(I) the allowed uses of the sub-  
11 stance, which shall be limited to the  
12 uses evaluated in the determination;  
13 and

14 “(II) any conditions on the speci-  
15 fied uses to ensure the safety stand-  
16 ard is met, including conditions that  
17 relate to the manufacture, processing,  
18 use, distribution in commerce, or dis-  
19 posal of a chemical substance, or mix-  
20 ture or article containing such chem-  
21 ical substance, and any conditions de-  
22 scribed in subsection (c).

23 “(iii) REDETERMINATION.—The Ad-  
24 ministrator shall initiate a redetermination  
25 of whether the manufacturers and proc-

1            errors of a chemical substance distributed  
2            in commerce have established that the  
3            chemical substance meets the safety stand-  
4            ard—

5            “(I) if new information raises a  
6            credible question as to whether the  
7            chemical substance continues to meet  
8            the safety standard;

9            “(II) on the receipt of a renewal  
10           submission under subparagraph  
11           (A)(ii); or

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

19           “(iv) PETITION FOR REDETERMINA-  
20           TION.—

21           “(I) IN GENERAL.—Any person  
22           may petition the Administrator for a  
23           redetermination of whether a chemical  
24           substance continues to meet the appli-  
25           cable safety standard.

1           “(II) BASIS.—The person shall  
2 include in the petition a description of  
3 the basis for requesting the redeter-  
4 mination.

5           “(III) ACTION BY ADMINIS-  
6 TRATOR.—On receipt of the petition,  
7 the Administrator shall—

8           “(aa) not later than 30 days  
9 after the date of receipt, publish  
10 in the Federal Register a notice  
11 of receipt of the petition that  
12 specifies the chemical identity of  
13 the chemical substance to which  
14 the petition pertains;

15           “(bb) make the petition  
16 available on request;

17           “(cc) provide a reasonable  
18 opportunity for public review and  
19 comment on the petition and give  
20 due consideration to any com-  
21 ments received;

22           “(dd) decide whether to  
23 make the requested redetermina-  
24 tion; and

1                   “(cc) not later than 180  
2                   days after the date of receipt,  
3                   publish in the Federal Register  
4                   the decision and the basis for the  
5                   decision.

6                   “(3) RISK REDUCTION.—

7                   “(A) IN GENERAL.—Except as provided  
8                   under subsection (c), the risk reduction meas-  
9                   ures described in this paragraph shall apply to  
10                  a chemical substance in accordance with this  
11                  paragraph.

12                  “(B) NEGATIVE SAFETY STANDARD DE-  
13                  TERMINATION.—No person shall manufacture,  
14                  process, or distribute in commerce a chemical  
15                  substance, or any mixture or article containing  
16                  the chemical substance, for—

17                  “(i) any new chemical substance for  
18                  which notice is required under section 5(a),  
19                  effective immediately after the Adminis-  
20                  trator makes a safety standard determina-  
21                  tion for a chemical substance under para-  
22                  graph (2)(B)(i) and does not determine  
23                  that the manufacturer or processor has es-  
24                  tablished that the chemical substance  
25                  meets the applicable safety standard; or

1           “(ii) any other chemical substance, ef-  
2           fective 1 year after the Administrator  
3           makes a safety standard determination for  
4           a chemical substance under paragraph  
5           (2)(B)(i) and does not determine that the  
6           chemical substance meets the applicable  
7           safety standard.

8           “(C) POSITIVE SAFETY STANDARD DETER-  
9           MINATION.—Effective beginning 1 year after  
10          the date on which the Administrator determines  
11          under paragraph (2)(B)(i) that a chemical sub-  
12          stance meets the safety standard or imme-  
13          diately after such a determination is made for  
14          a new chemical substance for which notice is re-  
15          quired under section 5(a), no person shall man-  
16          ufacture, process, or distribute in commerce the  
17          chemical substance, or any mixture or article  
18          containing the chemical substance, for any use  
19          other than those specified in the determination  
20          established under paragraph (2)(B)(ii).

21          “(e) RISK MANAGEMENT.—The Administrator, in  
22          making a safety standard determination, may impose con-  
23          ditions on the manufacture, processing, use, distribution  
24          in commerce, or disposal of a chemical substance, or mix-

1 ture or article containing that chemical substance, in ac-  
2 cordance with subsection (b)(2)(B)(ii)(II), including—

3       “(1) a requirement limiting the quantity of the  
4 substance that may be manufactured, processed, or  
5 distributed in commerce;

6       “(2) a requirement—

7           “(A) prohibiting the manufacture, proc-  
8 essing, or distribution in commerce of the sub-  
9 stance for a particular use in a concentration in  
10 excess of a level specified by the Administrator  
11 in conditions under subsection (b)(2)(B)(ii)(II);  
12 or

13           “(B) limiting the quantity of the substance  
14 that may be manufactured, processed, or dis-  
15 tributed in commerce for—

16           “(i) a particular use; or

17           “(ii) a particular use in a concentra-  
18 tion in excess of a level specified by the  
19 Administrator in conditions established  
20 under subsection (b)(2)(B)(ii)(II);

21       “(3) a requirement that the substance be  
22 marked with or accompanied by clear and adequate  
23 warnings and instructions with respect to use, dis-  
24 tribution in commerce, or disposal, or any combina-  
25 tion of such activities, with the form and content of

1 the warnings and instructions prescribed by the Ad-  
2 ministrators;

3 ~~“(4) a requirement that manufacturers and~~  
4 ~~processors of the substance—~~

5 ~~“(A) make and retain records of the proe-~~  
6 ~~esses used to manufacture or process the sub-~~  
7 ~~stance; and~~

8 ~~“(B) monitor or conduct tests that are rea-~~  
9 ~~sonable and necessary to ensure compliance~~  
10 ~~with this Act;~~

11 ~~“(5) a requirement prohibiting or otherwise reg-~~  
12 ~~ulating any manner or method of commercial use of~~  
13 ~~the substance;~~

14 ~~“(6) a requirement prohibiting or otherwise reg-~~  
15 ~~ulating any manner or method of disposal of the~~  
16 ~~substance by—~~

17 ~~“(A) the manufacturer or processor of the~~  
18 ~~substance; or~~

19 ~~“(B) any other person that uses, or dis-~~  
20 ~~poses of, the substance for commercial pur-~~  
21 ~~poses; and~~

22 ~~“(7) a requirement that the manufacturers and~~  
23 ~~processors of the substance, mixture, or article de-~~  
24 ~~velop a risk reduction management plan to achieve~~  
25 ~~a risk reduction specified by the Administrator.~~



1 “(d) QUALITY CONTROL ORDERS.—

2 “(1) IN GENERAL.—If the Administrator has a  
3 reasonable basis to conclude that a particular manu-  
4 facturer or processor is manufacturing or processing  
5 a chemical substance in a manner that may present  
6 a substantial endangerment to human health or the  
7 environment, the Administrator may, by order, re-  
8 quire the manufacturer or processor to submit a de-  
9 scription of the quality control procedures followed  
10 in the manufacturing or processing of the chemical  
11 substance.

12 “(2) ORDERS.—

13 “(A) IN GENERAL.—If the Administrator  
14 determines that quality control procedures de-  
15 scribed in paragraph (1) are inadequate to pre-  
16 vent the chemical substance from presenting a  
17 risk of injury to human health or the environ-  
18 ment, the Administrator may order the manu-  
19 facturer or processor to revise the quality con-  
20 trol procedures to the extent necessary to rem-  
21 edy the inadequacy.

22 “(B) SUBSTANTIAL ENDANGERMENT.—If  
23 the Administrator determines that quality con-  
24 trol procedures described in paragraph (1) have  
25 resulted in the distribution in commerce of a

1 chemical substance that may present a substan-  
2 tial endangerment to human health or the envi-  
3 ronment, the Administrator may order the man-  
4 ufacturer or processor—

5 “(i) to give notice of the  
6 endangerment to—

7 “(I) processors or distributors (or  
8 both) in commerce of the substance;  
9 and

10 “(II) to the extent reasonably as-  
11 certainable, any other person in pos-  
12 session of or exposed to the substance;

13 “(ii) to give public notice of the  
14 endangerment; and

15 “(iii) to provide for the replacement  
16 or repurchase, as prescribed by the Admin-  
17 istrator, of the substance as the Adminis-  
18 trator determines necessary to adequately  
19 protect human health or the environment.

20 “(e) EXEMPTIONS TO RESTRICTIONS.—

21 “(1) APPLICATION.—This subsection applies to  
22 the restrictions established under sections 4(a)(3),  
23 4(b)(3), 8(b)(6), and 8(e)(3), and paragraphs  
24 (2)(A)(iv) and (3) of subsection (b).

25 “(2) EXEMPTIONS.—

1                   “(A) IN GENERAL.—

2                   “(i) REQUEST.—The manufacturers  
3                   and processors of a chemical substance  
4                   may request an exemption from any re-  
5                   striction described in paragraph (1) for a  
6                   specified use of the chemical substance.

7                   “(ii) ORDER.—The Administrator  
8                   may, by order, grant an exemption from  
9                   any restriction described in paragraph (1)  
10                  for a period of not to exceed 5 years if the  
11                  manufacturers and processors of the chem-  
12                  ical substance have established by clear  
13                  and convincing evidence that the uses to be  
14                  exempted meet the exemption criteria de-  
15                  scribed in subparagraph (B).

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

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

21                         “(ii) the lack of availability of the  
22                         chemical substance would cause significant  
23                         disruption in the national economy; or

1           “(iii) the use for which the exemption  
2           is sought is a critical or essential use for  
3           which—

4                   “(I) no feasible safer alternative  
5                   for the specified use of the chemical  
6                   substance is available; or

7                   “(II) the specified use of the  
8                   chemical substance when compared to  
9                   all available alternatives, provides a  
10                  net benefit to human health, the envi-  
11                  ronment, or public safety.

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

15                   “(i) the manufacturers and processors  
16                   of the chemical substance shall, for the ex-  
17                   empted use, provide notice of the exemp-  
18                   tion to each known purchaser of—

19                           “(I) the chemical substance; and

20                           “(II) a mixture or article con-  
21                           taining the chemical substance; and

22                   “(ii) the Administrator shall provide  
23                   the public with a notice of the exemption.

24           “(D) RENEWAL.—The Administrator may,  
25           by order, renew an exemption under this para-

1 graph for 1 or more additional 5-year periods  
2 if the Administrator concludes, after providing  
3 public notice and an opportunity for comment,  
4 that the use of the chemical substance con-  
5 tinues to meet the criteria described in subpara-  
6 graph (B).

7 “(E) CONDITIONS.—

8 “(i) IN GENERAL.—The Administrator  
9 shall, by order, impose any condition on an  
10 exemption issued under this paragraph  
11 that the Administrator determines to be  
12 necessary to ensure the protection of  
13 human health and the environment.

14 “(ii) COMPLIANCE.—Effective imme-  
15 diately after the date on which the Admin-  
16 istrator establishes conditions on exempted  
17 use under clause (i), the manufacturing,  
18 processing, or distribution in commerce of  
19 the chemical substance, or any mixture or  
20 article containing the chemical substance,  
21 shall be prohibited except to the extent  
22 that the conditions are satisfied.

23 “(3) RESALE OF USED ARTICLES.—The restric-  
24 tions described in paragraph (1) shall not apply to  
25 the resale of an article subject to a restriction under

1 subsection (b) if the article has previously been used  
2 by an end consumer.

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

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), in the case of the retail sale  
7 to an end consumer of a chemical substance (or  
8 mixture or article containing that chemical sub-  
9 stance) that is subject to a restriction described  
10 in paragraph (1), the Administrator may, by  
11 order, extend the effective date of the restric-  
12 tion by a period not to exceed 3 years, if the  
13 Administrator determines that the extension—

14 “(i) is necessary and appropriate to  
15 allow for depletion of the existing retail in-  
16 ventory; and

17 “(ii) will not present a substantial  
18 endangerment to human health or the en-  
19 vironment.

20 “(B) EXCEPTION.—An extension under  
21 subparagraph (A) shall not apply to any retailer  
22 that the Administrator determines has failed to  
23 comply with an order requesting information  
24 issued by the Administrator pursuant to section  
25 8.

1       “(f) POLYCHLORINATED BIPHENYLS.—

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

5               “(A) to prescribe methods for the disposal  
6       of polychlorinated biphenyls; and

7               “(B) to require polychlorinated biphenyls  
8       to be marked with clear and adequate warnings  
9       and instructions with respect to the processing,  
10       distribution in commerce, use, or disposal (or  
11       any combination of such activities) of poly-  
12       chlorinated biphenyls.

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

14              “(A) DEFINITION OF TOTALLY ENCLOSED  
15       MANNER.—In this paragraph, the term ‘totally  
16       enclosed manner’ means any manner that en-  
17       sures that any exposure of human beings or the  
18       environment to the polychlorinated biphenyl will  
19       be insignificant, as determined by the Adminis-  
20       trator by order or rule.

21              “(B) PROHIBITION.—Except as provided  
22       in subparagraph (C), no person may manufac-  
23       ture, process, distribute in commerce, or use  
24

1 any polychlorinated biphenyl in any manner  
2 other than in a totally enclosed manner.

3 “(C) ALTERNATIVE MANNER.—The Ad-  
4 ministrator may, by order or rule, authorize the  
5 manufacture, processing, distribution in com-  
6 merce, or use (or any combination of such ac-  
7 tivities) of any polychlorinated biphenyl in a  
8 manner other than in a totally enclosed manner  
9 if the Administrator finds that the manufac-  
10 ture, processing, distribution in commerce, or  
11 use (or combination of such activities) will not  
12 present a substantial endangerment to human  
13 health or the environment.

14 “(3) PROHIBITION ON MANUFACTURE, PROC-  
15 ESS, OR DISTRIBUTION.—

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

18 “(i) no person may manufacture any  
19 polychlorinated biphenyl; and

20 “(ii) no person may process or dis-  
21 tribute in commerce any polychlorinated  
22 biphenyl.

23 “(B) EXEMPTIONS.—

24 “(i) IN GENERAL.—Any person may  
25 petition the Administrator for an exemp-



1           tion from the requirements of subpara-  
2           graph (A), and the Administrator may  
3           grant by rule the exemption, if the Admin-  
4           istrator finds that—

5                   “(I) a substantial endangerment  
6                   to human health or environment  
7                   would not result; and

8                   “(II) good faith efforts have been  
9                   made to develop a chemical substance  
10                  that meets the safety standard and  
11                  that may be substituted for such poly-  
12                  chlorinated biphenyl.

13           “(ii) ADMINISTRATION.—An exemp-  
14           tion granted under this subparagraph shall  
15           be—

16                   “(I) subject to such terms and  
17                   conditions as the Administrator may  
18                   prescribe; and

19                   “(II) be in effect for such period  
20                   (but not more than 1 year after the  
21                   date on which the exemption is grant-  
22                   ed, except as provided in subpara-  
23                   graph (D)) as the Administrator may  
24                   prescribe.

1           “(C) PRIOR SALES.—Subparagraph (A)  
2 shall not apply to the distribution in commerce  
3 of any polychlorinated biphenyl if the poly-  
4 chlorinated biphenyl was sold for purposes other  
5 than resale before the expiration of the 2½-  
6 year period beginning on the date of enactment  
7 of this Act.

8           “(D) EXTENSION OF EXEMPTIONS.—

9           “(i) IN GENERAL.—The Administrator  
10 may, by order or rule, extend an exemption  
11 granted under subparagraph (B) that has  
12 not yet expired for a period not to exceed  
13 60 days for the purpose of authorizing the  
14 Secretary of Defense and the Secretaries  
15 of the military departments to provide for  
16 the transportation into the customs terri-  
17 tory of the United States of poly-  
18 chlorinated biphenyls generated by or  
19 under the control of the Department of  
20 Defense for purposes of the disposal, treat-  
21 ment, or storage of the polychlorinated  
22 biphenyls in the customs territory of the  
23 United States if the polychlorinated  
24 biphenyls are already in transit from stor-  
25 age locations but the Administrator deter-

1 mines, in the sole discretion of the Admin-  
 2 istrator, the polychlorinated biphenyls  
 3 would not otherwise arrive in the customs  
 4 territory of the United States within the  
 5 period of the original exemption.

6 “(ii) NOTICE.—The Administrator  
 7 shall promptly publish in the Federal Reg-  
 8 ister notice of the extension.

9 “(g) MERCURY.—

10 “(1) IN GENERAL.—Except as provided in para-  
 11 graph (2), no Federal agency shall convey, sell, or  
 12 distribute to any other Federal agency, any State or  
 13 local government agency, or any private individual or  
 14 entity any elemental mercury under the control or  
 15 jurisdiction of the Federal agency.

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

18 “(A) a transfer between Federal agencies  
 19 of elemental mercury for the sole purpose of fa-  
 20 cilitating storage of mercury to carry out this  
 21 Act; or

22 “(B) a conveyance, sale, distribution, or  
 23 transfer of coal.

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

1       “(h) CERTIFICATION.—Each submission required  
 2 pursuant to this section or pursuant to a rule or an order  
 3 promulgated or issued by the Administrator under this  
 4 section shall be accompanied by a certification signed by  
 5 a responsible official of the manufacturer or processor that  
 6 each statement contained in the submission—

7               “(1) is accurate and reliable; and

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

11       “(i) EFFECTIVE DATE.—In any rule or order under  
 12 this section, the Administrator shall specify the date on  
 13 which the rule or order shall take effect, which shall be  
 14 as soon as practicable.”.

15 **SEC. 5. MINIMUM INFORMATION SETS AND TESTING OF**  
 16 **CHEMICAL SUBSTANCES.**

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

19 **“SEC. 4. MINIMUM INFORMATION SETS AND TESTING OF**  
 20 **CHEMICAL SUBSTANCES.**

21       “(a) MINIMUM INFORMATION SETS.—

22               “(1) RULE.—

23                       “(A) IN GENERAL.—Subject to subpara-  
 24 graphs (B) and (C), and not later than 1 year  
 25 after the date of enactment of the Safe Chemicals

1           *Act of 2011, the Administrator shall establish, by*  
2           *rule, such minimum information sets as the Ad-*  
3           *ministrator determines to be appropriate to*  
4           *evaluate chemical substances under sections 5*  
5           *and 6.*

6           “(B) *GENERAL REQUIREMENTS.—The rule*  
7           *promulgated pursuant to subparagraph (A)*  
8           *shall—*

9                   “(i) *provide for varied or tiered infor-*  
10                  *mation to be provided for different chemical*  
11                  *substances;*

12                  “(ii) *identify the particular minimum*  
13                  *information set that applies to a chemical*  
14                  *substance;*

15                  “(iii) *require each minimum informa-*  
16                  *tion set to include sufficient information for*  
17                  *the Administrator to conduct a screening-*  
18                  *level risk assessment of the chemical sub-*  
19                  *stance, including information on the char-*  
20                  *acteristics, toxicological properties, environ-*  
21                  *mental and biological fate and behavior, ex-*  
22                  *posure, and use of a chemical substance;*

23                  “(iv) *specify information quality and*  
24                  *reliability requirements applicable to the*

1 *information submitted in the minimum in-*  
2 *formation sets; and*

3 *“(v) accommodate the use of alter-*  
4 *native testing methods and testing strategies*  
5 *to generate information quickly, at low cost,*  
6 *and with reduced use of animal-based test-*  
7 *ing, including toxicity pathway-based risk*  
8 *assessment, in vitro studies, systems biology,*  
9 *computational toxicology, bioinformatics,*  
10 *and high-throughput screening, to the extent*  
11 *such methods and strategies would yield in-*  
12 *formation of equivalent quality and reli-*  
13 *ability.*

14 *“(C) SPECIFIC REQUIREMENTS.—The rule*  
15 *promulgated pursuant to subparagraph (A) shall*  
16 *establish minimum information sets sufficient*  
17 *for the Administrator to administer this Act, in-*  
18 *cluding to carry out—*

19 *“(i) categorization of new chemical*  
20 *substances under section 5(b)(2), including*  
21 *the identification of information—*

22 *“(I) sufficiently robust to gen-*  
23 *erally support the categorization of a*  
24 *new chemical substance as a substance*

1                   of very low concern under section  
2                   5(b)(2)(D)(iii)(II); and

3                   “(II) in the absence of which the  
4                   Administrator shall designate a new  
5                   chemical substance to be a substance  
6                   with insufficient information under  
7                   section 5(b)(2)(D)(iv);

8                   “(ii) categorization of existing chem-  
9                   ical substances under section 6(b)(3), in-  
10                  cluding the identification of information—

11                  “(I) sufficiently robust to gen-  
12                  erally support the categorization of an  
13                  existing chemical substance as a sub-  
14                  stance of very low concern under sec-  
15                  tion 6(b)(3)(B)(ii); and

16                  “(II) in the absence of which the  
17                  Administrator shall designate an exist-  
18                  ing chemical substance to be a sub-  
19                  stance with insufficient information  
20                  under section 6(b)(3)(B)(iv);

21                  “(iii) assignment of chemical sub-  
22                  stances to priority classes under section  
23                  6(b)(4);

24                  “(iv) safety standard determinations—

1                   “(I) for new uses of existing chem-  
2                   ical substances under section 5(b)(2);  
3                   and

4                   “(II) for chemical substances  
5                   under section 6(d); and

6                   “(v) safety standard redeterminations  
7                   under section 6(d)(5)(E).

8                   “(2) *SUBMISSION OF MINIMUM INFORMATION*  
9                   *SET.*—Each manufacturer and processor of a chem-  
10                  ical substance shall submit the minimum information  
11                  set for the chemical substance to the Administrator—

12                  “(A) for new chemical substances, concu-  
13                  rent with the notice required under section  
14                  (5)(b)(1)(A); and

15                  “(B) for existing chemical substances, as  
16                  specified in section 6 or otherwise specified by  
17                  the Administrator in the rule promulgated pur-  
18                  suant to paragraph (1)(A).

19                  “(3) *PROHIBITION.*—In addition to any other  
20                  authorities available under this Act, the Adminis-  
21                  trator may, by order, take any action authorized  
22                  under section 6(f) if a manufacturer or processor is  
23                  in violation of paragraph (2).

24                  “(b) *TESTING.*—

25                  “(1) *GENERAL SUBMISSIONS.*—



1           “(A) *IN GENERAL.*—*The Administrator*  
2           *may, by rule or order, require testing with re-*  
3           *spect to any chemical substance, and the submis-*  
4           *sion of test results by a specified date, as appro-*  
5           *priate for making any determination or car-*  
6           *rying out any provision of this Act. Such testing*  
7           *may be required—*

8                   “(i) *to provide information in addition*  
9                   *to the information specified in any applica-*  
10                  *ble minimum information set under sub-*  
11                  *section (a); and*

12                  “(ii) *of persons to whom the Adminis-*  
13                  *trator decides not to apply a requirement to*  
14                  *submit a minimum information set under*  
15                  *subsection (a).*

16           “(B) *EFFECT ON OTHER AUTHORITY.*—  
17           *Nothing in this paragraph limits the authority*  
18           *of the Administrator under paragraph (2).*

19           “(2) *SAMPLE SUBMISSIONS.*—

20           “(A) *IN GENERAL.*—*The Administrator*  
21           *may, by rule or order, require the submission of*  
22           *a sample of any chemical substance in such*  
23           *manner as the Administrator determines enables*  
24           *the Administrator to conduct any tests necessary*

1           *for making any determination or carrying out*  
2           *any provision of this Act.*

3           “(B) *EFFECT ON OTHER AUTHORITY.—*  
4           *Nothing in this paragraph limits the authority*  
5           *of the Administrator under paragraph (1).*

6           “(3) *PROHIBITION.—In addition to any other*  
7           *authorities available under this Act, the Adminis-*  
8           *trator may, by order, take any action authorized*  
9           *under section 6(f) if a manufacturer or processor is*  
10          *in violation of a rule or order under paragraph (1).*

11          “(4) *EXEMPTION.—If a manufacturer or proc-*  
12          *essor ceases all manufacture or processing of a chem-*  
13          *ical substance pursuant to its submission of a dec-*  
14          *laration of cessation of manufacture or processing*  
15          *under section 8(b)(4) for the chemical substance, the*  
16          *manufacturer or processor shall be exempted from the*  
17          *requirements of this subsection.*

18          “(c) *TEST RULES OR ORDERS.—*

19                 “(1) *IN GENERAL.—A rule or order issued under*  
20                 *subsection (b) shall include—*

21                         “(A) *identification of the chemical sub-*  
22                         *stance for which testing is required under the*  
23                         *rule or order;*

24                         “(B) *standards for the development of test*  
25                         *information for that substance; and*

1           “(C) a specification of the period (which  
2           may not be of unreasonable duration) within  
3           which the persons required to conduct the testing  
4           shall submit to the Administrator information  
5           developed in accordance with the standards re-  
6           ferred to in subparagraph (B).

7           “(2) CONSIDERATIONS.—

8           “(A) IN GENERAL.—In determining the  
9           standards and period to be required under sub-  
10          paragraphs (B) and (C) of paragraph (1), the  
11          Administrator shall consider—

12                   “(i) the relative costs of the various test  
13                   protocols and methodologies that may be re-  
14                   quired under the rule or order; and

15                   “(ii) the reasonably foreseeable avail-  
16                   ability of the facilities and personnel needed  
17                   to perform the testing required under the  
18                   rule.

19          “(B) PRELIMINARY INFORMATION.—Any  
20          rule or order issued by the Administrator under  
21          this subsection may require a manufacturer or  
22          processor to submit preliminary information  
23          during the period described in paragraph (1)(C).

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

1           “(A) *IN GENERAL.*—*The Administrator*  
2           *may prescribe standards for the development of*  
3           *test information under this subsection for health*  
4           *and environmental information, including—*

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

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

15                   “(iii) *information pertaining to—*

16                           “(I) *bioaccumulation;*

17                           “(II) *persistence;*

18                           “(III) *acute toxicity;*

19                           “(IV) *subacute toxicity;*

20                           “(V) *chronic toxicity; and*

21                           “(VI) *any other characteristic*

22                   *that may present an adverse effect.*

23           “(B) *METHODOLOGIES.*—

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

1           for the development of test information, in-  
2           cluding—

3                       “(I) epidemiologic studies;

4                       “(II) biomonitoring or environ-  
5                       mental monitoring studies;

6                       “(III) serial or hierarchical tests;

7                       “(IV) *in vitro* tests;

8                       “(V) whole animal tests, con-  
9                       sistent with section 30; and

10                      “(VI) any other methodology  
11                      deemed appropriate by the Adminis-  
12                      trator.

13                      “(ii) *REQUIREMENT.*—Prior to pre-  
14                      scribing epidemiologic studies of employees,  
15                      the Administrator shall consult with the Di-  
16                      rector of the National Institute for Occupa-  
17                      tional Safety and Health.

18                      “(C) *REVIEW.*—Periodically, but not less  
19                      frequently than once every 3 years, the Adminis-  
20                      trator shall—

21                           “(i) review the adequacy of the stand-  
22                           ards for development of information pre-  
23                           scribed under subparagraph (A); and

1                   “(ii) if necessary, institute proceedings  
2                   to make appropriate revisions of those  
3                   standards.

4                   “(4) PERSONS REQUIRED TO CONDUCT TESTS  
5                   AND SUBMIT INFORMATION.—

6                   “(A) IN GENERAL.—Except as provided in  
7                   subparagraph (B), a rule or order under sub-  
8                   section (b) respecting a chemical substance shall  
9                   specify the persons required to conduct tests and  
10                  submit information to the Administrator on the  
11                  substance.

12                  “(B) EXCEPTION.—The Administrator may  
13                  permit 2 or more of the persons described in sub-  
14                  paragraph (A) to designate 1 of the persons or  
15                  a qualified third party to conduct the tests and  
16                  submit the information on behalf of the persons  
17                  making the designation.

18                  “(C) LIABILITY.—All persons described in  
19                  subparagraphs (A) and (B) shall remain liable  
20                  for compliance with any requirements subject to  
21                  the designation.

22                  “(5) EXPIRATION OF RULES AND ORDERS.—

23                  “(A) IN GENERAL.—Any rule or order  
24                  under subsection (b) that requires the testing and  
25                  submission of information for a particular chem-

1           *ical substance shall expire at the end of the ap-*  
2           *plicable reimbursement period (as defined in*  
3           *subsection (d)(3)) unless, prior to that date, the*  
4           *Administrator withdraws the rule or order.*

5           “(B) *CATEGORY OF CHEMICAL SUB-*  
6           *STANCES.—A rule or order under subsection (b)*  
7           *that requires the testing and submission of infor-*  
8           *mation for a category of chemical substances*  
9           *shall expire with respect to a chemical substance*  
10          *included in the category at the end of the appli-*  
11          *cable reimbursement period (as defined in sub-*  
12          *section (d)(3)) unless, prior to that date, the Ad-*  
13          *ministrator withdraws the rule or order with re-*  
14          *spect to the substance entirely.*

15          “(d) *EXEMPTIONS.—*

16               “(1) *IN GENERAL.—Any person required by a*  
17               *rule or order under subsections (a) or (b) to conduct*  
18               *tests and submit information for a chemical substance*  
19               *may apply to the Administrator (in such form and*  
20               *manner as the Administrator determines necessary)*  
21               *for an exemption from the requirement.*

22               “(2) *ACTION BY ADMINISTRATOR.—In accordance*  
23               *with paragraph (3) or (4), the Administrator shall*  
24               *exempt an applicant under paragraph (1), if, on re-*

1 *ceipt of the application, the Administrator determines*  
2 *that—*

3 *“(A) the chemical substance for which the*  
4 *application was submitted is equivalent to a*  
5 *chemical substance for which—*

6 *“(i) information has been submitted to*  
7 *the Administrator in accordance with a rule*  
8 *or order under subsection (a) or (b); or*

9 *“(ii) information is being developed in*  
10 *accordance with the rule or order; and*

11 *“(B) submission of information by the ap-*  
12 *plicant for the substance would be duplicative of*  
13 *information that—*

14 *“(i) has been submitted to the Admin-*  
15 *istrator in accordance with the rule or order*  
16 *under subsection (a) or (b); or*

17 *“(ii) is being developed in accordance*  
18 *with the rule or order.*

19 *“(3) REIMBURSEMENT DUE TO EXEMPTION.—*

20 *“(A) DEFINITION OF REIMBURSEMENT PE-*  
21 *RIOD.—In this paragraph, the term ‘reimburse-*  
22 *ment period’, with respect to any test informa-*  
23 *tion for a chemical substance, means a period*  
24 *that—*



1           “(i) begins on the date on which the  
2 test information is submitted in accordance  
3 with a rule or order issued under subsection  
4 (a) or (b); and

5           “(ii) ends on the later of—

6           “(I) 5 years after the date referred  
7 to in clause (i); and

8           “(II) the date which, as deter-  
9 mined by the Administrator, provides  
10 the applicant with a time period which  
11 is sufficient to develop the test infor-  
12 mation.

13           “(B) REIMBURSEMENT FOR PREVIOUSLY  
14 SUBMITTED TEST INFORMATION.—

15           “(i) IN GENERAL.—Except as provided  
16 in clause (ii), for an exemption under para-  
17 graph (2)(B)(i), if the exemption is granted  
18 during the reimbursement period for the test  
19 information, the Administrator shall order  
20 the person granted the exemption to provide  
21 fair and equitable reimbursement (in an  
22 amount determined by the Administrator)  
23 to—

24           “(I) the person who previously  
25 submitted the test information, for a

1            *portion of the costs incurred by the*  
2            *person in complying with the informa-*  
3            *tion submission requirement; and*

4            *“(II) any other person who has*  
5            *been required under this subsection to*  
6            *contribute with respect to the costs, for*  
7            *a portion of the amount the person was*  
8            *required to contribute.*

9            *“(ii) EXCEPTION.—Clause (i) shall not*  
10           *apply if there is agreement on the amount*  
11           *and method of reimbursement between an*  
12           *exempted person described in clause (i) and*  
13           *the persons described in subclauses (I) and*  
14           *(II) of that clause.*

15           *“(iii) CONSIDERATIONS.—In promul-*  
16           *gating rules for the determination of fair*  
17           *and equitable reimbursement to the persons*  
18           *described in subclauses (I) and (II) of*  
19           *clause (i) for costs incurred with respect to*  
20           *a chemical substance, the Administrator*  
21           *shall, after consultation with the Attorney*  
22           *General and the Federal Trade Commission,*  
23           *consider all relevant factors, including—*

24           *“(I) the effect on the competitive*  
25           *position of the person required to pro-*

1 *vide reimbursement in relation to the*  
2 *person to be reimbursed; and*

3 *“(II) the share of the market for*  
4 *the substance of the person required to*  
5 *provide reimbursement in relation to*  
6 *the share of the market of the persons*  
7 *to be reimbursed.*

8 *“(C) REIMBURSEMENT DUE TO EXEMPTION*  
9 *FOR TEST INFORMATION BEING DEVELOPED IN*  
10 *ACCORDANCE WITH RULE OR ORDER.—*

11 *“(i) IN GENERAL.—Except as provided*  
12 *in clause (ii), for an exemption under para-*  
13 *graph (2)(B)(ii), the Administrator shall*  
14 *order the person granted the exemption to*  
15 *provide fair and equitable reimbursement*  
16 *(in an amount determined by the Adminis-*  
17 *trator) to—*

18 *“(I) each person who is developing*  
19 *the test information, for the portion of*  
20 *the costs incurred by each person in*  
21 *complying with the rule or order; and*

22 *“(II) any other person who has*  
23 *been required under this subsection to*  
24 *contribute with respect to the costs of*  
25 *complying with the rule or order, for a*

1            *portion of the amount the person was*  
2            *required to contribute.*

3            “(ii) *EXCEPTION.—Clause (i) shall not*  
4            *apply if there is agreement on the amount*  
5            *and method of reimbursement between an*  
6            *exempted person described in clause (i) and*  
7            *the persons described in subclauses (I) and*  
8            *(II) of that clause.*

9            “(iii) *CONSIDERATIONS.—In promul-*  
10           *gating rules for the determination of fair*  
11           *and equitable reimbursement to the persons*  
12           *described in subclauses (I) and (II) of*  
13           *clause (i) for costs incurred with respect to*  
14           *a chemical substance, the Administrator*  
15           *shall, after consultation with the Attorney*  
16           *General and the Federal Trade Commission,*  
17           *consider the factors described in subpara-*  
18           *graph (B)(iii).*

19           “(iv) *LACK OF COMPLIANCE.—If any*  
20           *exemption is granted under paragraph (2)*  
21           *on the basis that 1 or more persons are de-*  
22           *veloping test information pursuant to a rule*  
23           *or order promulgated or issued under sub-*  
24           *section (a) or (b), and after the exemption*  
25           *is granted, the Administrator determines*

1           that no person has complied with the rule  
2           or order, the Administrator shall—

3                   “(I) after providing written notice  
4                   and an opportunity for a hearing to  
5                   the person who holds the exemption, by  
6                   order, terminate the exemption; and

7                   “(II) notify in writing the person  
8                   of the requirements of the rule or order  
9                   with respect to which the exemption  
10                  was granted.

11          “(e) NOTICE.—

12                  “(1) IN GENERAL.—Not later than 15 days after  
13                  the date of receipt of any test information pursuant  
14                  to a rule or order under subsection (a) or (b), the Ad-  
15                  ministrator shall publish in the Federal Register a  
16                  notice of the receipt of the test information.

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

19                          “(A) identify the chemical substance for  
20                          which information has been received;

21                          “(B) list—

22                                  “(i) the commercial and consumer uses  
23                                  or intended commercial and consumer uses  
24                                  of the substance known to the Adminis-  
25                                  trator; and

1                   “(ii) the information required by the  
2                   applicable standards for the development of  
3                   test information; and

4                   “(C) describe the nature of the test informa-  
5                   tion developed.

6                   “(3) AVAILABILITY.—Subject to section 14, the  
7                   Administrator shall make the test information de-  
8                   scribed in this subsection available on a publicly ac-  
9                   cessible Internet site.

10                  “(f) REQUESTS FROM OTHER AGENCIES FOR ADDI-  
11                  TIONAL INFORMATION OR TESTING.—

12                   “(1) IN GENERAL.—The head of a Federal agen-  
13                   cy may request the Administrator to seek the informa-  
14                   tion on behalf of that agency if the head of that Fed-  
15                   eral agency determines that—

16                   “(A) information relating to a chemical  
17                   substance, including information derived from  
18                   new testing or monitoring, would assist that  
19                   Federal agency in carrying out the duties or ex-  
20                   ercising the authority of that agency; but

21                   “(B) the requested information is not avail-  
22                   able to that agency.

23                   “(2) DUTY OF ADMINISTRATOR.—Not later than  
24                   60 days after the date of receipt of a request under  
25                   paragraph (1), the Administrator shall—

1           “(A) subject to section 14, make the infor-  
2 mation available to the requesting agency or in-  
3 stitution;

4           “(B) issue a request under section 8(k) to  
5 require—

6                 “(i) the submission of existing perti-  
7 nent information to the Administrator; and

8                 “(ii) a copy of any such submission to  
9 be furnished to the requesting agency or in-  
10 stitution;

11           “(C) issue a rule or order under subsection  
12 (b)—

13                 “(i) to develop the information; and

14                 “(ii) to require the developed informa-  
15 tion to be furnished to the requesting agency  
16 or institution; or

17           “(D) publish in the *Federal Register* the  
18 reason for which none of the actions described in  
19 this paragraph were taken.

20           “(g) *CERTIFICATION*.—Each person who submits infor-  
21 mation under this section or under a rule or an order pro-  
22 mulgated or issued by the Administrator under this section  
23 shall accompany the information with a certification signed  
24 by a responsible official that each statement contained in  
25 the submission—

1           “(1) is accurate and reliable; and

2           “(2) includes all material facts known to, in the  
3           possession or control of, or reasonably ascertainable  
4           by, the person.”.

5 **SEC. 6. NEW CHEMICAL SUBSTANCES AND NEW USES OF**  
6           **CHEMICAL SUBSTANCES.**

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

9 **“SEC. 5. NEW CHEMICAL SUBSTANCES AND NEW USES OF**  
10           **CHEMICAL SUBSTANCES.**

11           “(a) *DEFINITIONS.*—In this section:

12           “(1) *MANUFACTURE AND PROCESS.*—The terms  
13           ‘manufacture’ and ‘process’ mean manufacture or  
14           process, respectively, for commercial purposes.

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

20           “(b) *NEW CHEMICAL SUBSTANCES.*—

21           “(1) *NOTICES.*—Except as provided in subsection  
22           (h), no person may manufacture a new chemical sub-  
23           stance, or process the chemical substance for a use  
24           that is proposed to meet the criteria described in sec-  
25           tion 6(h)(2)(B), unless—



1           “(A) the person submits to the Adminis-  
2           trator a notice, in accordance with subsection  
3           (g)(1)(A), of the intention of the person to manu-  
4           facture or process the substance;

5           “(B) the person complies with subsection  
6           (f); and

7           “(C) the Administrator finds that—

8                   “(i) the new chemical substance is like-  
9                   ly to meet the safety standard under section  
10                  6(d), which shall be limited to substances  
11                  assigned by the Administrator to 1 of the  
12                  categories described in paragraph  
13                  (2)(D)(iii); or

14                   “(ii) the person has established by  
15                  clear and convincing evidence that 1 or  
16                  more uses of the new chemical substance  
17                  meet the criteria described in section  
18                  6(h)(2)(B), in which case—

19                   “(I) the Administrator may by  
20                  order allow the person to manufacture  
21                  or process the substance only for such  
22                  use or uses in accordance with sub-  
23                  paragraph (A) of section 6(h)(2);

24                   “(II) the procedures and require-  
25                  ments specified in subparagraphs (A),

1                   (C), (D), and (E) of section 6(h)(2)  
2                   shall apply; and

3                   “(III) the Administrator shall  
4                   not, upon receipt of a notice of com-  
5                   mencement for the chemical substance  
6                   under subsection (d), add the chemical  
7                   substance to the active inventory estab-  
8                   lished under section 8(h)(1).

9                   “(2) CATEGORIZATION OF NEW CHEMICAL SUB-  
10                  STANCES.—

11                  “(A) RULE.—Not later than 1 year after  
12                  the date of enactment of the Safe Chemicals Act  
13                  of 2011, the Administrator shall promulgate a  
14                  rule that—

15                  “(i) designates the categories in accord-  
16                  ance with subparagraph (D) and specifies  
17                  the process and criteria the Administrator  
18                  will use to categorize new chemical sub-  
19                  stances; and

20                  “(ii) describes criteria and factors the  
21                  Administrator will use to assess weight of  
22                  evidence and the quality and reliability of  
23                  information used to inform categorization  
24                  decisions.

1           “(B) *INFORMATION SOURCES.*—*In categorizing a new chemical substance, the Administrator shall consider information on the substance available to the Administrator at the time the categorization decision is to be made, including information—*

7                   “(i) *received by the Administrator from the manufacturer or processor of the substance in accordance with subsection (f);*

10                   “(ii) *submitted to a governmental body in another jurisdiction, to the extent that the information is accessible to the Administrator;*

14                   “(iii) *derived through application of validated structure-activity relationship or other models developed by the Administrator to estimate the environmental and human health effects, environmental and biological fate and behavior, and exposure potential of chemical substances;*

21                   “(iv) *inferred based on the degree of similarity of the structure or properties of the new chemical substance to those of 1 or more other chemical substances for which reliable information exists that is relevant*

1           to predicting the potential environmental or  
2           human health effects, environmental or bio-  
3           logical fate and behavior, or exposure poten-  
4           tial of the new chemical substance; and

5           “(v) any additional information the  
6           Administrator determines is needed to cat-  
7           egorize the substance, including information  
8           identified as needed based on the analysis  
9           by the Administrator of estimated or in-  
10          ferred information described in clauses (iii)  
11          and (iv).

12          “(C) *TIMING.*—Not later than 90 days after  
13          the date of receipt of a notice under paragraph  
14          (1)(A), the Administrator shall assign the new  
15          chemical substance for which the notice was sub-  
16          mitted to 1 of the categories described in sub-  
17          paragraph (D).

18          “(D) *CATEGORIES.*—

19                 “(i) *IN GENERAL.*—The rule promul-  
20                 gated pursuant to subparagraph (A) shall  
21                 incorporate, establish criteria for, and fur-  
22                 ther specify as needed, the categories de-  
23                 scribed in this subparagraph, to 1 of which  
24                 each new chemical substance for which a

1 notice is submitted pursuant to paragraph  
2 (1) shall be assigned.

3 “(ii) *SUBSTANCES OF VERY HIGH CON-*  
4 *CERN.*—

5 “(I) *IN GENERAL.*—*The Adminis-*  
6 *trator shall designate as a substance of*  
7 *very high concern any new chemical*  
8 *substance that—*

9 “(aa) *is toxic, persists in the*  
10 *environment, and is bioaccumula-*  
11 *tive; or*

12 “(bb) *is highly hazardous.*

13 “(II) *REQUIREMENTS.*—

14 “(aa) *IN GENERAL.*—*The Ad-*  
15 *ministrators shall allow the sub-*  
16 *mitter of a notice under para-*  
17 *graph (1)(A) for a new chemical*  
18 *substance assigned to the category*  
19 *described in this clause to manu-*  
20 *facture or process the new chem-*  
21 *ical substance only in accordance*  
22 *with paragraph (1)(C)(ii).*

23 “(bb) *PROHIBITION.*—*No*  
24 *other person may manufacture or*  
25 *process the chemical substance un-*

1           *less the person has submitted a*  
2           *notice pursuant to paragraph (1)*  
3           *and the requirements of para-*  
4           *graph (1)(C)(ii) have been met*  
5           *with respect to that notice.*

6           “(iii) *SUBSTANCES LIKELY TO MEET*  
7           *THE SAFETY STANDARD.—*

8           “(I) *IN GENERAL.—*

9           “(aa) *The Administrator*  
10          *shall designate as a substance*  
11          *likely to meet the safety standard*  
12          *any new chemical substance that*  
13          *the Administrator determines,*  
14          *based on available information,*  
15          *would likely meet the safety*  
16          *standard under section 6(d)—*

17          “(AA) *for uses and*  
18          *under conditions specified by*  
19          *the submitter of the notice for*  
20          *the new chemical substance*  
21          *pursuant to paragraph (1);*  
22          *or*

23          “(BB) *for uses and*  
24          *under additional conditions*  
25          *that could be specified by the*

1                    *Administrator in making a*  
2                    *safety standard determina-*  
3                    *tion for the substance.*

4                    *“(bb) The Administrator*  
5                    *shall assign to the category de-*  
6                    *scribed in item (aa) any new*  
7                    *chemical substance that meets the*  
8                    *criteria specified in subclause (II)*  
9                    *or (III).*

10                    *“(II) SUBSTANCES OF VERY LOW*  
11                    *CONCERN.—*

12                    *“(aa) IN GENERAL.—Within*  
13                    *the category described in subclause*  
14                    *(I), the Administrator shall des-*  
15                    *ignate as a substance of very low*  
16                    *concern any new chemical sub-*  
17                    *stance that, based on robust infor-*  
18                    *mation, the Administrator deter-*  
19                    *mines possesses intrinsic low-haz-*  
20                    *ard properties so that no further*  
21                    *action by the Administrator is*  
22                    *warranted unless and until the*  
23                    *Administrator receives new infor-*  
24                    *mation that warrants a different*

1 *categorization of the chemical sub-*  
2 *stance.*

3 “(bb) *BASIS OF DESIGNA-*  
4 *TION.—In identifying new chem-*  
5 *ical substances to be placed in the*  
6 *category described in this sub-*  
7 *clause, the Administrator shall*  
8 *base the designation of a new*  
9 *chemical substance as a substance*  
10 *of very low concern on the appli-*  
11 *cable minimum information set*  
12 *required under section 4, unless*  
13 *the Administrator determines that*  
14 *such designation of a particular*  
15 *new chemical substance—*

16 “(AA) *can be made to a*  
17 *high degree of confidence*  
18 *based on less information; or*

19 “(BB) *requires informa-*  
20 *tion in addition to the full*  
21 *minimum information set to*  
22 *address conflicting or ambigu-*  
23 *ous findings, in which case*  
24 *the Administrator may re-*  
25 *quire the development and*



1                                    *submission of the additional*  
2                                    *information.*

3                                    “(III) *SUBSTANCES TO UNDERGO*  
4                                    *SAFETY STANDARD DETERMINA-*  
5                                    *TIONS.—Within the category described*  
6                                    *in subclause (I), the Administrator*  
7                                    *shall designate as a substance to un-*  
8                                    *dergo a safety standard determination*  
9                                    *any new chemical substance that the*  
10                                    *Administrator determines, based on a*  
11                                    *screening of available use, hazard, and*  
12                                    *exposure information, has information*  
13                                    *available for the chemical substance*  
14                                    *that is sufficiently robust to determine*  
15                                    *that the chemical substance does not*  
16                                    *meet the criteria for the categories de-*  
17                                    *scribed in subclause (II) or clause (ii)*  
18                                    *or (iv).*

19                                    “(IV) *REQUIREMENT.—For a new*  
20                                    *chemical substance designated as likely*  
21                                    *to meet the safety standard pursuant*  
22                                    *to subclause (II) or (III), the Adminis-*  
23                                    *trator shall, upon submission of a no-*  
24                                    *tice of commencement described in sub-*  
25                                    *section (d)—*

1           “(aa) add the chemical sub-  
2           stance to the active inventory de-  
3           scribed in section 8(h)(1); and

4           “(bb) for a chemical sub-  
5           stance designated to undergo a  
6           safety standard determination, at  
7           the discretion of the Adminis-  
8           trator accounting for timing of  
9           the submission and workload con-  
10          siderations, add the chemical sub-  
11          stance to the current batch or hold  
12          the substance until the next batch  
13          of substances to be prioritized in  
14          accordance with section 6(b)(4).

15          “(V) *MANUFACTURING AND PROC-*  
16          *ESSING.*—Pending the completion of a  
17          safety standard determination under  
18          section 6(d), a chemical substance des-  
19          ignated as a substance likely to meet  
20          the safety standard may be manufac-  
21          tured or processed for uses and under  
22          conditions specified by the Adminis-  
23          trator in determining that the chemical  
24          substance is likely to meet the safety  
25          standard—

1           “(aa) by the submitter of the  
2 notice for the chemical substance  
3 submitted pursuant to paragraph  
4 (1)(A), upon submission of a no-  
5 tice for the chemical substance  
6 pursuant to subsection (d);

7           “(bb) by other manufacturers  
8 of the chemical substance, once the  
9 chemical substance has been  
10 placed on the active inventory de-  
11 scribed in section 8(h)(1), upon  
12 submission of a declaration for  
13 the chemical substance pursuant  
14 to section 8(b)(1)(B); or

15           “(cc) by processors of the sub-  
16 stance, upon compliance with the  
17 requirements of section 8(e).

18           “(iv) *SUBSTANCES WITH INSUFFICIENT*  
19 *INFORMATION.*—

20           “(I) *IN GENERAL.*—*The Adminis-*  
21 *trator shall designate as a substance*  
22 *with insufficient information any new*  
23 *chemical substance for which the Ad-*  
24 *ministrator concludes, after gathering*  
25 *and screening available use, hazard,*

1           *and exposure information, that needed*  
2           *information for the chemical substance*  
3           *is not available, is insufficient, or is*  
4           *not of sufficient quality and reliability*  
5           *to allow for an informed categorization*  
6           *decision.*

7           “(II) *REQUIRED SUBMISSION.*—  
8           *For substances designated under this*  
9           *clause, the Administrator shall require*  
10           *submission of the applicable minimum*  
11           *information set specified under section*  
12           *4 as needed to inform categorization*  
13           *decisionmaking for new chemical sub-*  
14           *stances.*

15           “(III) *RECATAGORIZATION.*—*Fol-*  
16           *lowing submission of the applicable*  
17           *minimum information set for the*  
18           *chemical substance pursuant to sub-*  
19           *clause (II), the Administrator shall re-*  
20           *categorize the chemical substance using*  
21           *the categories and process described in*  
22           *this paragraph.*

23           “(IV) *PROHIBITION.*—*Notwith-*  
24           *standing paragraph (1)(C)(ii), no per-*  
25           *son may manufacture or process a*

1           *chemical substance designated under*  
2           *this clause until and unless the infor-*  
3           *mation described in subclause (II) has*  
4           *been submitted and the Administrator*  
5           *has recategorized the substance, at*  
6           *which time the provisions applicable to*  
7           *the category to which the substance has*  
8           *been assigned shall apply.*

9           “(v) *SUBSTANCES UNLIKELY TO MEET*  
10          *THE SAFETY STANDARD.—*

11                 “(I) *IN GENERAL.—The Adminis-*  
12                 *trator shall designate as a substance*  
13                 *unlikely to meet the safety standard*  
14                 *any new chemical substance that the*  
15                 *Administrator determines, based on*  
16                 *available information, would be un-*  
17                 *likely to meet the safety standard*  
18                 *under section 6(d)—*

19                         “(aa) *for uses and under*  
20                         *conditions specified by the sub-*  
21                         *mitter of the notice for the chem-*  
22                         *ical substance pursuant to para-*  
23                         *graph (1); or*

24                         “(bb) *for other uses or under*  
25                         *additional conditions that the Ad-*

1                    *administrator may evaluate in mak-*  
2                    *ing a safety standard determina-*  
3                    *tion for the chemical substance.*

4                    “(II) *PROHIBITION.—Except as*  
5                    *provided under clause (ii), no person*  
6                    *may manufacture or process a chem-*  
7                    *ical substance designated under this*  
8                    *clause.*

9                    “(c) *NEW USES OF EXISTING CHEMICAL SUB-*  
10                    *STANCES.—*

11                    “(1) *NEW USES OF EXISTING CHEMICAL SUB-*  
12                    *STANCES PRIOR TO SAFETY STANDARD DETERMINA-*  
13                    *TION.—*

14                    “(A) *IN GENERAL.—Except as provided in*  
15                    *subparagraph (B), with respect to an existing*  
16                    *chemical substance for which the Administrator*  
17                    *has not made a safety standard determination*  
18                    *under section 6(d), no person may manufacture*  
19                    *or process the chemical substance—*

20                    “(i) *for a use that was not ongoing on*  
21                    *the date of enactment of the Safe Chemicals*  
22                    *Act of 2011; or*

23                    “(ii) *at a volume that is significantly*  
24                    *increased from the volume as of the date of*

1           *enactment of the Safe Chemicals Act of*  
2           *2011.*

3           “(B) *EXCEPTION.*—*A person may manufac-*  
4           *ture or process a chemical substance in a man-*  
5           *ner prohibited by subparagraph (A) if—*

6                   “(i) *the person submits to the Adminis-*  
7                   *trator the notice specified in subsection*  
8                   *(g)(1)(B);*

9                   “(ii) *the person complies with sub-*  
10                  *section (f); and*

11                  “(iii) *such manufacturing or proc-*  
12                  *essing is consistent with subsection*  
13                  *(b)(2)(D)(iii)(V).*

14           “(C) *GUIDANCE.*—*Not later than 90 days*  
15           *after the date of enactment of the Safe Chemicals*  
16           *Act of 2011, the Administrator shall issue guid-*  
17           *ance for the purpose of identifying what con-*  
18           *stitute new uses and significantly increased pro-*  
19           *duction volumes under this paragraph.*

20           “(2) *NEW USES OF EXISTING CHEMICAL SUB-*  
21           *STANCES THAT MEET THE SAFETY STANDARD.*—

22                   “(A) *IN GENERAL.*—*For an existing chem-*  
23                   *ical substance for which the Administrator has*  
24                   *determined under section 6(d) that the manufac-*  
25                   *turers and processors of the chemical substance*

1           *have established that the substance meets the ap-*  
2           *plicable safety standard, no person may manu-*  
3           *facture, process, distribute in commerce, use, or*  
4           *dispose of the chemical substance, or a mixture*  
5           *or article containing the chemical substance for*  
6           *uses, at production volumes, or in manners other*  
7           *than those the Administrator specified in the*  
8           *safety standard determination, unless—*

9                     *“(i) the person submits to the Adminis-*  
10                    *trator a notice in accordance with sub-*  
11                    *section (g)(1)(C) of the intention of the per-*  
12                    *son to manufacture, process, distribute in*  
13                    *commerce, use, or dispose of the chemical*  
14                    *substance, or a mixture or article con-*  
15                    *taining the chemical substance, for the new*  
16                    *use or at a new production volume, or in*  
17                    *such other manner that is inconsistent with*  
18                    *a specified condition or term in the safety*  
19                    *standard determination made by the Ad-*  
20                    *ministrator for that substance; and*

21                    *“(ii) the Administrator determines that*  
22                    *the person submitting the notice has estab-*  
23                    *lished that the chemical substance will con-*  
24                    *tinue to meet the safety standard if the al-*  
25                    *lowed uses, production volumes, or other*



1           *specified conditions or terms for that sub-*  
2           *stance, are revised to encompass the new*  
3           *use, new production volume, or other man-*  
4           *ner of manufacturing, processing, distribu-*  
5           *tion in commerce, use, or disposal.*

6           “(B) *AMENDMENT TO SAFETY STANDARD*  
7           *DETERMINATION.—If the conditions described in*  
8           *clauses (i) and (ii) of subparagraph (A) are sat-*  
9           *isfied, the Administrator shall, by order, amend*  
10           *the safety standard determination for the chem-*  
11           *ical substance to include the new use, production*  
12           *volume, or other manner of manufacturing or*  
13           *processing among the allowed uses, production*  
14           *volumes, or manners of manufacturing, proc-*  
15           *essing, distribution in commerce, use, or disposal*  
16           *of the chemical substance.*

17           “(C) *SAFETY STANDARD DETERMINATION.—*

18           “(i) *IN GENERAL.—Except as provided*  
19           *in clauses (ii) and (iii), not later than 180*  
20           *days after the date of receipt of a notice*  
21           *pursuant to subparagraph (A)(i), the Ad-*  
22           *ministrator shall determine whether the per-*  
23           *son submitting the notice has established*  
24           *that the chemical substance will continue to*  
25           *meet the safety standard under section 6(d).*

1           “(ii) *EXTENSION.*—*The Administrator*  
2           *may extend the determination deadline*  
3           *under clause (i) by 1 or more additional pe-*  
4           *riods not to exceed 1 year in the aggregate,*  
5           *in such manner as the Administrator deter-*  
6           *mines necessary.*

7           “(iii) *FAILURE TO MAKE A TIMELY DE-*  
8           *TERMINATION.*—*The failure of the Adminis-*  
9           *trator to make a timely determination in*  
10           *accordance with this paragraph shall not be*  
11           *sufficient to satisfy subparagraph (A)(ii).*

12           “(d) *NOTICE OF COMMENCEMENT.*—

13           “(1) *IN GENERAL.*—*Not later than 30 days after*  
14           *the date on which a manufacturer or processor com-*  
15           *mences manufacturing or processing of a new chem-*  
16           *ical substance, the manufacturer or processor shall*  
17           *submit to the Administrator a notice of commence-*  
18           *ment of manufacture or processing.*

19           “(2) *REQUIREMENTS.*—*The notice of commence-*  
20           *ment shall—*

21           “(A) *be considered equivalent to the declara-*  
22           *tion required under subparagraph (A) or (C) of*  
23           *section 8(b)(2); and*

24           “(B) *include the information described in*  
25           *section 8(b)(5).*

1           “(3) *WITHDRAWAL.*—*A person who has sub-*  
2           *mitted a notice for a chemical substance under sub-*  
3           *section (b) or (c), and has not commenced with manu-*  
4           *facture or processing of the substance, may withdraw*  
5           *the notice.*

6           “(e) *CHEMICAL SUBSTANCES EXHIBITING SPECIAL*  
7           *SUBSTANCE CHARACTERISTICS.*—

8           “(1) *DETERMINATION.*—*The Administrator shall*  
9           *determine by order or rule that a variant of a chem-*  
10           *ical substance exhibiting 1 or more special substance*  
11           *characteristics—*

12                   “(A) *is a use that is separate from any use*  
13                   *of the chemical substance that does not exhibit*  
14                   *the special substance characteristics; or*

15                   “(B) *is a distinct chemical substance.*

16           “(2) *REQUIREMENTS FOR VARIANTS THAT ARE*  
17           *SEPARATE USES.*—*In the case of a chemical substance*  
18           *that the Administrator determines to be a separate*  
19           *use based on the special substance characteristics of*  
20           *the chemical substance, the manufacturer or processor*  
21           *shall satisfy such further conditions as the Adminis-*  
22           *trator establishes, by order or rule.*

23           “(3) *REQUIREMENTS FOR VARIANTS THAT ARE*  
24           *DISTINCT CHEMICAL SUBSTANCES.*—*In the case of a*  
25           *chemical substance that the Administrator determines*

1 *to be a distinct chemical substance based on the spe-*  
2 *cial substance characteristics of the chemical sub-*  
3 *stance, and that is not listed on the active inventory*  
4 *established under section 8(h)(1), the manufacturer or*  
5 *processor shall comply with the requirements of sub-*  
6 *section (b).*

7 *“(f) SUBMISSION OF DATA.—*

8 *“(1) IN GENERAL.—A person shall submit to the*  
9 *Administrator data in accordance with the rule or*  
10 *order at the time that notice is submitted under sub-*  
11 *section (b) or (c) if the person is required to submit*  
12 *to the Administrator—*

13 *“(A) under subsection (b) or (c), a notice*  
14 *prior to beginning the manufacture or processing*  
15 *of a chemical substance; and*

16 *“(B) under section 4(b), test data for the*  
17 *chemical substance prior to the submission of the*  
18 *notice.*

19 *“(2) AVAILABILITY.—Subject to section 14, the*  
20 *Administrator shall make any test data submitted*  
21 *under paragraph (1) available on a publicly acces-*  
22 *sible Internet site.*

23 *“(3) TIMING.—Except as provided under sub-*  
24 *section (b)(2)(D)(iv), the Administrator may require*  
25 *a person subject to an information requirement for a*

1 *chemical substance under this subsection or section 4*  
2 *to submit the information—*

3 *“(A) prior to and as a condition of the Ad-*  
4 *ministrator assigning the substance to a cat-*  
5 *egory;*

6 *“(B) as a condition of commencement of*  
7 *manufacture or processing; or*

8 *“(C) as a condition of exceeding a specified*  
9 *manufacturing volume or expanding use of the*  
10 *substance.*

11 *“(g) CONTENT AND AVAILABILITY OF NOTICE.—*

12 *“(1) CONTENT.—*

13 *“(A) NEW CHEMICAL SUBSTANCES.—A no-*  
14 *tice under subsection (b)(1) shall include—*

15 *“(i) the chemical identity and any spe-*  
16 *cial substance characteristics of the chemical*  
17 *substance;*

18 *“(ii) the identity and primary business*  
19 *location of the manufacturer;*

20 *“(iii) the information described in sec-*  
21 *tion 8(h)(5)(B)(i);*

22 *“(iv) the minimum information set de-*  
23 *scribed in section 4(a), where applicable;*  
24 *and*

25 *“(v) a statement that—*

1                   “(I) the new chemical substance is  
2                   likely to meet the safety standard  
3                   under section 6(d); or

4                   “(II) the 1 or more uses proposed  
5                   for the new chemical substance meet  
6                   the criteria described in section  
7                   6(h)(2)(B).

8                   “(B) NEW USES OF EXISTING CHEMICAL  
9                   SUBSTANCES PRIOR TO SAFETY STANDARD DE-  
10                  TERMINATION.—A notice under subsection (c)(1)  
11                  shall include all updates to the declaration de-  
12                  scribed in section 8(b)(2) and information de-  
13                  scribed in section 8(h)(5)(B)(ii) that is relevant  
14                  to the new use, new production volume, or other  
15                  new manner of manufacturing or processing.

16                  “(C) NEW USES OF EXISTING CHEMICAL  
17                  SUBSTANCES THAT MEET THE SAFETY STAND-  
18                  ARD.—A notice under subsection (c)(2) shall in-  
19                  clude—

20                         “(i) all updates to the declaration de-  
21                         scribed in section 8(b)(2);

22                         “(ii) information described in section  
23                         8(h)(5)(B)(ii) that is relevant to the new  
24                         use, new production volume, or other new  
25                         manner of manufacturing or processing;

1           “(iii) all updates to the minimum in-  
2           formation set described in section 4(a) rel-  
3           evant to the new use, new production vol-  
4           ume, or other new manner of manufac-  
5           turing or processing; and

6           “(iv) a statement that the chemical  
7           substance will continue to meet the safety  
8           standard if the allowed uses, production vol-  
9           umes, or other specified conditions or terms  
10          for that chemical substance are revised to  
11          encompass the new use, production volume,  
12          or other manner of manufacturing or proc-  
13          essing.

14          “(2) *AVAILABILITY*.—Subject to section 14, the  
15          Administrator shall make the notices under para-  
16          graph (1) available on a publicly accessible Internet  
17          site.

18          “(3) *PUBLIC INFORMATION*.—Subject to section  
19          14, not later than 5 days (excluding Saturdays, Sun-  
20          days, and legal holidays) after the date of the receipt  
21          of a notice under subsection (b), (c), or (d), or of data  
22          under subsection (f), the Administrator shall make  
23          available on a publicly accessible Internet site a no-  
24          tice that—

1           “(A) identifies the chemical substance for  
2           which notice or information has been received;

3           “(B) lists the uses or intended uses of the  
4           chemical substance;

5           “(C) for substances for which a notice is  
6           submitted under subsection (b)(1), is promptly  
7           updated to specify the category to which the Ad-  
8           ministrator has assigned the substance pursuant  
9           to subsection (b)(2) once the assignment has been  
10          made;

11          “(D) in the case of the receipt of data under  
12          subsection (f), describes—

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

15                 “(ii) any data that were received  
16                 under subsection (f) or a rule or order  
17                 under section 4; and

18          “(E) references the availability of the min-  
19          imum information set, where applicable.

20          “(4) LIST OF NOTICES.—At the beginning of  
21          each month, the Administrator shall make available  
22          on a publicly accessible Internet site a list of each  
23          chemical substance for which a notice has been re-  
24          ceived under subsection (b), (c), or (d).

25          “(h) EXEMPTIONS.—



1           “(1) *INTRINSICALLY SAFE SUBSTANCES.*—

2                   “(A) *EXEMPTION.*—

3                           “(i) *IN GENERAL.*—*If the Adminis-*  
4                           *trator determines that scientific consensus*  
5                           *exists that the intrinsic properties of a new*  
6                           *chemical substance are such that the chem-*  
7                           *ical substance does not and would not pose*  
8                           *any risk of injury to human health or the*  
9                           *environment under any intended or reason-*  
10                           *ably anticipated levels of production, pat-*  
11                           *terns of use, or exposures arising at any*  
12                           *stage across the lifecycle of the chemical sub-*  
13                           *stance, the Administrator may, by order,*  
14                           *exempt the chemical substance, or par-*  
15                           *ticular uses of such substances, from 1 or*  
16                           *more of the requirements of this section.*

17                           “(ii) *BASIS OF DETERMINATION.*—*A*  
18                           *determination under clause (i)—*

19                                   “(I) *shall be based on consider-*  
20                                   *ation of the intrinsic properties of the*  
21                                   *chemical substance; and*

22                                   “(II) *shall not be based on find-*  
23                                   *ings or assumptions of low human or*  
24                                   *environmental exposure to such sub-*  
25                                   *stances.*

1           “(B) NOTICE OF DETERMINATION AND EX-  
2           EMPTION.—Not later than 30 days after pro-  
3           viding an exemption pursuant to subparagraph  
4           (A), the Administrator shall publish in the Fed-  
5           eral Register a notice that—

6                   “(i) subject to section 14, provides the  
7                   specific identity of the chemical substance  
8                   or category;

9                   “(ii) if a particular use of the chemical  
10                  substance is exempted under subparagraph  
11                  (A), describes the particular use of the  
12                  chemical substance that the Administrator  
13                  has exempted; and

14                  “(iii) explains and documents the basis  
15                  for the determination and exemption of the  
16                  Administrator.

17           “(C) RECONSIDERATION OF EXEMPTION.—

18                   “(i) IN GENERAL.—The Administrator  
19                   may reconsider and revoke or modify any  
20                   exemption provided under subparagraph  
21                   (A) at any time if the Administrator deter-  
22                   mines that—

23                           “(I) the conditions specified in  
24                           subparagraph (A) are no longer met;  
25                           or

1           “(II) *such action is necessary to*  
2           *protect human health or the environ-*  
3           *ment or is otherwise in the public in-*  
4           *terest.*

5           “(ii) *PUBLICATION.—In the event of a*  
6           *revocation or modification under clause (i),*  
7           *the Administrator shall publish a notice of*  
8           *the grounds for the revocation.*

9           “(D) *PRIOR REGULATORY EXEMPTIONS.—*

10           “(i) *REVIEW.—*

11           “(I) *IN GENERAL.—Not later than*  
12           *180 days after the date of enactment of*  
13           *the Safe Chemicals Act of 2011, the*  
14           *Administrator shall review exemptions*  
15           *that were granted pursuant to sub-*  
16           *section (h)(4) of this section as in effect*  
17           *on the day before that date of enact-*  
18           *ment.*

19           “(II) *EFFECT OF EXEMPTION.—*  
20           *An exemption described in subclause*  
21           *(I) shall continue to be in effect until*  
22           *the date on which the Administrator*  
23           *determines, by order, that—*

24           “(aa) *the exemption is not*  
25           *appropriate under this section, at*

1           *which time the exemption shall*  
2           *cease to be in effect; or*

3           “(bb) *the exemption is appro-*  
4           *prate under this section, at which*  
5           *time the Administrator may issue*  
6           *an order to modify or continue in*  
7           *effect the exemption pursuant to*  
8           *subparagraph (A).*

9           “(ii) *POLYMERIC CHEMICAL SUB-*  
10          *STANCES.—Notwithstanding subparagraph*  
11          *(A) and any previously issued exemption*  
12          *applicable to polymeric chemical sub-*  
13          *stances—*

14                “(I) *subsection (d) shall apply to*  
15                *new polymeric chemical substances eli-*  
16                *gible for the previously issued exemp-*  
17                *tion—*

18                “(aa) *during the period prior*  
19                *to a determination by the Admin-*  
20                *istrator pursuant to clause (i) ap-*  
21                *plicable to such substances; and*

22                “(bb) *after a determination*  
23                *by the Administrator pursuant to*  
24                *clause (i)(II)(bb) that continu-*  
25                *ation of the prior exemption is*

1                   *appropriate for some or all such*  
2                   *substances, for such substances to*  
3                   *which the continuation applies;*  
4                   *and*

5                   “(II) *all of this section shall*  
6                   *apply to new polymeric chemical sub-*  
7                   *stances eligible for the previously*  
8                   *issued exemption after a determination*  
9                   *by the Administrator pursuant to*  
10                   *clause (i)(II)(aa) that continuation of*  
11                   *the prior exemption is not appropriate*  
12                   *for some or all such substances, for*  
13                   *such substances to which the deter-*  
14                   *mination applies.*

15                   “(E) *NO LIMITATION ON AUTHORITY.—*  
16                   *Nothing in this paragraph limits or otherwise*  
17                   *affects the authority of the Administrator under*  
18                   *any other provision of this Act.*

19                   “(2) *TEST MARKETING PURPOSES.—Subject to*  
20                   *paragraph (6), the Administrator may, upon applica-*  
21                   *tion, exempt any person from any requirement of sub-*  
22                   *section (b), (c), or (f) to permit the person to manu-*  
23                   *facture or process a chemical substance for test mar-*  
24                   *keting purposes—*

1           “(A) upon a showing by the person, in a  
2           manner that the Administrator determines, that  
3           the manufacture, processing, distribution in  
4           commerce, use, and disposal of the chemical sub-  
5           stance (including any combination of those ac-  
6           tivities) will not endanger human health or the  
7           environment; and

8           “(B) under such restrictions as the Admin-  
9           istrator considers appropriate.

10          “(3) *EQUIVALENT CHEMICAL SUBSTANCES.*—

11           “(A) *IN GENERAL.*—The Administrator  
12           shall, upon application, fully or partially ex-  
13           empt any person from the requirement to submit  
14           any data under subsection (b) or (f) if, on re-  
15           ceipt of an application, the Administrator deter-  
16           mines that—

17           “(i) the chemical substance for which  
18           the application was submitted is equivalent  
19           to a chemical substance for which data has  
20           been submitted to the Administrator as re-  
21           quired by this Act; and

22           “(ii) submission of data by the appli-  
23           cant on the chemical substance would be du-  
24           plicative of data which has been submitted

1           to the Administrator in accordance with  
2           this Act.

3           “(B) *EFFECTIVE DATE*.—No exemption  
4           under this paragraph may take effect before the  
5           beginning of the reimbursement period applica-  
6           ble to the data.

7           “(C) *FAIR AND EQUITABLE REIMBURSE-*  
8           *MENT*.—

9                   “(i) *DEFINITION OF REIMBURSEMENT*  
10            *PERIOD*.—In this subparagraph, the term  
11            ‘reimbursement period’, with respect to any  
12            previously submitted data for a chemical  
13            substance, means a period—

14                           “(I) beginning on the date of the  
15                           termination of the prohibition, im-  
16                           posed under this section, on the manu-  
17                           facture or processing of the chemical  
18                           substance by the person who submitted  
19                           the data to the Administrator; and

20                                   “(II) ending on the later of—

21   “(aa) the date that is 5 years  
22   after the date referred to in sub-  
23   clause (I); or

24   “(bb) the expiration of the  
25   period, which begins on the date

1                   referred to in subclause (I) and is  
2                   equal to the period that the Ad-  
3                   ministrators determines to be nec-  
4                   essary to develop the data.

5                   “(ii) REIMBURSEMENT.—Except as  
6                   provided in clause (iii), if the Adminis-  
7                   trator exempts any person, under subpara-  
8                   graph (A), and the exemption is granted  
9                   during the reimbursement period for that  
10                  data, the Administrator shall order the per-  
11                  son granted the exemption to provide fair  
12                  and equitable reimbursement (in an amount  
13                  determined by the Administrator)—

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

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



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

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

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

19               “(II) the share of the market for  
20               the chemical substance of the person re-  
21               quired to provide reimbursement to the  
22               share of the market of the persons to be  
23               reimbursed.

24           “(4) *SMALL QUANTITIES SOLELY FOR EXPERI-*  
25           *MENTATION, RESEARCH, AND ANALYSIS.*—

1           “(A) *IN GENERAL.*—If the conditions de-  
2           scribed in subparagraph (B) are met, subsections  
3           (b), (c), and (f) shall not apply with respect to  
4           the manufacturing or processing of any chemical  
5           substance that is manufactured or processed, or  
6           proposed to be manufactured or processed, only  
7           in small quantities (as defined by the Adminis-  
8           trator by rule) solely for purposes of—

9                   “(i) scientific experimentation or anal-  
10                  ysis; or

11                  “(ii) chemical research on, or analysis  
12                  of the chemical substance or another chem-  
13                  ical substance, including such research or  
14                  analysis for the development of a product.

15           “(B) *CONDITIONS.*—All persons engaged in  
16           the experimentation, research, or analysis for a  
17           manufacturer or processor shall be notified (in  
18           such form and manner as the Administrator  
19           may prescribe) of any risk to human health that  
20           the manufacturer, processor, or the Adminis-  
21           trator has reason to believe may be associated  
22           with that chemical substance.

23           “(5) *TEMPORARY EXISTENCE.*—Subject to para-  
24           graph (6), the Administrator may, upon application,

1 *exempt from subsections (b), (c), and (f) the manufac-*  
2 *turing or processing of any chemical substance—*

3 *“(A) that exists temporarily as a result of*  
4 *a chemical reaction in the manufacturing or*  
5 *processing of a mixture or another chemical sub-*  
6 *stance; and*

7 *“(B) to which there is no, and will not be,*  
8 *human or environmental exposure.*

9 *“(6) PUBLICATION.—*

10 *“(A) IN GENERAL.—As soon as practicable*  
11 *after the date of receipt of an application under*  
12 *paragraph (2) or (5), the Administrator shall*  
13 *publish in the Federal Register notice of the re-*  
14 *ceipt of the application.*

15 *“(B) REQUIREMENTS.—The Administrator*  
16 *shall—*

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

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

23 *“(iii) publish in the Federal Register*  
24 *notice of the approval or denial of the ap-*  
25 *plication.*

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

7               “(1) *is accurate and reliable; and*

8               “(2) *includes all material facts required by the*  
 9 *applicable provision of this section or rule or order*  
 10 *under this section.”.*

11 **SEC. 7. BATCHING, CATEGORIZATION, PRIORITIZATION,**  
 12 **SAFETY STANDARD DETERMINATION, AND**  
 13 **RISK MANAGEMENT.**

14       “(a) *IN GENERAL.*—*Section 6 of the Toxic Substances*  
 15 *Control Act (15 U.S.C. 2605) is amended—*

16               “(1) *by striking subsection (f);*

17               “(2) *by redesignating subsection (e) as subsection*  
 18 *(i);*

19               “(3) *by striking the section heading and designa-*  
 20 *tion and all that follows through subsection (d) and*  
 21 *inserting the following:*

22 **“SEC. 6. BATCHING, CATEGORIZATION, PRIORITIZATION,**  
 23 **SAFETY STANDARD DETERMINATION, AND**  
 24 **RISK MANAGEMENT.**

25       “(a) *BATCHING.*—

1           “(1) *IN GENERAL.*—*To ensure that an efficient*  
2 *and orderly process and pace is established for the de-*  
3 *termination of safety of chemical substances in com-*  
4 *merce and the application of risk management meas-*  
5 *ures as needed, the Administrator shall establish a*  
6 *system for assigning chemical substances into batches*  
7 *in accordance with this subsection.*

8           “(2) *REQUIREMENTS.*—

9           “(A) *TIMING.*—*Not later than 270 days*  
10 *after the date of enactment of the Safe Chemicals*  
11 *Act of 2011, and not less frequently than once*  
12 *every 5 years thereafter until all chemical sub-*  
13 *stances listed on the active portion of the inven-*  
14 *tory established under section 8(h)(1) have been*  
15 *assigned to a batch, the Administrator shall as-*  
16 *sign chemical substances on the active portion of*  
17 *the inventory to batches of chemical substances*  
18 *under this subsection.*

19           “(B) *NUMBER.*—*Each batch established*  
20 *under this subsection shall include a number of*  
21 *chemical substances approximately equal to the*  
22 *number of chemical substances for which reports*  
23 *are submitted to the Administrator under the*  
24 *chemical data reporting rule as of the date of en-*  
25 *actment of the Safe Chemicals Act of 2011.*

1           “(C) *PUBLICATION.*—*The Administrator*  
2           *shall publish, subject to section 14, the list of*  
3           *chemical substances assigned to each batch*  
4           *promptly on designation of the chemical sub-*  
5           *stances to the batch.*

6           “(3) *INITIAL BATCH.*—

7           “(A) *IN GENERAL.*—*Subject to subpara-*  
8           *graph (B), the initial batch of chemical sub-*  
9           *stances designated under paragraph (2)(A) shall*  
10           *include the chemical substances for which reports*  
11           *are submitted to the Administrator under the*  
12           *chemical data reporting rule as of the date of en-*  
13           *actment of the Safe Chemicals Act of 2011.*

14           “(B) *INCLUSIONS AND EXCLUSIONS.*—*Not-*  
15           *withstanding subparagraph (A), the Adminis-*  
16           *trator may—*

17                   “(i) *include in the initial batch chem-*  
18                   *ical substances that—*

19                           “(I) *are manufactured at volumes*  
20                           *below the threshold used under the*  
21                           *chemical data reporting rule to des-*  
22                           *ignate chemical substances subject to*  
23                           *basic reporting under that rule; but*

24                           “(II) *are used or released into the*  
25                           *environment in a manner that the Ad-*

1                    *administrator determines warrants early*  
2                    *evaluation; and*

3                    *“(ii) exclude from the initial batch*  
4                    *chemical substances that—*

5                    *“(I) are reported to the Adminis-*  
6                    *trator under the chemical data report-*  
7                    *ing rule; but*

8                    *“(II) are used or released into the*  
9                    *environment in a manner that the Ad-*  
10                    *ministrator determines does not war-*  
11                    *rant early evaluation.*

12                    *“(4) SUBSEQUENT BATCHES.—The Adminis-*  
13                    *trator shall assign chemical substances to subsequent*  
14                    *batches in a manner that the Administrator deter-*  
15                    *mines reflects the extent to which the chemical sub-*  
16                    *stances warrant earlier or later evaluation.*

17                    *“(b) CATEGORIZATION AND PRIORITIZATION.—*

18                    *“(1) REGULATIONS.—Not later than 1 year after*  
19                    *the date of enactment of the Safe Chemicals Act of*  
20                    *2011, the Administrator shall promulgate regulations*  
21                    *that—*

22                    *“(A) establish the categories and specify the*  
23                    *process and criteria the Administrator will use*  
24                    *to categorize chemical substances, which shall be*  
25                    *consistent with paragraph (3)(B), beginning*

1           *with those chemical substances assigned to the*  
2           *initial batch described in subsection (a)(3);*

3           “(B) *designate the process and criteria the*  
4           *Administrator will use to prioritize chemical*  
5           *substances that are placed in the category of*  
6           *chemical substances to undergo safety standard*  
7           *determinations, which shall be consistent with*  
8           *the priorities described in paragraph (4);*

9           “(C) *describe how the categorization and*  
10          *prioritization process and criteria relate to, and*  
11          *take into account, the categorization and*  
12          *prioritization decisions made in other jurisdic-*  
13          *tions, including States and foreign governments;*  
14          *and*

15          “(D) *describe criteria and factors the Ad-*  
16          *ministrator will use to weigh evidence and assess*  
17          *the quality and reliability of information used to*  
18          *inform categorization and prioritization deci-*  
19          *sions.*

20          “(2) *INFORMATION SOURCES.—*

21                 “(A) *IN GENERAL.—In making categoriza-*  
22                 *tion and prioritization decisions, the Adminis-*  
23                 *trator shall take into consideration information*  
24                 *regarding chemical substances that is available*



1           to the Administrator at the time the decisions  
2           are made, including information that is—

3                   “(i) received by the Administrator  
4                   from manufacturers or processors pursuant  
5                   to requirements under section 8(b) and (c);

6                   “(ii) included in any minimum infor-  
7                   mation set required under section 4;

8                   “(iii) submitted to the Administrator  
9                   that is relevant to the categorization or  
10                  prioritization of the chemical substance;  
11                  and

12                  “(iv) identified through an active  
13                  search by the Administrator of information  
14                  sources that are publicly available or other-  
15                  wise accessible to the Administrator.

16                  “(B) INFORMATION FROM MANUFACTURERS  
17                  AND PROCESSORS.—

18                   “(i) IN GENERAL.—Subject to clause  
19                   (ii), on designation by the Administrator  
20                   under paragraph (3)(B)(iii) of a chemical  
21                   substance safety standard determination,  
22                   any manufacturer or processor of a des-  
23                   ignated chemical substance and any trade  
24                   association or voluntary consortium that  
25                   represents a manufacturer or processor of a

1           *designated chemical substance may provide*  
2           *to the Administrator information that—*

3                   “(I) *relates to the chemical sub-*  
4                   *stances manufactured or processed by*  
5                   *the applicable manufacturer or proc-*  
6                   *essor;*

7                   “(II) *is in the possession of, or*  
8                   *known to, the manufacturer, processor,*  
9                   *trade association, or consortium; and*

10                   “(III) *is not already available to*  
11                   *the Administrator.*

12                   “(ii) *REQUIREMENT.—If a manufac-*  
13                   *turer, processor, trade association, or con-*  
14                   *sortium elects to provide information to the*  
15                   *Administrator under clause (i), the manu-*  
16                   *facturer, processor, trade association, or*  
17                   *consortium shall provide all relevant infor-*  
18                   *mation in the possession of, or known to,*  
19                   *the manufacturer, processor, trade associa-*  
20                   *tion, or consortium for each chemical sub-*  
21                   *stance designated by the Administrator that*  
22                   *is manufactured or processed by the appli-*  
23                   *cable manufacturer or processor.*

24                   “(iii) *METHOD OF SUBMISSION.—In-*  
25                   *formation described in this subparagraph*

1                   *may be submitted to the Administrator*  
2                   *by—*

3                   “(I) *a manufacturer or proc-*  
4                   *essor—*

5                   “(aa) *on an individual basis;*

6                   *or*

7                   “(bb) *through a trade asso-*  
8                   *ciation or voluntary consortium;*  
9                   *and*

10                  “(II) *a trade association or vol-*  
11                  *untary consortium that has developed*  
12                  *relevant information on behalf of the*  
13                  *manufacturers or processors of des-*  
14                  *ignated chemical substances rep-*  
15                  *resented by the trade association or*  
16                  *voluntary consortium.*

17                  “(3) *CATEGORIZATION OF CHEMICAL SUB-*  
18                  *STANCES.—*

19                  “(A) *TIMING.—*

20                  “(i) *INITIAL BATCH.—Not later than*  
21                  *180 days after the date of promulgation of*  
22                  *regulations pursuant to paragraph (1), the*  
23                  *Administrator shall publish, subject to sec-*  
24                  *tion 14, the category assignments for the*  
25                  *initial batch of chemical substances identi-*

1           *fied under subsection (a)(3), using the cat-*  
2           *egories described in subparagraph (B).*

3           “(ii) *SUBSEQUENT BATCHES.*—*Not*  
4           *later than 180 days after the date on which*  
5           *the Administrator designates each subse-*  
6           *quent batch of chemical substances under*  
7           *subsection (a)(2)(A), the Administrator*  
8           *shall publish the category assignments for*  
9           *the chemical substances in the batch.*

10          “(B) *CATEGORIES.*—*The regulation promul-*  
11          *gated pursuant to paragraph (1) shall incor-*  
12          *porate, establish criteria for, and further specify*  
13          *as needed, the following categories into which*  
14          *chemical substances in each batch shall be*  
15          *placed:*

16               “(i) *SUBSTANCES OF VERY HIGH CON-*  
17               *CERN.*—

18                       “(I) *IN GENERAL.*—*The Adminis-*  
19                       *trator shall designate as substances of*  
20                       *very high concern those chemical sub-*  
21                       *stances—*

22                               “(aa) *for which there is evi-*  
23                               *dence of widespread exposure and*  
24                               *that—*

1                   “(AA) are toxic, persist  
2                   in the environment, and are  
3                   bioaccumulative; or

4                   “(BB) are highly haz-  
5                   ardous;

6                   “(bb) that are subject to reg-  
7                   ulation under section 6 or 7 of  
8                   this Act (as in effect on the day  
9                   before the date of enactment of the  
10                  Safe Chemicals Act of 2011); or

11                  “(cc) that are subject to a  
12                  voluntary phase-out, administered  
13                  by the Administrator, that has  
14                  been completed or is underway at  
15                  the time the category designation  
16                  is made.

17                  “(II) INFORMATION SET.—A min-  
18                  imum information set, as specified  
19                  under section 4, need not be submitted  
20                  or otherwise available for a chemical  
21                  substance to be designated a substance  
22                  of very high concern under this clause.

23                  “(ii) SUBSTANCES OF VERY LOW CON-  
24                  CERN.—

1           “(I) *IN GENERAL.*—*The Administrator shall designate as substances of*  
2           *very low concern those chemical sub-*  
3           *stances that, based on robust informa-*  
4           *tion, the Administrator determines*  
5           *possess intrinsic low-hazard properties*  
6           *such that no further action by the Ad-*  
7           *ministrator is warranted, unless the*  
8           *Administrator receives new informa-*  
9           *tion that warrants a different cat-*  
10           *egorization of the chemical substance.*

12           “(II) *FACTORS FOR CONSIDER-*  
13           *ATION.*—*In designating chemical sub-*  
14           *stances to be placed in the very low*  
15           *concern category under this clause, the*  
16           *Administrator shall—*

17                   “(aa) *take into consideration*  
18                   *whether chemical substances in*  
19                   *commerce have received, as of the*  
20                   *date of enactment of the Safe*  
21                   *Chemicals Act of 2011, exemptions*  
22                   *under section 5 of this Act (as in*  
23                   *effect on the day before the date of*  
24                   *enactment of the Safe Chemicals*

1 *Act of 2011) based on anticipated*  
2 *low intrinsic hazard; and*

3 *“(bb) in general, base the*  
4 *designation on a minimum infor-*  
5 *mation set as required under sec-*  
6 *tion 4, unless the Administrator*  
7 *determines that such designation*  
8 *of a particular chemical sub-*  
9 *stance—*

10 *“(AA) can be made to a*  
11 *high degree of confidence*  
12 *based on less information; or*

13 *“(BB) requires informa-*  
14 *tion in addition to the full*  
15 *minimum information set to*  
16 *address conflicting or ambigu-*  
17 *ous findings, in which case*  
18 *the Administrator may re-*  
19 *quire the development and*  
20 *submission of the additional*  
21 *information.*

22 *“(iii) SUBSTANCES TO UNDERGO SAFE-*  
23 *TY STANDARD DETERMINATIONS.—The Ad-*  
24 *ministrator shall designate as substances to*  
25 *undergo safety standard determinations*

1           *those chemical substances that the Adminis-*  
2           *trator determines—*

3                   “(I) *based on a screening of avail-*  
4                   *able use, hazard, and exposure infor-*  
5                   *mation, do not meet the criteria for the*  
6                   *categories described in clauses (i) and*  
7                   *(ii); and*

8                   “(II) *are the subject of available*  
9                   *information that is sufficiently robust*  
10                   *to inform prioritization decisions to be*  
11                   *made for the chemical substances under*  
12                   *paragraph (4).*

13                   “(iv) *SUBSTANCES WITH INSUFFICIENT*  
14                   *INFORMATION.—*

15                   “(I) *IN GENERAL.—The Adminis-*  
16                   *trator shall designate as substances*  
17                   *with insufficient information those*  
18                   *chemical substances for which the Ad-*  
19                   *ministrator determines, after gathering*  
20                   *and screening available use, hazard,*  
21                   *and exposure information, that infor-*  
22                   *mation is not available, is insufficient,*  
23                   *or is not of sufficient quality and reli-*  
24                   *ability to allow for an informed cat-*  
25                   *egorization decision.*



1                   “(II)   MINIMUM   INFORMATION

2                   SET.—

3                   “(aa)   IN   GENERAL.—For  
4                   chemical substances designated  
5                   under this clause, the Adminis-  
6                   trator shall require submission of  
7                   the applicable minimum informa-  
8                   tion set specified under section 4  
9                   as needed to inform categorization  
10                  decisionmaking.

11                  “(bb)   TIMING.—The min-  
12                  imum information set shall be  
13                  submitted to the Administrator—

14                         “(AA) not later than 5  
15                         years after the date of enact-  
16                         ment of the Safe Chemicals  
17                         Act of 2011 for the initial  
18                         batch of chemical substances  
19                         identified under subsection  
20                         (a)(3); and

21                         “(BB) not later than 5  
22                         years after the assignment of  
23                         a chemical substance to the  
24                         category under this clause for  
25                         subsequent batches.

1 “(III) *RECATEGORIZATION.*—

2 “(aa) *IN GENERAL.*—After  
3 submission of the minimum infor-  
4 mation set for a chemical sub-  
5 stance pursuant to subclause (I),  
6 the Administrator shall recat-  
7 egorize the chemical substance  
8 using the categories and process  
9 described in this paragraph.

10 “(bb) *DISCRETION OF ADMIN-*  
11 *ISTRATOR.*—The Administrator,  
12 taking into account the timing of  
13 the submission and workload con-  
14 siderations, may—

15 “(AA) add a chemical  
16 substance to a current batch;  
17 or

18 “(BB) hold the chemical  
19 substance until the next  
20 batch of chemical substances  
21 for recategorization.

22 “(4) *PRIORITIZATION OF CHEMICAL SUB-*  
23 *STANCES.*—

24 “(A) *TIMING.*—

1           “(i) *INITIAL BATCH.*—Not later than  
2           270 days after the date of promulgation of  
3           regulations pursuant to paragraph (1), the  
4           Administrator shall publish, subject to sec-  
5           tion 14, the priority class assignments,  
6           using the priority classes described in sub-  
7           paragraph (B), for the chemical substances  
8           in the initial batch of chemical substances  
9           identified under subsection (a)(3) that the  
10          Administrator has assigned to the category  
11          of chemical substances to undergo safety  
12          standard determinations.

13          “(ii) *SUBSEQUENT BATCHES.*—Not  
14          later than 270 days after the date on which  
15          the Administrator designates each subse-  
16          quent batch of chemical substances under  
17          subsection (a)(2)(A), the Administrator  
18          shall publish the priority class assignments  
19          for the chemical substances in the batch that  
20          the Administrator has assigned to the cat-  
21          egory of chemical substances to undergo  
22          safety standard determinations.

23          “(B) *CRITERIA.*—The criteria used by the  
24          Administrator to assign chemical substances to  
25          priority classes shall take into account—

1           “(i) *potential impacts of the chemical*  
2           *substance on human health and the environ-*  
3           *ment;*

4           “(ii) *the hazard potential of the chem-*  
5           *ical substance, including classifications and*  
6           *designations of hazard characteristics by*  
7           *other authoritative entities;*

8           “(iii) *the potential for exposure to the*  
9           *chemical substance; and*

10          “(iv) *measurements of exposure for a*  
11          *given pathway of exposure, if available and*  
12          *reliable, in preference to less direct indica-*  
13          *tors of, or surrogates for, exposure potential*  
14          *for the same pathway.*

15          “(C) *PRIORITY CLASSES.*—*The regulations*  
16          *promulgated pursuant to paragraph (1) shall es-*  
17          *tablish the following priority classes and cri-*  
18          *teria, and further specify the process the Admin-*  
19          *istrator will use to assign to the priority classes*  
20          *the chemical substances in each batch that the*  
21          *Administrator has assigned to the category of*  
22          *chemical substances to undergo safety standard*  
23          *determinations:*

24                 “(i) *PRIORITY CLASS 1.*—

1           “(I) *IN GENERAL.*—*In each batch,*  
2           *the Administrator shall designate as*  
3           *Priority Class 1 those chemical sub-*  
4           *stances that the Administrator deter-*  
5           *mines warrant safety standard deter-*  
6           *minations in the near term.*

7           “(II) *INITIAL ASSIGNMENT.*—*The*  
8           *Administrator shall in each batch ini-*  
9           *tially designate as Priority Class 1*  
10           *chemical substances that possess rel-*  
11           *atively greater hazard potential and*  
12           *for which there is evidence of more sig-*  
13           *nificant or widespread exposure.*

14           “(III) *REASSIGNMENT.*—*As safety*  
15           *standard determinations for the chem-*  
16           *ical substance are completed, the Ad-*  
17           *ministrator may designate as Priority*  
18           *Class 1 any chemical substance ini-*  
19           *tially assigned to a lower priority*  
20           *class, including chemical substances—*

21                   “(aa) *posing significant haz-*  
22                   *ard concerns but of less or un-*  
23                   *known exposure concern;*

1                   “(bb) posing significant ex-  
2                   posure concern but of less or un-  
3                   known hazard concern; or

4                   “(cc) posing less hazard and  
5                   exposure concerns.

6                   “(IV) *FACTORS FOR CONSIDER-*  
7                   *ATION.—In determining the number of*  
8                   *chemical substances to be placed in*  
9                   *Priority Class 1, the Administrator*  
10                  *shall seek to balance considerations re-*  
11                  *lating to—*

12                  “(aa) the number of chemical  
13                  substances for which safety stand-  
14                  ard determinations need to be  
15                  conducted;

16                  “(bb) the resources available  
17                  to the Administrator for con-  
18                  ducting safety standard deter-  
19                  minations; and

20                  “(cc) the deadlines for com-  
21                  pletion of safety standard deter-  
22                  minations specified in subsection  
23                  (d)(4).

24                  “(ii) *PRIORITY CLASS 2.—*

1           “(I) *IN GENERAL.*—*The Administrator shall designate as Priority Class*  
2           *2 those chemical substances that the*  
3           *Administrator determines are of lower*  
4           *priority than Priority Class 1 sub-*  
5           *stances with respect to the timing for*  
6           *conducting safety standard determina-*  
7           *tions.*

8                           “(II)    *MINIMUM INFORMATION*  
9                           *SET.*—

10   “(aa)   *IN GENERAL.*—*For*  
11   *chemical substances designated*  
12   *under this clause, the Administrator shall require submission of*  
13   *the applicable minimum informa-*  
14   *tion set specified under section 4*  
15   *as needed to inform prioritization*  
16   *decisionmaking.*

17   “(bb)   *TIMING.*—*The min-*  
18   *imum information set shall be*  
19   *submitted to the Administrator—*

20   “(AA)   *not later than 5*  
21   *years after the date of enact-*  
22   *ment of the Safe Chemicals*  
23   *Act of 2011 for chemical sub-*  
24     
25

1                    *stances in the initial batch*  
2                    *identified under subsection*  
3                    *(a)(3) that are assigned to*  
4                    *Priority Class 2; and*

5                    *“(BB) not later than 5*  
6                    *years after the assignment of*  
7                    *a chemical substance to Pri-*  
8                    *ority Class 2 under this*  
9                    *clause for subsequent batches.*

10                    *“(III) REPRIORITIZATION.—After*  
11                    *submission of the minimum informa-*  
12                    *tion set for a chemical substance under*  
13                    *subclause (II), the Administrator shall,*  
14                    *if warranted, recategorize or otherwise*  
15                    *reprioritize the chemical substance*  
16                    *using the priority classes and process*  
17                    *described in this paragraph, together*  
18                    *with other chemical substances in the*  
19                    *batch undergoing prioritization at the*  
20                    *time of the submission.*

21                    *“(IV) REPRIORITIZATION TO PRI-*  
22                    *ORITY CLASS 1.—As safety standard*  
23                    *determinations are completed on Pri-*  
24                    *ority Class 1 chemical substances pur-*  
25                    *suant to subsection (d), the Adminis-*



1 *trator shall reprioritize Priority Class*  
2 *2 substances as Priority Class 1 at a*  
3 *pace consistent with—*

4 *“(aa) the resources available*  
5 *to the Administrator for con-*  
6 *ducting safety standard deter-*  
7 *minations; and*

8 *“(bb) the deadlines for com-*  
9 *pletion of safety standard deter-*  
10 *minations specified in subsection*  
11 *(d)(4).*

12 *“(iii) PRIORITY CLASS 3.—*

13 *“(I) IN GENERAL.—The Adminis-*  
14 *trator shall designate as Priority Class*  
15 *3 those chemical substances that the*  
16 *Administrator determines may be set*  
17 *aside for further assessment until such*  
18 *time as—*

19 *“(aa) safety standard deter-*  
20 *minations are completed on all*  
21 *Priority Class 1 and 2 substances;*  
22 *or*

23 *“(bb) new information arises*  
24 *that warrants reprioritization of*

1           *such a substance to a higher pri-*  
2           *ority class.*

3           “(II)   MINIMUM   INFORMATION  
4           SET.—

5                   “(aa) IN GENERAL.—For a  
6                   chemical substance designated  
7                   under this clause, the Adminis-  
8                   trator shall not require submis-  
9                   sion of the applicable minimum  
10                  information set specified under  
11                  section 4 until such time as the  
12                  chemical substance is reassigned  
13                  to Priority Class 1 or 2.

14                   “(bb) SUBMISSION.—On re-  
15                   assignment of a chemical sub-  
16                   stance to Priority Class 1 or 2  
17                   under item (aa), the minimum  
18                   information set shall be submitted  
19                   to the Administrator not later  
20                   than 5 years after the date of the  
21                   reassignment.

22                   “(III) REPRIORITIZATION.—After  
23                   submission of the minimum informa-  
24                   tion set for a chemical substance pur-  
25                   suant to subclause (II), the Adminis-

1 *trator shall reprioritize the chemical*  
2 *substance using the priority classes*  
3 *and process described in this para-*  
4 *graph, together with chemical sub-*  
5 *stances in the batch undergoing*  
6 *prioritization at the time of the sub-*  
7 *mission.*

8 *“(IV) REPRIORITIZATION TO PRI-*  
9 *ORITY CLASSES 1 AND 2.—In conjunc-*  
10 *tion with the reprioritization by the*  
11 *Administrator of Priority Class 2 sub-*  
12 *stances as Priority Class 1, the Admin-*  
13 *istrator shall reprioritize Priority*  
14 *Class 3 substances as Priority Class 1*  
15 *or 2, at a pace consistent with—*

16 *“(aa) the resources available*  
17 *to the Administrator for con-*  
18 *ducting safety standard deter-*  
19 *minations; and*

20 *“(bb) the deadlines for com-*  
21 *pletion of safety standard deter-*  
22 *minations specified in subsection*  
23 *(d)(4).*

24 *“(c) TREATMENT AS FINAL AGENCY ACTION; NO JUDI-*  
25 *CIAL REVIEW; NONDISCRETIONARY DUTY.—*

1           “(1) *IN GENERAL.*—*The designation by the Ad-*  
2           *ministrator of batches of chemical substances pursu-*  
3           *ant to subsection (a), the assignment of chemical sub-*  
4           *stances to categories pursuant to subsection (b)(3),*  
5           *and the assignment of chemical substances to priority*  
6           *classes pursuant to subsection (b)(4), including any*  
7           *determination of the Administrator to include a spe-*  
8           *cific chemical substance in, or exclude a specific*  
9           *chemical substance from, a designated batch, category,*  
10           *or priority class under this section, shall not be—*

11                   “(A) *considered to be a final agency action*  
12                   *for the purpose of subchapter II of chapter 5,*  
13                   *and chapter 7, of title 5, United States Code*  
14                   *(commonly known as ‘the Administrative Proce-*  
15                   *dure Act’); or*

16                   “(B) *subject to judicial review.*

17           “(2) *FAILURE TO ACT.*—*A failure by the Admin-*  
18           *istrator to designate or publish a list of chemical sub-*  
19           *stances assigned to a batch, category, or priority class*  
20           *in accordance with this subsection shall be—*

21                   “(A) *considered to be a failure to perform*  
22                   *a nondiscretionary duty; and*

23                   “(B) *subject to judicial review.*

24           “(d) *SAFETY STANDARD DETERMINATIONS FOR CHEM-*  
25           *ICAL SUBSTANCES.*—

1           “(1) *IN GENERAL.*—

2                   “(A) *APPLICATION.*—*This paragraph ap-*  
3 *plies to any determination or redetermination*  
4 *regarding whether a chemical substance meets*  
5 *the safety standards of this Act.*

6                   “(B) *RESPONSIBILITIES.*—

7                           “(i) *IN GENERAL.*—*For purposes of*  
8 *this Act, each manufacturer and processor*  
9 *of a chemical substance shall at all times*  
10 *bear the burden of proof in any legal pro-*  
11 *ceeding relating to a decision of the Admin-*  
12 *istrator regarding whether the chemical sub-*  
13 *stance meets the safety standard.*

14                           “(ii) *DUTIES.*—*For purposes of this*  
15 *Act—*

16                                   “(I) *it shall be the duty of the*  
17 *manufacturer or processor of a chem-*  
18 *ical substance to provide sufficient in-*  
19 *formation for the Administrator to de-*  
20 *termine whether the chemical substance*  
21 *meets the safety standard; and*

22                                   “(II) *it shall be the duty of the*  
23 *Administrator to determine whether a*  
24 *chemical substance meets the safety*  
25 *standard.*

1           “(2) *ASSESSMENT OF RISK.*—

2           “(A) *ASSESSMENT.*—

3           “(i) *IN GENERAL.*—*A chemical sub-*  
4           *stance that undergoes a safety standard de-*  
5           *termination under this section may be man-*  
6           *ufactured, processed, or distributed in com-*  
7           *merce only if the Administrator determines*  
8           *that the chemical substance—*

9           “(I) *meets the safety standard,*  
10           *taking into account any existing condi-*  
11           *tions or controls already in effect; or*

12           “(II) *can meet the safety standard*  
13           *for all or some uses through the impo-*  
14           *sition of additional conditions.*

15           “(ii) *REQUIREMENT.*—*Any assessment*  
16           *of risk used to support a determination that*  
17           *a chemical substance meets the safety stand-*  
18           *ard under clause (i) shall be conducted by*  
19           *employees of the Environmental Protection*  
20           *Agency who are competent to conduct such*  
21           *assessments.*

22           “(B) *SAFETY STANDARD.*—

23           “(i) *IN GENERAL.*—*The Administrator*  
24           *shall base a determination of whether a*  
25           *safety standard for a chemical substance*

1           *has been met under subparagraph (A) solely*  
2           *on considerations of human health and the*  
3           *environment, including the health of vulner-*  
4           *able populations.*

5           “(ii) *CONSIDERATIONS.—In making a*  
6           *safety standard determination under this*  
7           *subsection, for each chemical substance, the*  
8           *Administrator shall—*

9                   “(I) *to the extent practicable, re-*  
10                   *view and incorporate any available*  
11                   *scientific information relating to the*  
12                   *effect of cumulative exposure relevant*  
13                   *to that chemical substance on human*  
14                   *health and the environment; and*

15                   “(II) *find that a chemical sub-*  
16                   *stance meets the safety standard only if*  
17                   *the Administrator finds that there is a*  
18                   *reasonable certainty that no harm will*  
19                   *result to human health or the environ-*  
20                   *ment from aggregate exposure to the*  
21                   *chemical substance.*

22           “(C) *FINANCIAL INTERESTS.—No person*  
23           *conducting an assessment described in subpara-*  
24           *graph (A), or a peer review of such an assess-*

1           *ment, may have a direct or indirect financial in-*  
2           *terest in the outcome of the assessment.*

3           “(D) *METHODOLOGY.*—

4                   “(i) *IN GENERAL.*—*Subject to clause*  
5                   *(ii), the Administrator shall use the best*  
6                   *available science when conducting an assess-*  
7                   *ment described in subparagraph (A).*

8                   “(ii) *CONSIDERATIONS.*—*For the pur-*  
9                   *pose of determining the current best avail-*  
10                   *able science the Administrator shall base the*  
11                   *determination on the recommendations of*  
12                   *the National Academy of Sciences in the re-*  
13                   *port entitled ‘Science and Decisions’.*

14                   “(iii) *REVIEW.*—*Not later than 5 years*  
15                   *after the date of enactment of the Safe*  
16                   *Chemicals Act of 2011, and not less fre-*  
17                   *quently than once every 5 years thereafter,*  
18                   *the Administrator shall review the method-*  
19                   *ology under this paragraph and may revise*  
20                   *the methodology to reflect new scientific de-*  
21                   *velopments or understandings.*

22           “(E) *SCOPE.*—*An assessment described in*  
23           *subparagraph (A) shall address health or envi-*  
24           *ronmental impacts including potential or dem-*  
25           *onstrated cancer and noncancer endpoints.*



1           “(F) *TRANSPARENCY.*—*In carrying out this*  
2           *subsection, the Administrator shall ensure that*  
3           *the approaches and resulting assessments are*  
4           *communicated in a manner that is transparent*  
5           *and understandable to—*

6                     “(i) *the public; and*

7                     “(ii) *risk managers.*

8           “(G) *MANUFACTURE OR PROCESSING FOR*  
9           *EXPORT.*—*In the case of a chemical substance*  
10           *that is manufactured or processed in whole or in*  
11           *part for export, in determining whether the*  
12           *chemical substance meets the safety standard*  
13           *under subparagraph (A)(i), the Administrator*  
14           *shall take into account any risk—*

15                     “(i) *that the chemical substance may*  
16                     *pose in the United States, including risks*  
17                     *involving long-range transport of the chem-*  
18                     *ical substance in the environment; or*

19                     “(ii) *involving the import of articles*  
20                     *and mixtures containing the chemical sub-*  
21                     *stance.*

22           “(H) *RISK ASSESSMENT NOT REQUIRED.*—  
23           *The Administrator shall not be required to con-*  
24           *duct a risk assessment to determine that a man-*

1            *ufacturer or processor has not met the burden of*  
2            *proof under paragraph (1)(B).*

3            *“(I) NO JUDICIAL REVIEW.—A determina-*  
4            *tion by the Administrator that a manufacturer*  
5            *or processor has not established that the chemical*  
6            *substance meets the applicable safety standard*  
7            *under this subsection shall not be subject to judi-*  
8            *cial review.*

9            *“(3) INFORMATION FOR SAFETY STANDARD DE-*  
10          *TERMINATIONS.—*

11            *“(A) IN GENERAL.—In making a safety*  
12            *standard determination with respect to a chem-*  
13            *ical substance, the Administrator—*

14            *“(i) shall take into consideration infor-*  
15            *mation regarding the chemical substance*  
16            *that is already available to the Adminis-*  
17            *trator at the time the determination is to be*  
18            *made, including information—*

19            *“(I) received by the Administrator*  
20            *from manufacturers or processors*  
21            *under this section or section 8;*

22            *“(II) contained in any minimum*  
23            *information sets previously required*  
24            *under section 4;*

1           “(III) voluntarily submitted by  
2           manufacturers and processors in ac-  
3           cordance with subsection (b)(2)(B);

4           “(IV) submitted by any other  
5           party to the Administrator that is rel-  
6           evant to the conduct of a safety stand-  
7           ard determination of the chemical sub-  
8           stance; or

9           “(V) identified through an active  
10          search by the Administrator of infor-  
11          mation sources that are publicly avail-  
12          able or otherwise accessible to the Ad-  
13          ministrator;

14          “(ii) shall require information needed  
15          to complete the applicable minimum infor-  
16          mation set for the chemical substance re-  
17          quired under section 4(a);

18          “(iii) may require, by regulation or  
19          order pursuant to section 4(b) or 8(e), man-  
20          ufacturers or processors of the chemical sub-  
21          stance to develop and submit any addi-  
22          tional information the Administrator deter-  
23          mines is needed to conduct the safety stand-  
24          ard determination of the chemical sub-  
25          stance; and

1           “(iv) shall take into consideration, but  
2           not rely on, assessments of safety or anal-  
3           yses of the effectiveness of existing control  
4           measures—

5                   “(I) submitted to the Adminis-  
6                   trator by any party; or

7                   “(II) conducted by a govern-  
8                   mental entity in another jurisdiction.

9           “(4) *TIMING OF SAFETY STANDARD DETERMINA-*  
10          *TIONS.—*

11                   “(A) *PRIORITY CLASS 1.—*

12                   “(i) *IN GENERAL.—Beginning with*  
13                   *chemical substances initially designated as*  
14                   *Priority Class 1 under subsection*  
15                   *(b)(4)(C)(i), the Administrator shall con-*  
16                   *duct safety standard determinations of all*  
17                   *chemical substances assigned to the category*  
18                   *of substances to undergo safety standard de-*  
19                   *terminations pursuant to subsection*  
20                   *(b)(3)(B)(iii).*

21                   “(ii) *INITIAL BATCH.—Not later than 5*  
22                   *years after the date of enactment of the Safe*  
23                   *Chemicals Act of 2011, the Administrator*  
24                   *shall complete and publish safety standard*  
25                   *determinations for all chemical substances*

1           *designated as Priority Class 1 substances in*  
2           *the initial batch of chemical substances*  
3           *identified under subsection (a)(3).*

4           “(iii) *SUBSEQUENT BATCHES.*—*Not*  
5           *later than 5 years after the date on which*  
6           *the Administrator designates chemical sub-*  
7           *stances as Priority Class 1 in each subse-*  
8           *quent batch of chemical substances under*  
9           *subsection (a)(2)(A), the Administrator*  
10           *shall complete and publish safety standard*  
11           *determinations for those Priority Class 1*  
12           *substances in the batch.*

13           “(B) *PRIORITY CLASSES 2 AND 3.*—

14           “(i) *IN GENERAL.*—*Each chemical sub-*  
15           *stance initially designated as Priority Class*  
16           *2 or 3 shall become subject to*  
17           *reprioritization and safety standard deter-*  
18           *minations in accordance with subsection*  
19           *(b)(4).*

20           “(ii) *REPRIORITIZATION.*—*Not later*  
21           *than 5 years after the date on which the Ad-*  
22           *ministrator designates a Priority Class 2 or*  
23           *3 substance to be Priority Class 1, the Ad-*  
24           *ministrator shall complete and publish the*

1           *safety standard determination on the chem-*  
2           *ical substance.*

3           “(C) NOTICE OF OVERDUE DETERMINA-  
4           TION.—*If the Administrator fails to act by an*  
5           *applicable deadline under subparagraph (A) or*  
6           *(B), each manufacturer and processor of a chem-*  
7           *ical substance for which the Administrator has*  
8           *failed to act shall provide to the Administrator,*  
9           *the public, employees and recognized bargaining*  
10           *agents of any employees who are represented by*  
11           *bargaining agents of the manufacturer or proc-*  
12           *essor, and each known customer who has pur-*  
13           *chased the chemical substance within a reason-*  
14           *able timeframe, as determined by the Adminis-*  
15           *trator by regulation or order, a written notice*  
16           *that a determination by the Administrator of the*  
17           *safety of the chemical substance is pending.*

18           “(D) FAILURE OF MANUFACTURER OR  
19           PROCESSOR TO MEET DUTIES.—*If a manufac-*  
20           *turer or processor fails to meet any duty under*  
21           *this paragraph for a chemical substance, the Ad-*  
22           *ministrator, by order, may take any action au-*  
23           *thorized under subsection (f).*

24           “(5) OUTCOME OF SAFETY STANDARD DETER-  
25           MINATIONS.—

1                   “(A) *DETERMINATION.*—

2                   “*(i) IN GENERAL.*—*In making a safety*  
3                   *standard determination for a chemical sub-*  
4                   *stance, the Administrator, by order, shall*  
5                   *determine or redetermine, as appropriate,*  
6                   *whether the manufacturers and processors of*  
7                   *the chemical substance have established that*  
8                   *the chemical substance meets the safety*  
9                   *standard.*

10                  “*(ii) CONCURRENT PUBLICATION.*—*The*  
11                  *Administrator—*

12                  “*(I) shall seek to publish safety*  
13                  *standard determination and risk man-*  
14                  *agement decisions concurrently, to the*  
15                  *maximum extent practicable; but*

16                  “*(II) shall not unduly delay the*  
17                  *issuance of any safety standard deter-*  
18                  *mination if more information or anal-*  
19                  *ysis is required to make a determina-*  
20                  *tion regarding risk management.*

21                  “*(iii) OTHER REQUIREMENTS.*—*The*  
22                  *Administrator—*

23                  “*(I) may publish safety standard*  
24                  *determinations for chemical substances*  
25                  *individually or in groups; but*

1                   “(II) shall publish completed de-  
2 terminations—

3                   “(aa) not less frequently than  
4 annually; and

5                   “(bb) at a pace sufficient to  
6 demonstrate steady progress to-  
7 ward completing all such safety  
8 standard determinations within  
9 the required timeframe.

10                   “(iv) PUBLIC NOTICE AND COMMENT.—  
11 The Administrator shall provide reasonable  
12 public notice and opportunity for comment  
13 on all published safety standard determina-  
14 tions through any reasonable means of pub-  
15 lication and solicitation of comments, in-  
16 cluding electronic means.

17                   “(B) POSITIVE SAFETY STANDARD DETER-  
18 MINATION WITHOUT NEW CONDITIONS.—If the  
19 Administrator determines that a chemical sub-  
20 stance meets the safety standard for all current  
21 uses and under conditions currently used, the  
22 Administrator shall specify in the order—

23                   “(i) the allowed uses of the chemical  
24 substance, which shall be limited to the uses  
25 evaluated in the determination; and



1           “(ii) conditions on the specified uses  
2           that are currently used and are to be fol-  
3           lowed to ensure the safety standard is met,  
4           including conditions relating to the manu-  
5           facture, processing, use, distribution in com-  
6           merce, or disposal of a chemical substance  
7           or mixture or article containing the chem-  
8           ical substance.

9           “(C) *POSITIVE SAFETY STANDARD DETER-*  
10          *MINATION WITH NEW CONDITIONS.*—If the Ad-  
11          ministrators determine that a chemical substance  
12          can only meet the safety standard for a subset of  
13          all current uses or only under conditions beyond  
14          those currently used, the Administrator shall  
15          specify in the order—

16               “(i) the allowed uses of the chemical  
17               substance, which shall be limited to the uses  
18               evaluated in the determination that the Ad-  
19               ministrators determine meet the safety  
20               standard; and

21               “(ii) all current and all newly required  
22               conditions on the specified uses needed to  
23               ensure the safety standard is met, including  
24               conditions relating to the manufacture,  
25               processing, use, distribution in commerce,

1           *or disposal of a chemical substance or mix-*  
2           *ture or article containing the chemical sub-*  
3           *stance, and any conditions described in sub-*  
4           *section (f).*

5           “(D) *EFFECTIVE DATE FOR POSITIVE SAFE-*  
6           *TY STANDARD DETERMINATION.—*

7                   “(i) *WITHOUT NEW CONDITIONS.—Ef-*  
8           *fective beginning on the date that is 90 days*  
9           *after the date of a determination by the Ad-*  
10          *ministrator under subparagraph (B), no*  
11          *person shall manufacture, process, or dis-*  
12          *tribute in commerce the chemical substance*  
13          *subject to the determination, or any mixture*  
14          *or article containing the chemical substance,*  
15          *for any use or under any condition other*  
16          *than those specified in the determination*  
17          *order.*

18                   “(ii) *WITH NEW CONDITIONS.—Effec-*  
19          *tive beginning on the date that is 18 months*  
20          *after the date of a determination by the Ad-*  
21          *ministrator under subparagraph (C), except*  
22          *as provided in clause (iii), no person shall*  
23          *manufacture, process, or distribute in com-*  
24          *merce the chemical substance subject to the*  
25          *determination, or any mixture or article*

1           *containing the chemical substance, for any*  
2           *use or under any condition other than those*  
3           *specified in the determination order.*

4           “(iii) *EXCEPTIONAL CIRCUMSTANCE.—*  
5           *The Administrator may grant a manufac-*  
6           *turer or processor of a chemical substance a*  
7           *1-time extension of the deadline for com-*  
8           *plying with a restriction under clause (ii),*  
9           *for a period of not longer than 5 years after*  
10           *the date of the determination by the Admin-*  
11           *istrator under subparagraph (C), if the*  
12           *manufacturer or processor demonstrates—*

13           “(I) *a compelling technological*  
14           *need to continue a restricted activity*  
15           *beyond the applicable 18-month time*  
16           *period; or*

17           “(II) *that a factor wholly beyond*  
18           *the control of the manufacturer or*  
19           *processor prevents compliance with the*  
20           *restriction within that 18-month time*  
21           *period.*

22           “(E) *REDETERMINATION.—*

23           “(i) *IN GENERAL.—The Administrator*  
24           *shall initiate a redetermination of whether*  
25           *a chemical substance meets the safety stand-*

1            *ard if new information or significant*  
2            *changes in manufacture, processing, use, or*  
3            *distribution in commerce of the chemical*  
4            *substance, or mixtures or articles con-*  
5            *taining the chemical substance, raise a cred-*  
6            *ible question as to whether the chemical sub-*  
7            *stance continues to meet the safety stand-*  
8            *ard.*

9            *“(ii) NEW METHODOLOGIES.—The Ad-*  
10           *ministrator may initiate a redetermination*  
11           *of whether a chemical substance meets the*  
12           *safety standard if significant changes have*  
13           *occurred in the methodologies used in the*  
14           *initial safety standard determination such*  
15           *that a redetermination using the newer*  
16           *methodologies would provide a significantly*  
17           *improved determination of the safety of the*  
18           *chemical substance.*

19           *“(iii) NEW INFORMATION.—For a*  
20           *chemical substance for which a safety stand-*  
21           *ard determination has been completed, the*  
22           *Administrator shall assess, on an ongoing*  
23           *basis, new information, including that ob-*  
24           *tained from reporting under section 8, to*  
25           *decide whether such information raises a*

1           *credible question as to whether a chemical*  
2           *substance continues to meet the safety*  
3           *standard*

4           “(iv) *PETITION FOR REDETERMINA-*  
5           *TION.—*

6                   “(I) *IN GENERAL.—Any person*  
7                   *may petition the Administrator for a*  
8                   *redetermination of whether a chemical*  
9                   *substance continues to meet the safety*  
10                  *standard.*

11                   “(II) *BASIS.—A person shall in-*  
12                   *clude in a petition under this clause a*  
13                   *description of the basis for requesting*  
14                   *the redetermination.*

15                   “(III) *ACTION BY ADMINIS-*  
16                   *TRATOR.—On receipt of a petition*  
17                   *under this clause, the Administrator*  
18                   *shall—*

19                           “(aa) *not later than 30 days*  
20                           *after the date of receipt, publish*  
21                           *in the Federal Register a notice of*  
22                           *receipt of the petition that speci-*  
23                           *fies the chemical identity of the*  
24                           *chemical substance to which the*  
25                           *petition pertains;*

1           “(bb) make the petition  
2 available on request;

3           “(cc) provide a reasonable  
4 opportunity for public review and  
5 comment on the petition and give  
6 due consideration to any com-  
7 ments received;

8           “(dd) decide whether to make  
9 the requested redetermination;  
10 and

11           “(ee) not later than 180 days  
12 after the date of receipt, publish  
13 in the *Federal Register* the deci-  
14 sion and the basis for the decision.

15           “(v) *DEADLINE FOR COMPLETION.*—  
16 *Each redetermination carried out under*  
17 *this subparagraph shall be completed by not*  
18 *later than 3 years after the date of the deci-*  
19 *sion to make the redetermination.*

20           “(F) *NEGATIVE SAFETY STANDARD DETER-*  
21 *MINATION.*—

22           “(i) *RESTRICTION.*—*Except as pro-*  
23 *vided in clause (ii) and subsection (h), effec-*  
24 *tive beginning on the date that is 18 months*  
25 *after the date on which the Administrator*

1           *makes a determination under this sub-*  
2           *section that a chemical substance fails to*  
3           *meet the safety standard, regardless of*  
4           *whether additional restrictions on use or*  
5           *risk management conditions are imposed,*  
6           *no person shall manufacture, process, or*  
7           *distribute in commerce that chemical sub-*  
8           *stance or any mixture or article containing*  
9           *the chemical substance.*

10           “(i) *EXCEPTIONAL CIRCUMSTANCE.—*  
11           *The Administrator may grant a manufac-*  
12           *turer or processor of a chemical substance a*  
13           *1-time extension of the deadline for com-*  
14           *plying with the restriction under clause (i),*  
15           *for a period of not longer than 5 years after*  
16           *the date of the determination by the Admin-*  
17           *istrator under this subparagraph, if the*  
18           *manufacturer or processor demonstrates—*

19                   “(I) *a compelling technological*  
20                   *need to continue a restricted activity*  
21                   *beyond the applicable 18-month time*  
22                   *period; or*

23                   “(II) *that a factor wholly beyond*  
24                   *the control of the manufacturer or*  
25                   *processor prevents compliance with the*

1                    *restriction within that 18-month time*  
2                    *period.*

3            “(e) *EXPEDITED ACTION FOR SUBSTANCES OF VERY*  
4 *HIGH CONCERN.—*

5                    “(1) *USE AND EXPOSURE ASSESSMENT.—*

6                    “(A) *IN GENERAL.—Not later than 180*  
7 *days after the date on which a chemical sub-*  
8 *stance is assigned to the category of substances of*  
9 *very high concern under subsection (b)(3)(B)(i),*  
10 *the Administrator may require, by order pursu-*  
11 *ant to section 8(g), the submission by manufac-*  
12 *turers or processors of the chemical substance of*  
13 *any additional information the Administrator*  
14 *determines to be necessary to conduct an expe-*  
15 *ditated assessment of the known uses of, and expo-*  
16 *sures to, the chemical substance.*

17                    “(B) *PUBLICATION.—Not later than 1 year*  
18 *after the date on which a chemical substance is*  
19 *assigned to the category of substances of very*  
20 *high concern under subsection (b)(3)(B)(i), the*  
21 *Administrator shall complete and publish an*  
22 *identification and assessment of the known uses*  
23 *of, and exposures to, the chemical substance.*

24                    “(2) *EXPOSURE REDUCTION.—*



1           “(A) *USE RESTRICTIONS AND OTHER CON-*  
2           *DITIONS.—As soon as practicable, but not later*  
3           *than 18 months, after the date on which a chem-*  
4           *ical substance is assigned to the category of sub-*  
5           *stances of very high concern under subsection*  
6           *(b)(3)(B)(i), the Administrator shall impose, by*  
7           *order, use restrictions and other conditions, in-*  
8           *cluding the conditions specified in subsection (f),*  
9           *on the manufacturing, processing, use, distribu-*  
10           *tion in commerce, and disposal of the chemical*  
11           *substance that the Administrator determines to*  
12           *be necessary to achieve the maximum practicable*  
13           *reduction in human or environmental exposure*  
14           *to the chemical substance.*

15           “(B) *TIMING.—Except as provided in sub-*  
16           *paragraph (C) and subsection (h), effective be-*  
17           *ginning on the date that is 18 months after the*  
18           *date of issuance by the Administrator of the*  
19           *order described in subparagraph (A), no person*  
20           *shall manufacture, process, or distribute in com-*  
21           *merce the chemical substance subject to the deter-*  
22           *mination, or any mixture or article containing*  
23           *the chemical substance, for any use or under any*  
24           *condition other than those specified in the order*  
25           *issued under subparagraph (A).*

1           “(C) *EXCEPTIONAL CIRCUMSTANCE.*—*The*  
2           *Administrator may grant a manufacturer or*  
3           *processor of a chemical substance a 1-time exten-*  
4           *sion of the deadline for complying with the re-*  
5           *striction under subparagraph (B), for a period of*  
6           *not longer than 5 years after the date of the de-*  
7           *termination by the Administrator under this*  
8           *paragraph, if the manufacturer or processor*  
9           *demonstrates—*

10                   “(i) *a compelling technological need to*  
11                   *continue a restricted activity beyond the ap-*  
12                   *plicable 18-month time period; or*

13                   “(ii) *that a factor wholly beyond the*  
14                   *control of the manufacturer or processor*  
15                   *prevents compliance with the restriction*  
16                   *within that 18-month time period.*

17           “(3) *RESIDUAL RISK ASSESSMENT.*—*Not later*  
18           *than 1 year after the deadline specified in paragraph*  
19           *(2)(B), or of an alternative deadline provided under*  
20           *paragraph (2)(C), the Administrator shall—*

21                   “(A) *determine whether the chemical sub-*  
22                   *stance meets the safety standard for the chemical*  
23                   *substance, taking into account the residual risk*  
24                   *posed by continued exposure to the chemical sub-*  
25                   *stance; and*

1           “(B) impose any additional restrictions on  
2           use or other conditions under subsection (f) that  
3           the Administrator determines to be necessary to  
4           ensure that the chemical substance meets the  
5           safety standard.

6           “(f) *RISK MANAGEMENT*.—In issuing an order under  
7           subsection (d) or (e), the Administrator may impose condi-  
8           tions on the manufacture, processing, use, distribution in  
9           commerce, or disposal of a chemical substance, or mixture  
10          or article containing a chemical substance, including a re-  
11          quirement—

12           “(1) limiting the quantity of the chemical sub-  
13          stance (or mixture or article containing that chemical  
14          substance) that may be manufactured, processed, or  
15          distributed in commerce;

16           “(2)(A) prohibiting the manufacturing, proc-  
17          essing, or distribution in commerce of the chemical  
18          substance (or mixture or article containing that  
19          chemical substance) for a particular use in a con-  
20          centration in excess of a level specified by the Admin-  
21          istrator; or

22           “(B) limiting the quantity of the chemical sub-  
23          stance (or mixture or article containing that chemical  
24          substance) that may be manufactured, processed, or  
25          distributed in commerce for—

1           “(i) a particular use; or

2           “(ii) a particular use in a concentration in  
3           excess of a level specified by the Administrator;

4           “(3) that the chemical substance (or mixture, or  
5           article containing that chemical substance) be marked  
6           with, or accompanied by, clear and adequate warn-  
7           ings and instructions with respect to use, distribution  
8           in commerce, or disposal, or any combination of such  
9           activities, with the form and content of the warnings  
10          and instructions prescribed by the Administrator;

11          “(4) that manufacturers and processors of the  
12          chemical substance (or mixture or article containing  
13          that chemical substance)—

14               “(A) make and retain records of the proc-  
15               esses used to manufacture or process the chemical  
16               substance (or mixture or article containing that  
17               chemical substance); and

18               “(B) monitor or conduct tests that are rea-  
19               sonable and necessary to ensure compliance with  
20               this Act;

21          “(5) prohibiting or otherwise regulating any  
22          manner or method of commercial use of the chemical  
23          substance (or mixture or article containing that  
24          chemical substance);

1           “(6) prohibiting or otherwise regulating any  
2 manner or method of disposal of the chemical sub-  
3 stance, mixture, or article, by—

4                   “(A) the manufacturer or processor of the  
5 chemical substance (or mixture or article con-  
6 taining that chemical substance); or

7                   “(B) any other person that uses or disposes  
8 of the chemical substance (or mixture or article  
9 containing that chemical substance) for commer-  
10 cial purposes;

11           “(7) that the manufacturers and processors of the  
12 chemical substance, mixture, or article develop a risk  
13 reduction management plan, under subsection (h) or  
14 (e) of this section, to achieve a risk reduction specified  
15 by the Administrator; or

16           “(8) that the Administrator otherwise determines  
17 is appropriate.

18           “(g) *QUALITY CONTROL ORDERS.*—

19                   “(1) *IN GENERAL.*—If the Administrator has a  
20 reasonable basis to conclude that a particular manu-  
21 facturer or processor is manufacturing or processing  
22 a chemical substance in a manner that may present  
23 a substantial endangerment to health or the environ-  
24 ment, the Administrator may require, by order, that  
25 the manufacturer or processor submit to the Adminis-

1 *trator a description of the quality control procedures*  
2 *followed in the manufacturing or processing of the*  
3 *chemical substance or mixture.*

4 “(2) *ORDERS.*—

5 “(A) *IN GENERAL.*—*If the Administrator*  
6 *determines that quality control procedures de-*  
7 *scribed in paragraph (1) are inadequate to pre-*  
8 *vent a chemical substance from presenting a risk*  
9 *of injury to human health or the environment,*  
10 *the Administrator may order the manufacturer*  
11 *or processor to revise the quality control proce-*  
12 *dures to the extent necessary to remedy the inad-*  
13 *equacy.*

14 “(B) *SUBSTANTIAL ENDANGERMENT.*—*If the*  
15 *Administrator determines that quality control*  
16 *procedures described in paragraph (1) have re-*  
17 *sulted in the distribution in commerce of a chem-*  
18 *ical substance that may present a substantial*  
19 *endangerment to human health or the environ-*  
20 *ment, the Administrator may order the manufac-*  
21 *turer or processor—*

22 “(i) *to give notice of the endangerment*  
23 *to—*

1                   “(I) processors or distributors (or  
2                   both) in commerce of the chemical sub-  
3                   stance or mixture; and

4                   “(II) to the extent reasonably as-  
5                   certainable, any other person in posses-  
6                   sion of or exposed to the chemical sub-  
7                   stance or mixture;

8                   “(ii) to give public notice of the  
9                   endangerment; and

10                  “(iii) to provide for the replacement or  
11                  repurchase, as prescribed by the Adminis-  
12                  trator, of the chemical substance as the Ad-  
13                  ministrators determine to be necessary to  
14                  adequately protect human health or the en-  
15                  vironment.

16                  “(h) EXEMPTIONS TO RESTRICTIONS.—

17                         “(1) APPLICATION.—This subsection applies to  
18                         the restrictions established under section  
19                         5(b)(1)(C)(ii)(I), subsection (d)(5), and subsection (e).

20                         “(2) EXEMPTIONS.—

21                                 “(A) IN GENERAL.—

22   “(i) REQUEST.—A person who manu-  
23   facturers, processes, distributes in commerce,  
24   uses, or disposes of a chemical substance, or  
25   a mixture or article containing a chemical

1           *substance may request an exemption from*  
2           *any restriction referred to in paragraph (1)*  
3           *to which they are subject for a specified use*  
4           *of the chemical substance.*

5           “(ii) *ORDER.—The Administrator may*  
6           *grant, by order, an exemption from any re-*  
7           *striction referred to in paragraph (1) for a*  
8           *period of not longer than 5 years if the per-*  
9           *son has established by clear and convincing*  
10          *evidence that the uses to be exempted meet*  
11          *the exemption criteria described in subpara-*  
12          *graph (B).*

13          “(B) *CRITERIA.—The Administrator may*  
14          *grant an exemption for the use of a chemical*  
15          *substance under subparagraph (A)(ii) if—*

16               “(i) *the exemption is in the paramount*  
17               *interest of national security;*

18               “(ii) *the lack of availability of the*  
19               *chemical substance would cause significant*  
20               *disruption in the national economy; or*

21               “(iii) *the use for which the exemption*  
22               *is sought is a critical or essential use for*  
23               *which—*



1           “(I) *no feasible safer alternative*  
2           *for the specified use of the chemical*  
3           *substance is available; or*

4           “(II) *the specified use of the chem-*  
5           *ical substance, as compared to all*  
6           *available alternatives, provides a sub-*  
7           *stantial net benefit to human health,*  
8           *the environment, or public safety.*

9           “(C) *PUBLIC NOTICE.—If the Administrator*  
10          *grants an exemption for a chemical substance*  
11          *under this paragraph—*

12           “(i) *the manufacturer or processor of*  
13           *the chemical substance shall provide a no-*  
14           *tice of the exemption to each known pur-*  
15           *chaser of—*

16           “(I) *the chemical substance; and*

17           “(II) *a mixture or article con-*  
18           *taining the chemical substance; and*

19           “(ii) *the Administrator shall provide*  
20           *the public with a notice of the exemption.*

21          “(D) *RENEWAL.—The Administrator may*  
22          *renew, by order, an exemption under this para-*  
23          *graph for 1 or more additional 5-year periods if*  
24          *the Administrator concludes, after providing*  
25          *public notice and an opportunity for comment,*

1           *that the use of the chemical substance continues*  
2           *to meet the criteria described in subparagraph*  
3           *(B).*

4           “(E) *CONDITIONS.—*

5                   “(i) *IN GENERAL.—The Administrator*  
6                   *may impose, by order, any condition on an*  
7                   *exemption issued under this paragraph that*  
8                   *the Administrator determines to be nec-*  
9                   *essary to ensure the protection of human*  
10                   *health and the environment on the use of a*  
11                   *chemical substance exempted under this*  
12                   *paragraph.*

13                   “(ii) *COMPLIANCE.—Effective imme-*  
14                   *diately after the Administrator establishes*  
15                   *conditions on an exempted use under clause*  
16                   *(i), the manufacturing, processing, or dis-*  
17                   *tribution in commerce of the chemical sub-*  
18                   *stance, or any mixture or article containing*  
19                   *the chemical substance, shall be prohibited*  
20                   *except to the extent that the conditions are*  
21                   *satisfied.*

22           “(3) *RESALE OF USED ARTICLES.—*

23                   “(A) *IN GENERAL.—The restrictions re-*  
24                   *ferred to in paragraph (1) shall not apply to the*  
25                   *resale of an article subject to a restriction under*

1 subsection (b) if the article has previously been  
2 used by an end consumer.

3 “(B) COMPLIANCE.—The Administrator  
4 may utilize the authorities contained in section  
5 7 to address potential threats to public health  
6 and the environment from such articles.

7 “(4) EXTENSIONS OF EFFECTIVE DATES FOR RE-  
8 TAIL SALE OF ARTICLES TO END CONSUMERS.—

9 “(A) IN GENERAL.—Except as provided in  
10 subparagraph (B), in the case of the retail sale  
11 to an end consumer of a chemical substance (or  
12 mixture or article containing that chemical sub-  
13 stance) that is subject to a restriction described  
14 in paragraph (1), the Administrator may extend,  
15 by order, the effective date of the restriction by  
16 a period of not longer than 3 years, if the Ad-  
17 ministrator determines that the extension—

18 “(i) is necessary and appropriate to  
19 allow for depletion of the existing retail in-  
20 ventory; and

21 “(ii) will not present a substantial  
22 endangerment to human health or the envi-  
23 ronment.

24 “(B) EXCEPTION.—An extension under sub-  
25 paragraph (A) shall not apply to any retailer

1           *that the Administrator determines has failed to*  
2           *comply with an order requesting information*  
3           *issued by the Administrator pursuant to section*  
4           8.”;

5 **SEC. 8. IMMINENT HAZARDS.**

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

8 **“SEC. 7. IMMINENT HAZARDS.**

9           “(a) ACTIONS AUTHORIZED AND REQUIRED.—

10           “(1) IN GENERAL.—The Administrator may  
11 commence a civil action in an appropriate district  
12 court of the United States for—

13           “(A) seizure of a chemical substance or  
14 mixture, or any article containing a chemical  
15 substance or mixture, that may present an im-  
16 minent and substantial endangerment to health  
17 or the environment;

18           “(B) relief authorized under subsection (b)  
19 against any person that—

20           “(i) manufactures, processes, distrib-  
21 utes in commerce, uses, or disposes of a  
22 chemical substance or mixture, or any arti-  
23 cle containing a chemical substance or mix-  
24 ture, if the manufacture, processing, dis-  
25 tribution in commerce, use, or disposal

1           may present an imminent and substantial  
2           endangerment to health or the environ-  
3           ment; or

4           “(ii) contributes to an activity de-  
5           scribed in clause (i); or

6           “(C) both seizure and relief described in  
7           subparagraphs (A) and (B), respectively.

8           “(2) OTHER ACTIONS.—

9           “(A) IN GENERAL.—The Administrator  
10          may issue such orders as are necessary to pro-  
11          tect health or the environment from any manu-  
12          facturing, processing, distribution in commerce,  
13          use, or disposal of a chemical substance or mix-  
14          ture, or any article containing such a substance  
15          or mixture, that may present an imminent and  
16          substantial endangerment to health or the envi-  
17          ronment, as determined by the Administrator.

18          “(B) REQUIREMENT.—An order under  
19          subparagraph (A) may include such require-  
20          ments imposed on the manufacture, processing,  
21          distribution in commerce, use, or disposal of a  
22          chemical substance or mixture, or article con-  
23          taining the chemical substance or mixture, as  
24          the Administrator determines are necessary to  
25          protect health or the environment, including—

1                   “(i) the requirements described in sec-  
2                   tion 6(c); and

3                   “(ii) the relief authorized under sub-  
4                   section (b).

5                   “(3) RELATIONSHIP TO EXISTING RULES, OR-  
6                   DERS, AND PROCEEDINGS.—A civil action may be  
7                   commenced under paragraph (1), or other action  
8                   may be taken under paragraph (2), notwith-  
9                   standing—

10                   “(A) the existence of a rule or order under  
11                   this Act; and

12                   “(B) the pendency of any administrative or  
13                   judicial proceeding under this Act.

14                   “(b) RELIEF AUTHORIZED.—

15                   “(1) IN GENERAL.—The district court of the  
16                   United States in which a civil action under sub-  
17                   section (a)(1) is brought shall have jurisdiction to  
18                   grant such temporary or permanent relief as are  
19                   necessary to protect health or the environment from  
20                   the risk associated with the activity involved in the  
21                   civil action.

22                   “(2) TYPES OF RELIEF.—In the case of a civil  
23                   action under subsection (a)(1) brought against a  
24                   person that manufactures, processes, distributes in  
25                   commerce, uses, or disposes of a chemical substance

1 or mixture or an article containing a chemical sub-  
2 stance or mixture, the relief authorized by para-  
3 graph (1) may include—

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

7 “(B) in the case of purchasers of the sub-  
8 stance, mixture, or article known to the defend-  
9 ant—

10 “(i) notification to the purchasers of  
11 the risk associated with the substance,  
12 mixture, or article;

13 “(ii) public notice of the risk;

14 “(iii) recall;

15 “(iv) the replacement or repurchase of  
16 the substance, mixture, or article; or

17 “(v) any combination of the actions  
18 described in section 6(c) or in clauses (i)  
19 through (iv) of this subparagraph; or

20 “(C) such other relief as is necessary to  
21 protect health or the environment from the risk  
22 associated with the activity involved in the civil  
23 action.

24 “(3) SEIZURE AND CONDEMNATION.—

1           “(A) IN GENERAL.—A civil action under  
2 subsection (a)(1) against a chemical substance,  
3 mixture, or article may be proceeded against by  
4 process of libel for seizure and condemnation of  
5 the chemical substance, mixture, or article.

6           “(B) PROCEEDINGS.—Proceedings in a  
7 civil action described in subparagraph (A) shall  
8 conform, to the maximum extent practicable, to  
9 proceedings in rem in admiralty.

10       “(c) VENUE AND CONSOLIDATION.—

11           “(1) VENUE.—

12           “(A) IN GENERAL.—A civil action under  
13 subsection (a)(1) against a person that manu-  
14 factures, processes, or distributes a chemical  
15 substance or mixture or an article containing a  
16 chemical substance or mixture may be brought  
17 in the United States District Court for the Dis-  
18 trict of Columbia, or in any judicial district in  
19 which any of the defendants is found, resides,  
20 or transacts business.

21           “(B) PROCESS.—Process in an action de-  
22 scribed in subparagraph (A) may be served on  
23 a defendant in any other district in which the  
24 defendant resides or may be found.



1           “(C) CHEMICAL SUBSTANCES, MIXTURES,  
2           OR ARTICLES.—A civil action under subsection  
3           (a)(1) against a chemical substance, mixture, or  
4           article may be brought in any United States  
5           district court within the jurisdiction of which  
6           the chemical substance, mixture, or article is  
7           found.

8           “(D) MULTIPLE JUDICIAL DISTRICTS.—In  
9           determining the judicial district in which a civil  
10          action may be brought under subsection (a)(1)  
11          in instances in which the action may be brought  
12          in more than 1 judicial district, the Adminis-  
13          trator shall take into account the convenience of  
14          the parties.

15          “(E) SUBPOENAS.—Subpoenas requiring  
16          attendance of witnesses in a civil action brought  
17          under subsection (a)(1) may be served in any  
18          judicial district.

19          “(2) CONSOLIDATION.—If proceedings under  
20          subsection (a)(1) involving identical chemical sub-  
21          stances, mixtures, or articles are pending in courts  
22          in 2 or more judicial districts, the proceedings shall  
23          be consolidated for trial by order of any such court  
24          on application reasonably made by any party in in-  
25          terest, on notice to all parties in interest.”.

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

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

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

5 **“(a) SUBSTANCE IDENTIFICATION, DECLARATION,**  
6 **AND INFORMATION.—**

7 **“(1) IN GENERAL.—**Not later than 1 year after  
8 the date of enactment of the Safe Chemicals Act of  
9 2011, each manufacturer or processor of a chemical  
10 substance distributed in commerce shall submit to  
11 the Administrator the declaration described in para-  
12 graph (2) or (3), accompanied by the certification  
13 described in subsection (h).

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 manufactured or processed by a  
18 manufacturer or processor—

19 **“(A)** the chemical identity and any special  
20 substance characteristics of the chemical sub-  
21 stance;

22 **“(B)** the name and location of each facility  
23 under the control of the manufacturer or proc-  
24 essor at which the chemical substance is manu-  
25 factured or processed or from which the chem-  
26 ical substance is distributed in commerce;

1           “(C) a list of health and safety studies  
2           conducted or initiated by or for, known to, or  
3           reasonably ascertainable by the manufacturer  
4           or processor with respect to the chemical sub-  
5           stance; and copies of any such studies that have  
6           not previously been submitted to the Adminis-  
7           trator; and

8           “(D) all other information known to, in the  
9           possession or control of, or reasonably ascer-  
10          tainable by the manufacturer or processor that  
11          has not previously been submitted to the Ad-  
12          ministrator regarding—

13                 “(i) the physical, chemical, and toxi-  
14                 cological properties of the chemical sub-  
15                 stance;

16                 “(ii) the annual production volume  
17                 and known uses of, and exposure and fate  
18                 information relating to, the chemical sub-  
19                 stance; and

20                 “(iii) the name and location of each  
21                 facility to which the chemical substance is  
22                 sent, after manufacture and processing; for  
23                 subsequent processing; distribution; or use.

24           “(3) DECLARATION OF CESSATION OF MANU-  
25           FACTURING OR PROCESSING.—A declaration de-

1 scribed in this paragraph is a statement certifying  
2 that the manufacturer or processor has ceased, or  
3 will cease not later than 180 days after the date of  
4 submission of the declaration, all production, impor-  
5 tation, processing, and export of the chemical sub-  
6 stance.

7 “(4) UPDATING OF INFORMATION.—Each man-  
8 ufacturer or processor of a chemical substance that  
9 submits to the Administrator a declaration described  
10 in paragraph (2) shall update and submit to the Ad-  
11 ministrator a new declaration—

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

13 “(B) immediately, at any time at which  
14 there becomes known or available to, in the pos-  
15 session or control of, or reasonably ascertain-  
16 able by the manufacturer or processor signifi-  
17 cant new information regarding a physical,  
18 chemical, toxicological property or use of, or ex-  
19 posure to, the chemical substance, including  
20 any information that—

21 “(i) demonstrates a new potential  
22 toxic effect of the chemical substance;

23 “(ii) corroborates previous informa-  
24 tion demonstrating or suggesting a toxic  
25 effect; or

1                   “(iii) suggests a toxic effect at a lower  
2                   dose than previously demonstrated.

3                   “~~(5)~~ RECORDS TO SUPPORT DECLARATIONS.—

4                   Each manufacturer or processor of a chemical sub-  
5                   stance distributed in commerce shall maintain  
6                   records of the information described in subpara-  
7                   graphs (A) through (D) of paragraph (2).

8                   “~~(6)~~ PROHIBITION ON MANUFACTURING, PROC-  
9                   ESSING, OR DISTRIBUTION.—The Administrator  
10                  may, by order, prohibit a manufacturer or processor  
11                  in violation of this subsection from manufacturing,  
12                  processing, or distributing in commerce the chemical  
13                  substance or any article containing the chemical sub-  
14                  stance, except as authorized under section 6(e).

15                  “~~(b)~~ REPORTS.—

16                  “~~(1)~~ REQUIREMENT.—

17                  “~~(A)~~ IN GENERAL.—Except as provided in  
18                  paragraph (2), the Administrator may by rule  
19                  or order require any person who manufactures,  
20                  processes, distributes in commerce, uses, or dis-  
21                  poses of a chemical substance to maintain  
22                  records of and report by a specified date any in-  
23                  formation concerning the substance that, in the  
24                  judgment of the Administrator, would assist the  
25                  Administrator in—

1                   “(i) making a safety standard deter-  
2                   mination with respect to a chemical sub-  
3                   stance under this title; or

4                   “(ii) any other aspect of administering  
5                   this Act.

6                   “(B) CHARACTERISTICS.—The Adminis-  
7                   trator may by rule or order require that any re-  
8                   port or information submitted pursuant to this  
9                   Act include chemical identity and special sub-  
10                  stance characteristics, as appropriate to the  
11                  chemical substance that is the subject of the re-  
12                  port or information.

13                  “(C) REQUIRED INFORMATION.—The Ad-  
14                  ministrators shall by rule or order specify or  
15                  modify the information that is required to be  
16                  submitted with a particular report or informa-  
17                  tion submission to establish the chemical iden-  
18                  tity and special substance characteristics of the  
19                  subject chemical substance (or mixture or arti-  
20                  cle containing that chemical substance) for the  
21                  purposes of the report or information submis-  
22                  sion.

23                  “(2) SMALL QUANTITIES FOR RESEARCH OR  
24                  ANALYSIS.—In the case of the manufacture, proc-  
25                  essing, distribution in commerce, use, or disposal of

1 a chemical substance in small quantities (as defined  
2 by the Administrator by rule) solely for purposes of  
3 scientific experimentation or analysis or chemical re-  
4 search (including any such research or analysis for  
5 the development of a product), the Administrator  
6 may promulgate or issue a rule or order under para-  
7 graph (1) only to the extent that the Administrator  
8 determines the maintenance of records or submission  
9 of reports, or both, are necessary for the effective  
10 enforcement of this Act.

11 “(3) PROHIBITION ON MANUFACTURING, PROC-  
12 ESSING, OR DISTRIBUTION.—The Administrator  
13 may, by order, prohibit a manufacturer or processor  
14 in violation of a requirement of a rule or order  
15 under paragraph (1) from manufacturing, proc-  
16 essing, or distributing in commerce the chemical  
17 substance or any article containing the chemical sub-  
18 stance, except as authorized under section 6(e).

19 “(e) INVENTORY.—

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

24 “(2) CONTENTS.—The list shall at least include  
25 the name of each chemical substance that any per-

1 son reports, under section 5 or subsection (b) of this  
2 section, is manufactured or processed in the United  
3 States.

4 “(3) TIMING.—

5 “(A) IN GENERAL.—In the case of a chem-  
6 ical substance for which a notice is submitted in  
7 accordance with section 5, the chemical sub-  
8 stance shall be included on the list as of the  
9 earliest date (as determined by the Adminis-  
10 trator) on which the substance was manufac-  
11 tured or processed in the United States.

12 “(B) PUBLICATION.—The Administrator  
13 shall first publish a list under subparagraph (A)  
14 not later than 18 months after the effective  
15 date of this Act.

16 “(4) SMALL QUANTITIES FOR RESEARCH OR  
17 ANALYSIS.—The Administrator shall not include in  
18 the list any chemical substance that is manufactured  
19 or processed only in small quantities (as defined by  
20 the Administrator by rule) solely for purposes of sci-  
21 entific experimentation or analysis or chemical re-  
22 search on, or analysis of, the substance or another  
23 substance, including such research or analysis for  
24 the development of a product.



1       “(d) PUBLIC ACCESS TO SIGNIFICANT INFORMA-  
2 TION.—

3           “(1) ELECTRONIC DATABASE.—Not later than  
4 1 year after the date of enactment of the Safe  
5 Chemicals Act of 2011, the Administrator, through  
6 collaboration, as appropriate, shall establish—

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

11           “(B) procedures for use in maintaining  
12 and updating the database.

13           “(2) PUBLIC ACCESS.—Not later than 18  
14 months after the date of enactment of the Safe  
15 Chemicals Act of 2011, or not later than 90 days  
16 after the date of decisions made by the Adminis-  
17 trator or receipt by the Administrator of information  
18 submitted pursuant to this title (for decisions made  
19 or information submitted after that 18-month pe-  
20 riod), the Administrator shall, subject to section 14,  
21 make available to the public via the Internet-acces-  
22 sible database described in paragraph (1) a descrip-  
23 tion of all significant—

24           “(A) decisions made by the Administrator  
25 under this title; and

1           “(B) information submitted pursuant to  
2           this title.

3           “(e) RECORDS.—

4           “(1) IN GENERAL.—Any person that manufac-  
5           tures, processes, or distributes in commerce any  
6           chemical substance shall maintain and submit to the  
7           Administrator records of significant adverse reac-  
8           tions to health or the environment, as determined by  
9           the Administrator by rule, that are alleged to have  
10          been caused by the substance.

11          “(2) DURATION.—

12           “(A) IN GENERAL.—Records of the ad-  
13           verse reactions to the health of employees shall  
14           be retained for a period of at least 30 years  
15           after the date on which the reactions were first  
16           reported to or known by the person maintaining  
17           the records.

18           “(B) OTHER RECORDS.—Any other record  
19           of the adverse reactions shall be retained for a  
20           period of at least 5 years after the date on  
21           which information contained in the record was  
22           first reported to or known by the person main-  
23           taining the record.

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

1           “(A) records of consumer allegations of  
2           personal injury or harm to health;

3           “(B) reports of occupational disease or in-  
4           jury; and

5           “(C) reports or complaints of injury to the  
6           environment submitted to the manufacturer,  
7           processor, or distributor in commerce from any  
8           source.

9           “(f) INFORMATION IN THE POSSESSION OF OTHER  
10          FEDERAL AGENCIES.—

11           “(1) SYNOPSES.—

12           “(A) IN GENERAL.—From time to time,  
13           each Federal agency and Federal institution  
14           shall submit to the Administrator a synopsis of  
15           the data and records in the possession or con-  
16           trol of the agency or institution, respectively,  
17           that may be useful to the Administrator in ear-  
18           rying out this Act.

19           “(B) FORMAT AND CONTENT.—Not later  
20           than 1 year after the date of enactment of the  
21           Safe Chemicals Act of 2011, the Administrator  
22           shall prescribe, by order, the format, content,  
23           and level of detail of the synopses.

24           “(C) INITIAL SUBMISSION.—Not later than  
25           18 months after the date of enactment of the

1            Safe Chemicals Act of 2011, each Federal agen-  
2            cy and Federal institution shall make the initial  
3            submission of a synopsis of the agency and in-  
4            stitution, respectively, to the Administrator.

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

8                    “(i) update the synopsis of the agency  
9                    and institution, respectively; and

10                   “(ii) submit the updated synopsis to  
11                   the Administrator.

12            “(2) REQUESTS BY ADMINISTRATOR.—On the  
13            request of the Administrator, any information in the  
14            possession or control of an agency or institution re-  
15            lating to a hazard of, use of, exposure to, or risk of  
16            a chemical substance (or mixture or article con-  
17            taining that chemical substance) shall be provided to  
18            the Administrator.

19            “(g) NOTICE TO ADMINISTRATOR OF SUBSTANTIAL  
20            RISKS.—Any person that manufactures, processes, or dis-  
21            tributes in commerce a chemical substance and that ob-  
22            tains information that reasonably supports the conclusion  
23            that the substance presents a substantial risk of injury  
24            to health or the environment shall immediately inform the  
25            Administrator of the information unless the person has ac-

1 tual knowledge that the Administrator has been ade-  
 2 quately informed of the information.

3       “(h) CERTIFICATION.—Each submission required  
 4 pursuant to this section or pursuant to a rule or an order  
 5 promulgated or issued by the Administrator under this  
 6 section, other than a submission under subsection (f),  
 7 shall be accompanied by a certification signed by a respon-  
 8 sible official of the manufacturer or processor that each  
 9 statement contained in the submission—

10               “(1) is accurate and reliable; and

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

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

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

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

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

22       “(a) DEFINITIONS.—*In this section:*

23               “(1) KNOWN TO, OR REASONABLY ASCERTAIN-  
 24 ABLE BY.—*The term ‘known to, or reasonably ascer-*  
 25 *tainable by’ has the meaning given the term in sec-*

1        *tion 704.3 of title 40, Code of Federal Regulations (or*  
2        *successor regulations).*

3            “(2) *MANUFACTURE AND PROCESS.—The terms*  
4        *‘manufacture’ and ‘process’ mean manufacture and*  
5        *process, respectively, for commercial purposes.*

6        “(b) *DECLARATIONS OF CHEMICAL SUBSTANCES IN*  
7        *COMMERCE.—*

8            “(1) *SCOPE AND CRITERIA.—*

9            “(A) *SCOPE.—The declarations described in*  
10        *this subsection shall apply only to chemical sub-*  
11        *stances in commerce as of the date of enactment*  
12        *of the Safe Chemicals Act of 2011.*

13            “(B) *CRITERIA.—The following criteria*  
14        *shall apply in identifying chemical substances to*  
15        *which the declarations described in this sub-*  
16        *section apply:*

17            “(i) *CURRENT COMMERCIAL INTER-*  
18        *EST.—A chemical substance in which a*  
19        *manufacturer or processor has a current*  
20        *commercial interest shall include only*  
21        *chemical substances that the manufacturer*  
22        *or processor—*

23            *“(I) is currently manufacturing*  
24            *or processing; or*

1           “(II) has manufactured or proc-  
2           essed in the recent past and expects to  
3           manufacture or process again in the  
4           near future.

5           “(ii) *POTENTIAL COMMERCIAL INTER-*  
6           *EST.—A chemical substance in which a*  
7           *manufacturer or processor has a potential*  
8           *commercial interest shall include only a*  
9           *chemical substance that may serve as a rea-*  
10          *sonable substitute for a chemical substance*  
11          *in which the manufacturer or processor has*  
12          *declared a current commercial interest.*

13          “(C) *GUIDANCE.—Not later than 90 days*  
14          *after the date of enactment of the Safe Chemicals*  
15          *Act of 2011, the Administrator shall issue guid-*  
16          *ance further describing the criteria described in*  
17          *subparagraph (B) and specifying the supporting*  
18          *information manufacturers and processors are to*  
19          *include in declarations they submit pursuant to*  
20          *paragraph (2) or (3) for chemical substances in*  
21          *which they have a current or potential commer-*  
22          *cial interest.*

23          “(2) *DECLARATION OF CURRENT COMMERCIAL*  
24          *INTEREST IN A CHEMICAL SUBSTANCE.—*

1           “(A) *IN GENERAL.*—Notwithstanding any  
2           *other provision of law, not later than 180 days*  
3           *after the date of enactment of the Safe Chemicals*  
4           *Act of 2011, each manufacturer of a chemical*  
5           *substance in which the manufacturer has a cur-*  
6           *rent commercial interest shall submit to the Ad-*  
7           *ministrator a declaration of the interest for the*  
8           *chemical substance.*

9           “(B) *EXCLUSIONS OR EXEMPTIONS.*—Dec-  
10          *larations are required for all chemical substances*  
11          *in which a manufacturer has a current commer-*  
12          *cial interest, notwithstanding any exclusions or*  
13          *exemptions from other notification or reporting*  
14          *requirements provided in any other provision of*  
15          *this Act.*

16          “(C) *PROCESSORS.*—A processor of a chem-  
17          *ical substance in which the processor has a cur-*  
18          *rent commercial interest that meets the criteria*  
19          *described in paragraph (1)(B)(i) may volun-*  
20          *tarily submit to the Administrator a declaration*  
21          *for the chemical substance. Such a declaration*  
22          *shall be submitted not later than 1 year after the*  
23          *date of enactment of the Safe Chemicals Act of*  
24          *2011.*



1           “(3) *DECLARATION OF POTENTIAL COMMERCIAL*  
2           *INTEREST IN A CHEMICAL SUBSTANCE.—*

3           “(A) *A manufacturer or processor may vol-*  
4           *untarily submit to the Administrator, not later*  
5           *than 180 days after the date of enactment of the*  
6           *Safe Chemicals Act of 2011, a declaration for a*  
7           *chemical substance in which the manufacturer or*  
8           *processor—*

9                   “(i) *does not have a current commer-*  
10                   *cial interest; but*

11                   “(ii) *has a potential commercial inter-*  
12                   *est that meets the criteria described in*  
13                   *paragraph (1)(B)(ii).*

14           “(B) *If a manufacturer or processor com-*  
15           *mences the manufacture or processing of a chem-*  
16           *ical substance for which it submitted a declara-*  
17           *tion under this paragraph, the manufacturer or*  
18           *processor shall comply with the requirements of*  
19           *subsection (h)(5)(B).*

20           “(4) *DECLARATION OF CESSATION OF MANUFAC-*  
21           *TURING OR PROCESSING.—A former or current manu-*  
22           *facturer or processor of a chemical substance in which*  
23           *the manufacturer or processor no longer has a com-*  
24           *mercial interest may voluntarily submit to the Ad-*  
25           *ministrator, not later than 180 days after the date of*

1 *enactment of the Safe Chemicals Act of 2011, a dec-*  
2 *laration that the manufacturer or processor has*  
3 *ceased, or will cease not later than 180 days after the*  
4 *date on which the declaration is submitted, all pro-*  
5 *duction, importation, processing, and export of the*  
6 *chemical substance.*

7 “(5) *CONTENTS.—A declaration submitted under*  
8 *this subsection shall include for each chemical sub-*  
9 *stance—*

10 “(A) *the chemical identity and any special*  
11 *substance characteristics of the chemical sub-*  
12 *stance;*

13 “(B) *the identity and primary business lo-*  
14 *cation of the manufacturer or processor; and*

15 “(C) *information supporting the declarant’s*  
16 *basis for meeting the applicable criteria under*  
17 *paragraph (1)(B).*

18 “(6) *REVIEW BY ADMINISTRATOR.—*

19 “(A) *IN GENERAL.—The Administrator*  
20 *shall—*

21 “(i) *review each declaration received*  
22 *under this subsection to determine whether*  
23 *the declaration conforms to the criteria and*  
24 *requirements of this subsection; and*

1           “(i)(I) for a chemical substance for  
2           which 1 or more conforming declarations  
3           are submitted under paragraph (2), add the  
4           chemical substance to the list of active  
5           chemical substances in the inventory estab-  
6           lished under subsection (h)(1);

7           “(II) for a chemical substance for  
8           which the only conforming declarations sub-  
9           mitted for the substance are submitted  
10          under paragraph (3), add the chemical sub-  
11          stance to the list of inactive chemical sub-  
12          stances in the inventory established under  
13          subsection (h)(5); and

14          “(III) for a chemical substance for  
15          which the only conforming declarations sub-  
16          mitted for the substance are submitted  
17          under paragraph (4), or for which no dec-  
18          laration has been submitted, remove the  
19          chemical substance from the inventories es-  
20          tablished under subsection (h).

21          “(B) REVISIONS.—The Administrator shall  
22          allow a manufacturer or processor, as applicable,  
23          to promptly revise and resubmit any declaration  
24          submitted to the Administrator under this sub-  
25          section if the Administrator determines that any

1           *omission or error in the original declaration was*  
2           *not intentional.*

3           “(c) *PERIODIC REPORTING BY MANUFACTURERS.*—

4           “(1) *IN GENERAL.*—*The Administrator shall—*

5                   “(A) *maintain the periodic reporting pro-*  
6                   *gram of the agency applicable to manufacturers*  
7                   *of chemical substances set forth in part 711 of*  
8                   *title 40, Code of Federal Regulations (as in effect*  
9                   *on the date of enactment of the Safe Chemicals*  
10                   *Act of 2011), unless such reporting requirements*  
11                   *are superseded pursuant to subparagraph (B); or*

12                   “(B) *establish a new periodic reporting pro-*  
13                   *gram consistent with this subsection.*

14           “(2) *RULEMAKING.*—

15                   “(A) *IN GENERAL.*—*Not later than 180*  
16                   *days after the date of enactment of the Safe*  
17                   *Chemicals Act of 2011, the Administrator shall*  
18                   *specify, by rule—*

19                           “(i) *the chemical substances for which*  
20                           *periodic reporting is required; and*

21                           “(ii) *the information a chemical man-*  
22                           *ufacturer is required to submit to the Ad-*  
23                           *ministrator for the chemical substances in-*  
24                           *cluded under the periodic reporting pro-*  
25                           *gram.*

1           “(B) *EXEMPTIONS.*—*The rule promulgated*  
2           *under subparagraph (A) may exempt certain*  
3           *manufacturers, including small manufacturers,*  
4           *from—*

5                   “(i) *a requirement to participate in*  
6                   *the periodic reporting program, if the Ad-*  
7                   *ministrator determines that the participa-*  
8                   *tion of those manufacturers would not assist*  
9                   *in the administration of this Act; or*

10                   “(ii) *specific reporting requirements, if*  
11                   *the Administrator determines that the value*  
12                   *of a particular reporting requirement, for*  
13                   *the administration of this Act, would not be*  
14                   *commensurate with the burden of the re-*  
15                   *quirement on submitters.*

16           “(C) *CONTENTS.*—*The rule promulgated*  
17           *under subparagraph (A) shall, at a minimum,*  
18           *require each manufacturer of a chemical sub-*  
19           *stance included in the periodic reporting pro-*  
20           *gram to submit to the Administrator—*

21                   “(i) *the chemical identity and any spe-*  
22                   *cial substance characteristics of the chemical*  
23                   *substance, the identity and primary busi-*  
24                   *ness location of the manufacturer, and any*  
25                   *updates to the supporting information sub-*

1            *mitted by the manufacturer in any declara-*  
2            *tion for an included chemical substance sub-*  
3            *mitted under subsection (b);*

4            *“(ii) a list of health and safety studies*  
5            *conducted or initiated by or for, known to,*  
6            *or reasonably ascertainable by, the manu-*  
7            *facturer with respect to each included chem-*  
8            *ical substance;*

9            *“(iii) a copy of each study described in*  
10           *clause (ii) in the possession or control of the*  
11           *manufacturer that has not previously been*  
12           *submitted to the Administrator; and*

13           *“(iv) all other information specified by*  
14           *the Administrator in the rules promulgated*  
15           *under this subsection that is known to, in*  
16           *the possession or control of, or reasonably*  
17           *ascertainable by, the manufacturer or proc-*  
18           *essor that has not previously been submitted*  
19           *to the Administrator regarding—*

20           *“(I) the physical, chemical, and*  
21           *toxicological properties of the chemical*  
22           *substance;*

23           *“(II) the manufacturer’s annual*  
24           *production volume of the chemical sub-*  
25           *stance;*

1                   “(III) the uses of, and exposure  
2                   and fate information relating to the  
3                   manufacturer’s production or import  
4                   of the chemical substance; and

5                   “(IV) the name and location of  
6                   each facility to which the manufacturer  
7                   sends the chemical substance after  
8                   manufacture for subsequent processing,  
9                   distribution, or use.

10           “(d) RECORDS TO SUPPORT DECLARATIONS AND  
11 PERIODIC REPORTS.—

12                   “(1) IN GENERAL.—Each manufacturer and  
13                   processor of a chemical substance that is distributed  
14                   in commerce shall—

15                           “(A) maintain records of the information  
16                           submitted to the Administrator under subsections  
17                           (b) and (c), as well as supporting information;  
18                           and

19                           “(B) submit those records or that informa-  
20                           tion to the Administrator upon request by the  
21                           Administrator.

22                   “(2) BURDEN OF PROOF.—Each manufacturer  
23                   and processor that submits to the Administrator a  
24                   declaration under subsection (b) or a notice under

1 subsection (h)(5)(B) shall at all times bear the burden  
2 of proving that the manufacturer or processor—

3 “(A) has a current or potential commercial  
4 interest in the applicable chemical substance; or

5 “(B) has ceased the production, importa-  
6 tion, processing, and export of, the applicable  
7 chemical substance.

8 “(e) *SUBSTANCE IDENTIFICATION AND INFORMATION*  
9 *FOR CHEMICAL PROCESSORS.*—

10 “(1) *RULEMAKING.*—

11 “(A) *IN GENERAL.*—Not later than 1 year  
12 after the date of enactment of the Safe Chemicals  
13 Act of 2011, the Administrator shall specify, by  
14 rule, the information that chemical processors  
15 are required to submit for chemical substances  
16 under this subsection as will assist the Adminis-  
17 trator in the administration of this Act.

18 “(B) *EXEMPTIONS.*—The rule promulgated  
19 under this paragraph may exempt certain proc-  
20 essors, including small processors, from—

21 “(i) a requirement to participate in  
22 the periodic reporting program, if the Ad-  
23 ministrator determines that the participa-  
24 tion of those processors would not assist in  
25 the administration of this Act; or



1           “(ii) specific reporting requirements, if  
2           the Administrator determines that the value  
3           of a particular reporting requirement, for  
4           the administration of this Act, would not be  
5           commensurate with the burden of the re-  
6           quirement on submitters.

7           “(2) INFORMATION REQUIREMENTS.—The rule  
8           promulgated under paragraph (1) shall—

9           “(A) specify the information that processors  
10          are required to submit for chemical substances  
11          that are—

12           “(i) processed for use in 1 or more con-  
13          sumer or commercial product categories, as  
14          determined by the Administrator; and

15           “(ii) intentionally added to 1 or more  
16          products during processing and not inci-  
17          dental to the end uses of the products;

18          “(B) require each processor of a chemical  
19          substance identified under subparagraph (A) to  
20          submit the information specified in clauses (i)  
21          through (iii) of subparagraph (C) for the chem-  
22          ical substance, and to submit the information  
23          specified in clauses (iv) through (viii) of sub-  
24          paragraph (C)—

1           “(i) separately for each applicable con-  
2           sumer and commercial product category;  
3           and

4           “(ii) in aggregate form, taking into ac-  
5           count the use by the processor of the chem-  
6           ical substance in all product categories;

7           “(C) require each processor of a chemical  
8           substance identified under subparagraph (A) to  
9           identify in the submission of the processor—

10           “(i) the corporate name and primary  
11           business location of the processor;

12           “(ii) the chemical identity and any  
13           special substance characteristics of the  
14           chemical substance;

15           “(iii) the applicable consumer or com-  
16           mercial product category or categories for  
17           which the processor processes the chemical  
18           substance;

19           “(iv) the annual volume of the chem-  
20           ical substance processed by the submitter;

21           “(v) any products intended for use by  
22           children aged 14 years or younger for use in  
23           which the processor processes the chemical  
24           substance;

1           “(vi) the concentration range within  
2           which the maximum concentration of the  
3           substance used in each consumer and com-  
4           mercial product category falls;

5           “(vii) the range within which the total  
6           number of commercial workers reasonably  
7           likely to be exposed to the chemical sub-  
8           stance at the processing site falls; and

9           “(viii) any other information regard-  
10          ing processing activities or product  
11          descriptors relating to the processor’s proc-  
12          essing of the chemical substance identified  
13          by the Administrator as necessary to under-  
14          stand the potential exposure from processed  
15          chemical substances or products in which  
16          the chemical substances are used; and

17          “(D) require each processor to periodically  
18          report the information described in subpara-  
19          graphs (B) and (C) for the chemical substances  
20          described in subparagraph (A).

21          “(3) RECORDS.—The rules promulgated under  
22          paragraph (1) shall require processors of chemical  
23          substances to which those rules apply—

24                  “(A) to maintain records of the information  
25                  described in paragraph (2); and

1                   “(B) to submit those records to the Admin-  
2                   istrator upon request by the Administrator.

3                   “(f) *UPDATING OF INFORMATION.*—

4                   “(1) *IN GENERAL.*—Each manufacturer or proc-  
5                   essor of a chemical substance that submits informa-  
6                   tion to the Administrator under subsection (c) or (e)  
7                   shall update the information—

8                   “(A) at a minimum every 4 years; and

9                   “(B) at any time that—

10                   “(i) the manufacturer or processor ob-  
11                   tains knowledge of, comes into possession of,  
12                   or generates significant new information re-  
13                   garding the production, processing, use, dis-  
14                   tribution, hazard, or exposure potential of  
15                   the chemical substance; or

16                   “(ii) there is a significant change in  
17                   the production, distribution in commerce, or  
18                   use of the chemical substance by or known  
19                   to the manufacturer or processor.

20                   “(2) *GUIDANCE.*—Not later than 1 year after the  
21                   date of enactment of the Safe Chemicals Act of 2011,  
22                   the Administrator shall issue guidance on what con-  
23                   stitutes significant new information regarding or sig-  
24                   nificant changes in the production, distribution in  
25                   commerce, or use of a chemical substance.

1       “(g) *REPORTS.*—

2               “(1) *REQUIREMENT.*—

3                       “(A) *IN GENERAL.*—*Except as provided in*  
4                       *paragraph (2), the Administrator may by rule*  
5                       *or order require any person who manufactures,*  
6                       *processes, distributes in commerce, uses, or dis-*  
7                       *poses of a chemical substance, or a mixture or*  
8                       *article containing the chemical substance to*  
9                       *maintain records of and report by a specified*  
10                      *date any existing information concerning the*  
11                      *substance that, in the judgment of the Adminis-*  
12                      *trator, would assist the Administrator in—*

13                      “(i) *making a safety standard deter-*  
14                      *mination with respect to a chemical sub-*  
15                      *stance;*

16                      “(ii) *determining testing or informa-*  
17                      *tion needs for a chemical substance;*

18                      “(iii) *assigning a chemical substance*  
19                      *to a batch, category, or priority class pursu-*  
20                      *ant to section 6;*

21                      “(iv) *evaluating, developing, and im-*  
22                      *plementing risk management conditions for*  
23                      *a chemical substance;*

24                      “(v) *assessing hazards, exposures, or*  
25                      *risks related to the manufacture, use, dis-*

1            *tribution, processing, or disposal of a chem-*  
2            *ical substance;*

3            *“(vi) determining compliance with any*  
4            *provision of this Act; or*

5            *“(vii) any other aspect of admin-*  
6            *istering this Act.*

7            *“(B) CHARACTERISTICS.—The Adminis-*  
8            *trator may by rule or order require that any re-*  
9            *port or information submitted pursuant to this*  
10           *Act include chemical identity and special sub-*  
11           *stance characteristics, as appropriate to the*  
12           *chemical substance that is the subject of the re-*  
13           *port or information.*

14           *“(C) REQUIRED INFORMATION.—The Ad-*  
15           *ministrator shall by rule or order specify or*  
16           *modify the information that is required to be*  
17           *submitted with a particular report or informa-*  
18           *tion submission to establish the chemical identity*  
19           *and special substance characteristics of the sub-*  
20           *ject chemical substance (or mixture or article*  
21           *containing that chemical substance) for the pur-*  
22           *poses of the report or information submission.*

23           *“(2) EXEMPTIONS.—*

24           *“(A) SMALL QUANTITIES FOR RESEARCH OR*  
25           *ANALYSIS.—In the case of the manufacture, proc-*

1           *essing, distribution in commerce, use, or disposal*  
2           *of a chemical substance in small quantities (as*  
3           *defined by the Administrator by rule) solely for*  
4           *purposes of scientific experimentation or anal-*  
5           *ysis or chemical research (including any such re-*  
6           *search or analysis for the development of a prod-*  
7           *uct), the Administrator may promulgate a rule*  
8           *or order under paragraph (1) only to the extent*  
9           *that the Administrator determines that the*  
10          *maintenance of records, submission of reports, or*  
11          *both, is necessary for the effective enforcement of*  
12          *this Act.*

13           “(B) *SMALL BUSINESS.*—*The rules promul-*  
14          *gated under this subsection may exempt certain*  
15          *small businesses from the rules promulgated*  
16          *under this subsection, if the Administrator deter-*  
17          *mines that the participation of those small busi-*  
18          *nesses would not assist in the administration of*  
19          *this Act.*

20          “(h) *INVENTORIES.*—

21           “(1) *ACTIVE INVENTORY.*—*The Administrator*  
22          *shall compile, keep current, and, subject to section 14,*  
23          *publish a list of each chemical substance that is man-*  
24          *ufactured or processed in the United States.*

25          “(2) *CONTENTS.*—

1           “(A) *IN GENERAL.*—*The list shall consist of*  
2           *those chemical substances for which—*

3                   “(i) *a notice is submitted under section*  
4                   *5(d), consistent with the requirements of*  
5                   *section 5(b); or*

6                   “(ii) *a valid declaration is submitted*  
7                   *under paragraph (2) of subsection (b).*

8           “(B) *EXCLUSIONS.*—*The list shall not in-*  
9           *clude—*

10                   “(i) *any chemical substance for which*  
11                   *the only declarations submitted are sub-*  
12                   *mitted under paragraph (3) or (4) of sub-*  
13                   *section (b), or for which no declaration has*  
14                   *been submitted; or*

15                   “(ii) *any chemical substance for which*  
16                   *an exemption has been granted under sec-*  
17                   *tion 5(b)(1)(C)(ii) or section 6(h)(2).*

18           “(3) *TIMING.*—

19                   “(A) *IN GENERAL.*—*Except as provided in*  
20                   *paragraph (2)(B), for a chemical substance for*  
21                   *which a notice is submitted under section 5(d),*  
22                   *the chemical substance shall be included in the*  
23                   *list established under paragraph (1) as of the*  
24                   *earliest date (as determined by the Adminis-*



1           *trator) on which the substance was manufactured*  
2           *or processed in the United States.*

3           “(B) *PUBLICATION.—The Administrator*  
4           *shall first publish a list under paragraph (1) not*  
5           *later than 1 year after the date of enactment of*  
6           *the Safe Chemicals Act of 2011.*

7           “(4) *SMALL QUANTITIES FOR RESEARCH OR*  
8           *ANALYSIS.—The Administrator shall not include in*  
9           *the list established under paragraph (1) any chemical*  
10          *substance that is manufactured or processed only in*  
11          *small quantities (as defined by the Administrator by*  
12          *rule) solely for purposes of scientific experimentation*  
13          *or analysis or chemical research on, or analysis of,*  
14          *the substance or another substance, including research*  
15          *or analysis for the development of a product.*

16          “(5) *INACTIVE INVENTORY.—*

17                 “(A) *IN GENERAL.—The Administrator*  
18                 *shall compile, keep current, and, subject to sec-*  
19                 *tion 14, publish an inactive list on which the*  
20                 *Administrator shall include each chemical sub-*  
21                 *stance for which the only declarations submitted*  
22                 *for the substance are submitted under subsection*  
23                 *(b)(3).*

24                 “(B) *REQUIREMENTS.—If a manufacturer*  
25                 *or processor commences the manufacture or proc-*

1            *essing of a chemical substance on the inactive*  
2            *list, the manufacturer or processor shall—*

3                    *“(i) not less than 30 days before recom-*  
4                    *mencing the manufacture or processing of*  
5                    *the chemical substance, notify the Adminis-*  
6                    *trator; and*

7                    *“(ii) provide with the notification*  
8                    *under clause (i)—*

9                            *“(I) the chemical identity and*  
10                           *any special substance characteristics of*  
11                           *the chemical substance;*

12                           *“(II) the identity and primary*  
13                           *business location of the manufacturer;*

14                           *“(III) a list of health and safety*  
15                           *studies conducted or initiated by or*  
16                           *for, known to, or reasonably ascertain-*  
17                           *able by, the manufacturer or processor*  
18                           *with respect to the chemical substance;*

19                           *“(IV) upon request of the Admin-*  
20                           *istrator, a copy of each study described*  
21                           *in subclause (III) in the possession or*  
22                           *control of the manufacturer that has*  
23                           *not previously been submitted to the*  
24                           *Administrator;*

1           “(V) *the projected annual manu-*  
2           *facturing or processing volume for the*  
3           *chemical substance for each of the sub-*  
4           *sequent 3 years;*

5           “(VI) *the name and location of*  
6           *each facility to which the chemical sub-*  
7           *stance is expected to be sent, after*  
8           *manufacture or processing, for subse-*  
9           *quent processing, distribution in com-*  
10          *merce, or use; and*

11          “(VII) *all other existing informa-*  
12          *tion known to, in the possession or*  
13          *control of, or reasonably ascertainable*  
14          *by the manufacturer or processor that*  
15          *has not previously been submitted to*  
16          *the Administrator regarding—*

17                 “(aa) *the toxicological prop-*  
18                 *erties of the chemical substance;*  
19                 *and*

20                 “(bb) *the uses of, and expo-*  
21                 *sure and fate information relating*  
22                 *to, the chemical substance.*

23                 “(C) *ADMINISTRATOR ACTIONS.—For any*  
24                 *chemical substance for which the Administrator*

1 receives a valid notification under subparagraph  
2 (B), the Administrator shall promptly—

3 “(i) move the chemical substance to the  
4 active inventory established under para-  
5 graph (1); and

6 “(ii) add the chemical substance to the  
7 current batch of chemical substances identi-  
8 fied pursuant to section 6(a), and categorize  
9 the chemical substance with other chemical  
10 substances in the batch, pursuant to section  
11 6(b).

12 “(D) ADMINISTRATION.—Disclosure of any  
13 information provided in the notice described in  
14 subparagraph (B) shall be subject to section 14.

15 “(6) CHEMICALS NOT LISTED ON OR REMOVED  
16 FROM THE INVENTORIES.—If a manufacturer or proc-  
17 essor seeks to commence the manufacture or processing  
18 of a chemical substance that is not listed on the in-  
19 ventories established under paragraph (1) or (5), or  
20 that has been removed from the inventories pursuant  
21 to subsection (b)(6)(A)(ii)(III), the manufacturer or  
22 processor shall comply with section 5.

23 “(i) PUBLIC ACCESS TO SIGNIFICANT INFORMATION.—

24 “(1) ELECTRONIC DATABASE.—Not later than 1  
25 year after the date of enactment of the Safe Chemicals

1 *Act of 2011, the Administrator, through collaboration*  
2 *as appropriate, shall establish—*

3 *“(A) an electronic, Internet-accessible data-*  
4 *base for the storing and sharing of information*  
5 *relating to the toxicity and use of, and exposure*  
6 *to, chemical substances; and*

7 *“(B) procedures for use in maintaining and*  
8 *updating the database.*

9 *“(2) PUBLIC ACCESS.—Not later than 18 months*  
10 *after the date of enactment of the Safe Chemicals Act*  
11 *of 2011 or for decisions made or information sub-*  
12 *mitted after that 18-month period, not later than 90*  
13 *days after the date on which a decision is made by*  
14 *the Administrator or information submitted under*  
15 *this title is received by the Administrator, the Admin-*  
16 *istrator shall, subject to section 14, make available to*  
17 *the public via the Internet-accessible database de-*  
18 *scribed in paragraph (1) a description of all signifi-*  
19 *cant—*

20 *“(A) decisions made by the Administrator*  
21 *under this title; and*

22 *“(B) information submitted pursuant to*  
23 *this title.*

24 *“(j) RECORDS OF SIGNIFICANT ADVERSE REAC-*  
25 *TIONS.—*

1           “(1) *IN GENERAL.*—Any person that manufac-  
2           *tures, processes, or distributes in commerce any chem-*  
3           *ical substance shall maintain, and on request submit*  
4           *to the Administrator, records of significant adverse*  
5           *reactions to human health or the environment, as de-*  
6           *termined by the Administrator by rule, alleged to*  
7           *have been caused by the substance or mixture.*

8           “(2) *DURATION.*—

9           “(A) *IN GENERAL.*—Records of the adverse  
10           *reactions to the health of employees shall be re-*  
11           *tained for a period of 30 years after the date on*  
12           *which the reactions were first reported to or*  
13           *known by the person maintaining the records.*

14           “(B) *OTHER RECORDS.*—Any record of  
15           *other adverse reactions shall be retained for a pe-*  
16           *riod of 5 years after the date on which informa-*  
17           *tion contained in the record was first reported to*  
18           *or known by the person maintaining the record.*

19           “(3) *CONTENTS.*—Records required to be main-  
20           *tained under this subsection shall include—*

21           “(A) *records of consumer allegations of per-*  
22           *sonal injury or harm to health;*

23           “(B) *reports of occupational disease or in-*  
24           *jury; and*

1           “(C) reports or complaints of injury to the  
2           environment submitted to the manufacturer,  
3           processor, or distributor in commerce from any  
4           source.

5           “(k) INFORMATION IN THE POSSESSION OF OTHER  
6 FEDERAL AGENCIES.—

7           “(1) SYNOPSES.—

8           “(A) IN GENERAL.—Notwithstanding any  
9           other provision of law, from time to time, each  
10          Federal agency and Federal institution shall  
11          submit to the Administrator a synopsis of the  
12          data and records in the possession or control of  
13          the agency or institution, respectively, that may  
14          be useful to the Administrator in carrying out  
15          this Act.

16          “(B) FORMAT AND CONTENT.—Not later  
17          than 1 year after the date of enactment of the  
18          Safe Chemicals Act of 2011, the Administrator  
19          shall prescribe, by order, the format, content, and  
20          level of detail of the synopses.

21          “(C) INITIAL SUBMISSION.—Not later than  
22          18 months after the date of enactment of the Safe  
23          Chemicals Act of 2011, each Federal agency and  
24          Federal institution shall make the initial sub-

1           *mission of a synopsis of the agency and institu-*  
2           *tion, respectively, to the Administrator.*

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

6                     “(i) *update the synopsis of the agency*  
7                     *and institution, respectively; and*

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

10           “(2) *REQUESTS BY THE ADMINISTRATOR.—Not-*  
11           *withstanding any other provision of law, on the re-*  
12           *quest of the Administrator, any information in the*  
13           *possession or control of an agency or institution relat-*  
14           *ing to a hazard of, use of, exposure to, or risk of, a*  
15           *chemical substance (or mixture or article containing*  
16           *that chemical substance) shall be submitted to the Ad-*  
17           *ministrator.*

18           “(l) *NOTICE TO ADMINISTRATOR OF SUBSTANTIAL*  
19           *RISKS.—Any person that manufactures, processes, or dis-*  
20           *tributes in commerce a chemical substance and that obtains*  
21           *information that reasonably supports the conclusion that*  
22           *the substance presents a substantial risk of injury to health*  
23           *or the environment shall immediately inform the Adminis-*  
24           *trator of the information unless the person has actual*



1 *knowledge that the Administrator has been adequately in-*  
2 *formed of the information.*

3       “(m) *CERTIFICATION.*—*Each submission required pur-*  
4 *suant to this section or pursuant to a rule or an order pro-*  
5 *mulgated or issued by the Administrator under this section,*  
6 *other than a submission under subsection (k), shall be ac-*  
7 *companied by a certification signed by a responsible official*  
8 *of the manufacturer, processor, distributor, user, or disposer*  
9 *of a chemical substance that each statement contained in*  
10 *the submission—*

11               “(1) *is accurate and reliable; and*

12               “(2) *includes all material facts required by the*  
13 *applicable provision of this section or rule or order*  
14 *under this section.*

15       “(n) *ADMINISTRATION.*—

16               “(1) *IN GENERAL.*—*Nothing in this section lim-*  
17 *its the authority of the Administrator to require re-*  
18 *porting under any other provision of this Act by any*  
19 *person who manufactures, processes, distributes in*  
20 *commerce, uses, or disposes of a chemical substance,*  
21 *or a mixture or article containing a chemical sub-*  
22 *stance.*

23               “(2) *VIOLATIONS.*—*In addition to all other au-*  
24 *thorities available for the enforcement of this Act, the*  
25 *Administrator may, by order, take any action author-*

1        *ized under section 6(f) if a person who manufactures,*  
2        *processes, distributes in commerce, uses, or disposes of*  
3        *a chemical substance, or a mixture or article con-*  
4        *taining a chemical substance violates any provision of*  
5        *this section.”.*

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

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

9                (1) in subsection (a)—

10                        (A) by striking paragraphs (1) and (2) and  
11                        inserting the following:

12                        “(1) REPORT.—

13                                “(A) IN GENERAL.—If the Administrator  
14                                determines that the manufacture, processing,  
15                                distribution in commerce, use, or disposal of a  
16                                chemical substance, or that any combination of  
17                                those activities, does not meet a safety standard  
18                                under this title or requires conditions or restric-  
19                                tions in order to the meet the safety standard,  
20                                and the Administrator determines that action  
21                                may be taken under a Federal law not adminis-  
22                                tered by the Administrator to address the uses  
23                                of, or exposure to, the chemical substance, the  
24                                Administrator shall submit to the agency that  
25                                administers the Federal law a report that—

1           “(i) describes with specification the  
2 activity or combination of activities that  
3 prevent the chemical substance from meet-  
4 ing the safety standard or restrictions or  
5 conditions required to meet the safety  
6 standard under this title;

7           “(ii) requests that the agency—

8                 “(I) determine whether the 1 or  
9 more actions may be taken under  
10 Federal law administered by the agen-  
11 cy;

12                 “(II) if the agency determines  
13 under clause (i) that the 1 or more  
14 actions may be taken, initiate and  
15 provide a timetable for the 1 or more  
16 actions; and

17                 “(III) respond to the Adminis-  
18 trator with respect to the matters de-  
19 scribed in the report; and

20           “(iii) includes a detailed statement of  
21 the information on which the report is  
22 based.

23           “(B) PUBLICATION.—A report of the Ad-  
24 ministrator submitted under subparagraph (A)

1 shall be promptly published in the Federal Reg-  
2 ister.

3 “(C) ACTION BY RECIPIENT AGENCY.—Not  
4 later than 90 days after the date of receipt of  
5 a report from the Administrator under subpara-  
6 graph (A), or by such earlier date as the Ad-  
7 ministrator may specify in such a report, an  
8 agency that receives the report shall—

9 “(i) make all determinations requested  
10 by the Administrator in the report;

11 “(ii) take all action necessary to en-  
12 sure that a chemical substance meets the  
13 safety standard under this title, if appro-  
14 priate;

15 “(iii) include with the response of the  
16 agency a detailed statement of the findings  
17 and conclusions of the agency; and

18 “(iv) publish that statement in the  
19 Federal Register.

20 “(2) INITIATION OF ACTION.—If the Adminis-  
21 trator submits a report under paragraph (1) with re-  
22 spect to a chemical substance to an agency, and the  
23 agency that receives the report initiates, within the  
24 period specified in the request under paragraph (1),  
25 a civil action under Federal law administered by the

1 agency to ensure that a chemical substance meets  
2 the safety standard under this title, or requires re-  
3 strictions or conditions to meet that safety standard,  
4 the Administrator may not take action under this  
5 Act with respect to the civil action (other than any  
6 action taken pursuant to section 7).”;

7 (B) by redesignating paragraph (3) as  
8 paragraph (4);

9 (C) by inserting after paragraph (2) the  
10 following:

11 “(3) NO ACTION.—The Administrator may, by  
12 order, initiate action or a combination of actions  
13 under this Act to ensure compliance with the safety  
14 standard for a chemical substance under this title  
15 if—

16 “(A) the Administrator submits a report  
17 under paragraph (1) with respect to a chemical  
18 substance; and

19 “(B) the agency to which the report was  
20 submitted—

21 “(i) determines that action cannot be  
22 taken under the authorities of the agency;

23 “(ii) does not initiate action, if appro-  
24 priate, within the period specified in the  
25 request under paragraph (1);

1 “(iii) does not complete the action  
2 within the timeframe provided by the agen-  
3 cy; or

4 “(iv) fails to respond.”; and

5 (D) in paragraph (4) (as redesignated by  
6 subparagraph (B))—

7 (i) by striking “(4) If the Adminis-  
8 trator has initiated action under section 6  
9 or 7” and inserting the following:

10 “(4) CONSULTATION.—If the Administrator has  
11 initiated action under this Act”; and

12 (ii) by striking “against such risk”  
13 after “Federal action”;

14 (2) in subsection (c)—

15 (A) by striking “the Administrator shall  
16 not” and inserting “Administrator—

17 “(1) shall not”; and

18 (B) by striking the period at the end and  
19 inserting “; and”; and

20 (C) by adding at the end the following:

21 “(2) shall ensure that any actions to address  
22 workplace exposures that the Administrator takes or  
23 requires to be taken by manufacturers or processors  
24 of a chemical substance are consistent with the in-  
25 dustrial hygiene hierarchy of controls.”; and

1 (3) in subsection (d)—

2 (A) in the first sentence, by striking “while  
3 imposing the least burden of duplicative re-  
4 quirements on those subject to the Act and for  
5 other purposes”; and

6 (B) in the second sentence, by striking “,  
7 in the report required by section 30,”.

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

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

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

12 “(a) INSPECTIONS.—

13 “(1) IN GENERAL.—For purposes of admin-  
14 istering this Act, the Administrator, and any duly  
15 designated representative of the Administrator, may  
16 inspect—

17 “(A) any establishment, facility, or other  
18 premises in which chemical substances, mix-  
19 tures, or articles subject to this Act are manu-  
20 factured, processed, stored, or held before or  
21 after distribution in commerce;

22 “(B) any conveyance being used to trans-  
23 port such chemical substances, mixtures, or ar-  
24 ticles in connection with distribution in com-  
25 merce; and

1           “(C) any place at which records relating to  
2           the chemical substances, mixtures, or articles,  
3           or otherwise relating to compliance with this  
4           Act, are held.

5           “(2) METHOD.—Each inspection under para-  
6           graph (1) shall be—

7                   “(A) commenced and completed with rea-  
8                   sonable promptness; and

9                   “(B) conducted at reasonable times, within  
10                  reasonable limits, and in a reasonable manner.

11           “(3) SAMPLES.—The Administrator, and any  
12           duly designated representative of the Administrator,  
13           may inspect and obtain samples of any—

14                   “(A) chemical substance, mixture, or arti-  
15                   cle; and

16                   “(B) container or labeling of a chemical  
17                   substance, mixture, or article.

18           “(b) SCOPE.—An inspection conducted under sub-  
19           section (a) shall extend to all things within the premises  
20           or conveyance inspected (including records, files, papers,  
21           processes, controls, and facilities) regarding whether the  
22           owner or operator of the premises, conveyance, or records  
23           has complied with provisions of this Act applicable to the  
24           chemical substances, mixtures, articles, or records.

25           “(c) INFORMATION GATHERING.—



1           “(1) IN GENERAL.—In carrying out this Act,  
2           the Administrator may require the attendance and  
3           testimony of witnesses and the production of such  
4           reports, papers, documents, items, answers to ques-  
5           tions, and other information, including the develop-  
6           ment of analyses and other information, as the Ad-  
7           ministrator determines to be necessary.

8           “(2) PAYMENT OF WITNESSES.—A witness de-  
9           scribed in paragraph (1) shall be paid the same fees  
10          and mileage that are paid witnesses in the courts of  
11          the United States.

12          “(d) WARRANTS.—For purposes of enforcing this  
13          Act, upon a showing to an officer or court of competent  
14          jurisdiction that there is reason to believe that a provision  
15          of this Act has been violated, officers or employees duly  
16          designated by the Administrator are empowered to obtain  
17          and to execute warrants authorizing—

18                 “(1) entry, inspection, and copying of records  
19                 for purposes of this Act; and

20                 “(2) the seizure of any chemical substance, mix-  
21                 ture, or article that is in violation of this Act.”.

22         **SEC. 12. EXPORTS.**

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

25                 (1) by striking subsection (a);

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

3           (3) in subsection (a) (as redesignated by para-  
4 graph (2))—

5           (A) in paragraph (1)—

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

7           (ii) by striking “section 4 or 5(b)”  
8 and inserting “section 4, 5, or 6(b)”;

9           (iii) by striking “or intent to export”  
10 and inserting “, not later than 30 days  
11 after the date of exportation of the sub-  
12 stance or mixture,”; and

13           (iv) by inserting “promptly there-  
14 after” before “furnish”;

15           (B) in paragraph (2)—

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

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

1 (iii) by striking “or intent to export”  
2 and inserting “, not later than 30 days  
3 after the date of exportation of the sub-  
4 stance or mixture,”;

5 (iv) by inserting “promptly there-  
6 after” before “furnish”; and

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

10 (C) by adding at the end the following:

11 “(3) CHANGE IN EXPORT STATUS.—

12 “(A) IN GENERAL.—Any person that has  
13 notified the Administrator of the exportation of  
14 a chemical substance or mixture under this sec-  
15 tion shall notify the Administrator of any  
16 change in the export status of the substance or  
17 mixture by not later than 30 days after such a  
18 change in status.

19 “(B) UPDATED NOTICE.—The Adminis-  
20 trator shall promptly furnish an updated notice  
21 to the governments that have been notified pur-  
22 suant to paragraphs (1) and (2) regarding the  
23 exportation of any chemical substance or mix-  
24 ture subject to this section if—

1 “(i) data for the substance or mixture  
2 have been received by the Administrator  
3 pursuant to section 4, 5, 6(b), or 8;

4 “(ii) a change has occurred in the ex-  
5 port status of the substance or mixture; or

6 “(iii) a change has been made in any  
7 risk management action taken pursuant to  
8 section 6 or 7 for the substance or mix-  
9 ture.”;

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

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

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

16 (5) by adding at the end the following:

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

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

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

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

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

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

4 (2) in subsection (a)—

5 (A) in paragraph (1), by striking “if—”  
6 and subparagraphs (A) and (B) and inserting  
7 “if the substance, mixture, or article fails to  
8 comply with or is offered for entry in violation  
9 of any rule or order in effect under this Act.”;  
10 and

11 (B) by adding at the end the following:

12 “(3) IMPORT AS PART OF AN ARTICLE.—Chem-  
13 ical substances and mixtures imported as part of an  
14 article shall be subject to the same requirements  
15 under this Act as if the substances and mixtures had  
16 been imported in bulk, except as the Administrator  
17 may provide by rule under this Act, or as the Sec-  
18 retary of Homeland Security may provide by rule  
19 under subsection (b).”.

20 **SEC. 14. DISCLOSURE OF DATA.**

21 ~~Section 14 of the Toxic Substances Control Act (15~~  
22 ~~U.S.C. 2613) is amended—~~

23 (1) by redesignating subsections (a) through (e)  
24 as subsections (e) through (g), respectively;

1           (2) by inserting before subsection (c) (as redesi-  
2           gnated by paragraph (1)), the following:

3           “(a) AGENCY RESPONSIBILITIES.—The Adminis-  
4           trator shall ensure that—

5           “(1) information control designations under this  
6           section are not a determinant of public disclosure  
7           pursuant to section 552 of title 5, United States  
8           Code (commonly known as the ‘Freedom of Informa-  
9           tion Act’); and

10           “(2) all information in the possession of the  
11           agency that is releasable pursuant to an appropriate  
12           request under that section is made available to mem-  
13           bers of the public.

14           “(b) VOLUNTARY RELEASE OF UNCLASSIFIED IN-  
15           FORMATION NOT PROHIBITED.—Nothing in this section  
16           prevents or discourages the Administrator from volun-  
17           tarily releasing to the public any unclassified information  
18           that is not exempt from disclosure under section 552 of  
19           title 5, United States Code (commonly known as the  
20           ‘Freedom of Information Act’).”;

21           (3) in subsection (c) (as redesignated by para-  
22           graph (1))—

23           (A) in the subsection heading, by striking  
24           “IN GENERAL” and inserting “DISCLOSURE OF  
25           CERTAIN INFORMATION”;

1           (B) by striking “subsection (b)” and in-  
2           serting “subsection (d)”;

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

5           (D) by inserting after paragraph (2) the  
6           following:

7           “~~(3)~~ shall be disclosed upon request to a State,  
8           tribal, or municipal government, including identifica-  
9           tion of the location of the manufacture, processing,  
10          or storage of a chemical substance upon the request  
11          of the government for the purpose of administration  
12          or enforcement of a law, if 1 or more applicable  
13          agreements ensure that the recipient government  
14          will take appropriate steps to maintain the confiden-  
15          tiality of the information in accordance with this sec-  
16          tion and section 350.19 of title 40, Code of Federal  
17          Regulations (or any successor regulation);” and

18          (E) in paragraph (4) (as redesignated by  
19          subparagraph (B)), by striking “an unreason-  
20          able risk of injury” and inserting “an imminent  
21          and substantial endangerment”;

22          (4) in subsection (d) (as redesignated by para-  
23          graph (1))—

24          (A) in the subsection heading, by striking  
25          “DATA FROM HEALTH AND SAFETY STUDIES”

1 and inserting “INFORMATION NOT ELIGIBLE  
2 FOR PROTECTION”;

3 (B) by striking paragraph (1) and insert-  
4 ing the following:

5 “(1) INELIGIBLE INFORMATION.—

6 “(A) IN GENERAL.—The following types of  
7 information shall not be eligible for protection  
8 under this section, and the Administrator shall  
9 not approve a request to treat information of  
10 the following types as confidential under this  
11 section:

12 “(i) The identity of a chemical sub-  
13 stance, except as provided in section 5.

14 “(ii) Any safety standard determina-  
15 tion developed under section 6, including  
16 supporting information developed by the  
17 Administrator.

18 “(iii) Any health and safety study  
19 that is submitted under this Act with re-  
20 spect to—

21 “(I) any chemical substance or  
22 mixture—

23 “(aa) which, on the date on  
24 which the study is to be disclosed



1 has been offered for commercial  
2 distribution; or

3 “(bb) for which testing is re-  
4 quired under section 4 or for  
5 which notification is required  
6 under section 5; and

7 “(H) any data reported to, or  
8 otherwise obtained by, the Adminis-  
9 trator from a health and safety study  
10 which relates to a chemical substance  
11 or mixture described in item (aa) or  
12 (bb) of subclause (I).

13 “(iv) Any information indicating the  
14 presence of a chemical substance in a con-  
15 sumer article intended for use or reason-  
16 ably expected to be used by children or to  
17 which children can otherwise be reasonably  
18 expected to be exposed.

19 “(B) PROHIBITION.—This paragraph does  
20 not authorize the release of any data which dis-  
21 closes processes used in the manufacturing or  
22 processing of a chemical substance or mixture  
23 or, in the case of a mixture, the release of data  
24 disclosing the portion of the mixture comprised

1 by any of the chemical substances in the mix-  
2 ture.”; and

3 (C) in paragraph (2)—

4 (i) by striking “the first sentence of  
5 paragraph (1)” and inserting “item (aa) or  
6 (bb) of paragraph (1)(A)(iii)”;

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

10 (5) in subsection (e) (as redesignated by para-  
11 graph (1))—

12 (A) by striking paragraph (1) and insert-  
13 ing the following:

14 “(1) DUTIES OF MANUFACTURERS AND PROC-  
15 ESSORS.—

16 “(A) IN GENERAL.—In submitting data  
17 under this Act, a manufacturer, processor, or  
18 distributor in commerce may—

19 “(i) designate the data which the  
20 manufacturer, processor, or distributor be-  
21 lieves is entitled to confidential treatment  
22 under subsection (a); and

23 “(ii) submit the designated data sepa-  
24 rately from other data submitted under  
25 this Act.

1           “(B) REQUIREMENTS.—A designation  
2 under this paragraph shall be made in writing  
3 and in such manner as the Administrator may  
4 prescribe, and shall include—

5                   “(i) justification for each claim for  
6 confidentiality;

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

9                   “(iii) separate copies of all submitted  
10 information, with 1 copy containing and 1  
11 copy excluding the information to which  
12 the request applies.”;

13           (B) by redesignating paragraph (2) as  
14 paragraph (3);

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

17           “(2) DUTIES OF THE ADMINISTRATOR.—

18                   “(A) IN GENERAL.—The Administrator  
19 shall—

20                   “(i)(I) not later than 1 year after the  
21 date of enactment of the Safe Chemicals  
22 Act of 2011, by order develop and make  
23 publicly available standards that specify—

24                           “(aa) the acceptable bases on  
25 which written requests to maintain

1           confidentiality of information may be  
2           approved; which shall be no more re-  
3           strictive of public disclosure than sec-  
4           tion 552 of title 5, United States  
5           Code; and

6           “~~(bb)~~ the documentation that  
7           must accompany those requests; and

8           “~~(H)~~ not later than 1 year after the  
9           date of enactment of the Safe Chemicals  
10          Act of 2011, identify by rule those types of  
11          information for which the Administrator  
12          shall not prospectively specify the term of  
13          confidentiality pursuant to this subpara-  
14          graph;

15          “~~(ii)~~ not later than 90 days after the  
16          date of receipt of information designated  
17          under paragraph (1), review all requests to  
18          maintain confidentiality of the submitted  
19          information and decide whether to approve  
20          or deny each request based on whether the  
21          request and accompanying documentation  
22          comply with the standards that are devel-  
23          oped under clause (i) (except that if a re-  
24          quest for the information is received under  
25          section 552 of title 5, United States Code;

1 before the 90-day review and decision pe-  
 2 riod has elapsed; the disclosure require-  
 3 ments, procedures, and judicial review pro-  
 4 visions under that section shall apply);

5 “(iii) in the event such a request is  
 6 denied; make the information available to  
 7 the public in accordance with section  
 8 8(d)(2); and

9 “(iv) if such a request is approved,  
 10 specify a time period of not greater than 5  
 11 years for which the submitted information  
 12 shall be kept confidential; except with re-  
 13 spect to claims subject to a rule issued  
 14 pursuant to clause (i)(II).

15 “(B) AUTHORITY OF ADMINISTRATOR.—

16 Subparagraph (A) does not limit the authority  
 17 of the Administrator to determine that par-  
 18 ticular information, previously considered enti-  
 19 tled to confidential treatment, is no longer enti-  
 20 tled to such treatment.”; and

21 (D) in paragraph (3) (as redesignated by  
 22 subparagraph (B))—

23 (i) in subparagraph (A)—

24 (I) in the first sentence; by strik-  
 25 ing “paragraph (1)(A)” and inserting

1 “paragraph (1) and approved by the  
2 Administrator under paragraph  
3 (2)(A)(ii)”; and

4 (II) by striking the last sentence  
5 and inserting “The Administrator  
6 shall release the information in ac-  
7 cordance with the disclosure and pro-  
8 cedural requirements of section 552 of  
9 title 5, United States Code.”;

10 (ii) in subparagraph (B)(i)—

11 (I) in the first sentence—

12 (aa) by striking “or (4)”  
13 and inserting “(4), or (5)”;

14 (bb) by striking “subsection  
15 (a)” each place it appears and in-  
16 serting “subsection (c)”; and

17 (cc) by striking “paragraph  
18 (3)” and inserting “paragraph  
19 (4)”; and

20 (II) in the second sentence, by  
21 striking “except that” and all that fol-  
22 lows through “such release is made”  
23 and inserting “except if the Adminis-  
24 trator determines that the release of  
25 such data is necessary to protect

1                   against an imminent and substantial  
2                   endangerment to health or the envi-  
3                   ronment then no notice is required.”;

4                   and

5                   (iii) in subparagraph (B)(ii), by strik-  
6                   ing “(b)(1)” and inserting “(d)(1)(A)(iii)”;

7                   (6) in subsection (f) (as redesignated by para-  
8                   graph (1)), by striking “subsection (a)” and insert-  
9                   ing “subsection (e)”; and

10                  (7) by adding at the end the following:

11                  “(h) RISK INFORMATION FOR WORKERS.—The Ad-  
12                  ministrators shall provide standards for, and facilitate the  
13                  sharing of, chemical identity, safety standard determina-  
14                  tion, and health and safety data described in subsection  
15                  (d) that pertains to chemical substances or mixtures, or  
16                  articles containing chemical substances, that workers may  
17                  come into contact with or otherwise be exposed to during  
18                  the course of work, to and with those workers and rep-  
19                  resentatives of each certified or recognized bargaining  
20                  agent representing those employees.”.

21                  **SEC. 14. DISCLOSURE OF DATA.**

22                  *Section 14 of the Toxic Substances Control Act (15*  
23                  *U.S.C. 2613) is amended to read as follows:*

24                  **“SEC. 14. DISCLOSURE OF DATA.**

25                  “(a) APPLICABILITY.—

1           “(1) *IN GENERAL.*—Subject to paragraph (2)  
2           and except as provided under subsections (b) and (e),  
3           any information reported to, or otherwise obtained  
4           by, the Administrator (or any representative of the  
5           Administrator) that is exempt from disclosure under  
6           subsection (a) of section 552 of title 5, United States  
7           Code, (commonly known as the ‘Freedom of Informa-  
8           tion Act’) under subsection (b)(4) of that section, shall  
9           not be disclosed by the Administrator or by any offi-  
10          cer or employee of the United States, unless the des-  
11          ignation of the information as exempt from disclosure  
12          is prohibited under Federal law.

13           “(2) *EXEMPTIONS.*—

14           “(A) *MANDATORY EXEMPTIONS.*—Notwith-  
15          standing any other provision of law, the Admin-  
16          istrator shall disclose the information described  
17          in paragraph (1)—

18                   “(i) to any officer or employee of the  
19                   United States—

20                           “(I) in connection with the offi-  
21                           cial duties of that officer or employee  
22                           under any law for the protection of  
23                           human health or the environment; or

24                           “(II) for specific law enforcement  
25                           purposes;



1           “(ii) to a contractor with the United  
2 States and employees of that contractor if,  
3 in the opinion of the Administrator, the dis-  
4 closure is necessary for the satisfactory per-  
5 formance by the contractor of a contract  
6 with the United States entered into on or  
7 after the date of enactment of the Safe  
8 Chemicals Act of 2011 for the performance  
9 of work in connection with this Act and  
10 under such conditions as the Administrator  
11 may specify;

12           “(iii) if the Administrator determines  
13 that the disclosure is necessary to protect  
14 human health or the environment;

15           “(iv) on request, to a State or tribal  
16 government for the purpose of development  
17 or potential development, administration,  
18 or enforcement of a law, if 1 or more appli-  
19 cable agreements ensure that the recipient  
20 government will take appropriate steps, and  
21 has adequate authority, to maintain the  
22 confidentiality of the information in accord-  
23 ance with procedures comparable to those  
24 which the Administrator uses to safeguard  
25 the information;

1           “(v) on request, to public health or en-  
2           vironmental health professionals or medical  
3           personnel if the Administrator determines  
4           that—

5                   “(I) disclosure is in the public in-  
6                   terest;

7                   “(II) the recipient does not have a  
8                   conflict of interest or competitive inter-  
9                   est with respect to the submitter of the  
10                  information; and

11                  “(III) 1 or more applicable agree-  
12                  ments are in place to ensure that the  
13                  recipient of the information provides  
14                  comparable protections to those pro-  
15                  vided by the Administrator to main-  
16                  tain the confidentiality of the informa-  
17                  tion.

18           “(B) *OPTIONAL EXEMPTIONS.*—Notwith-  
19           standing any other provision of law, the Admin-  
20           istrator may disclose the information described  
21           in paragraph (1) if relevant, in any proceeding  
22           under this Act, except that disclosure in such a  
23           proceeding shall be made in such manner as to  
24           preserve confidentiality to the maximum extent  
25           practicable without impairing the proceeding.

1           “(3) *EFFECT ON OTHER LAWS.*—*In any pro-*  
2           *ceeding under section 552(a) of title 5, United States*  
3           *Code (commonly referred to as the ‘Freedom of Infor-*  
4           *mation Act’), to obtain information, the disclosure of*  
5           *which has been denied pursuant to this section, the*  
6           *Administrator may not rely on subsection (b)(3) of*  
7           *that section to sustain the action of the Adminis-*  
8           *trator.*

9           “(b) *CATEGORIES OF CONFIDENTIAL BUSINESS INFOR-*  
10          *MATION.*—

11           “(1) *INFORMATION THAT IS ALWAYS ELIGIBLE*  
12          *FOR PROTECTION.*—*Subject to subsection (a)(2) and*  
13          *any other applicable provision of Federal law, the Ad-*  
14          *ministrator shall review and approve a request that*  
15          *conforms to the requirements described in subsection*  
16          *(c)(2) to treat as confidential under this section the*  
17          *following information:*

18           “(A) *Precise information describing the*  
19          *manufacture, processing, or distribution of a*  
20          *chemical substance or mixture.*

21           “(B) *Marketing and sales information.*

22           “(C) *Information identifying the customers*  
23          *of a manufacturer, processor, or distributor.*

1           “(D) *Details of the full composition of a*  
2           *mixture of a particular manufacturer or proc-*  
3           *essor.*

4           “(E) *Precise information about the use,*  
5           *function, or application of a chemical substance*  
6           *or mixture in a process, mixture, or product of*  
7           *a particular manufacturer or processor.*

8           “(F) *Precise production or import volumes*  
9           *of a particular manufacturer, processor, or dis-*  
10          *tributor.*

11          “(2) *INFORMATION THAT MAY BE ELIGIBLE FOR*  
12          *PROTECTION.—*

13                 “(A) *IN GENERAL.—Subject to subsection*  
14                 *(a) and any other applicable provision of Fed-*  
15                 *eral law, and except as provided in paragraphs*  
16                 *(1) and (3), information submitted by a manu-*  
17                 *facturer, processor, or distributor to the Admin-*  
18                 *istrator may be protected if the manufacturer,*  
19                 *processor, or distributor complies with subsection*  
20                 *(c)(2) and the Administrator determines that a*  
21                 *request to maintain the confidentiality of the in-*  
22                 *formation meets the applicable requirements of*  
23                 *this subsection and any rule promulgated by the*  
24                 *Administrator under subsection (c)(1).*

1                   “(B) IDENTITIES OF CERTAIN CHEMICAL  
2                   SUBSTANCES.—

3                   “(i) IN GENERAL.—Notwithstanding  
4                   subparagraph (A), the Administrator shall  
5                   not disclose precise information on the iden-  
6                   tity of a chemical substance if—

7                   “(I) the manufacturer or processor  
8                   of the substance has, in accordance  
9                   with subsection (c)(2)—

10                   “(aa) included in a notice  
11                   under section 5(b) a request, in-  
12                   cluding a justification and docu-  
13                   mentation for the request, that the  
14                   identity of the substance be treat-  
15                   ed as confidential business infor-  
16                   mation; or

17                   “(bb) submitted to the Ad-  
18                   ministrator not later than 180  
19                   days after the date of enactment  
20                   of the Safe Chemicals Act of 2011  
21                   a request, including a justifica-  
22                   tion and documentation for the  
23                   request, that the identity of a sub-  
24                   stance for which a notice has been  
25                   submitted under section 5(b) as of

1           *the date of enactment of the Safe*  
2           *Chemicals Act of 2011 be treated*  
3           *as confidential business informa-*  
4           *tion; and*

5           “(II) *the Administrator deter-*  
6           *mines that—*

7                   “(aa) *the request complies*  
8                   *with all applicable requirements*  
9                   *of this section;*

10                   “(bb) *the chemical identity is*  
11                   *not readily discoverable through*  
12                   *reverse engineering;*

13                   “(cc) *the manufacturer or*  
14                   *processor takes reasonable meas-*  
15                   *ures to protect the confidentiality*  
16                   *of the chemical substance;*

17                   “(dd) *no other Federal stat-*  
18                   *ute requires disclosure;*

19                   “(ee) *disclosure of the iden-*  
20                   *tity of the chemical substance*  
21                   *would cause financial or competi-*  
22                   *tive harm to the manufacturer or*  
23                   *processor;*

24                   “(ff) *the chemical substance*  
25                   *is not, based on information that*

1 *is initially available or that later*  
2 *becomes available to the Adminis-*  
3 *trator, a known or probable repro-*  
4 *ductive, developmental, neuro-*  
5 *logical, or immunological toxic-*  
6 *ant, carcinogen, or mutagen;*

7 *“(gg) the chemical substance*  
8 *is not persistent, bioaccumulative,*  
9 *and toxic; and*

10 *“(hh) if a safety standard de-*  
11 *termination has been made for a*  
12 *chemical substance, the Adminis-*  
13 *trator determines that the chem-*  
14 *ical substance meets the applicable*  
15 *safety standard either under cur-*  
16 *rent conditions or under addi-*  
17 *tional conditions required by the*  
18 *Administrator.*

19 *“(ii) NOTICE.—In cases where all of*  
20 *the requirements specified in clause (i) are*  
21 *met—*

22 *“(I) the notice required to be*  
23 *made public by the Administrator*  
24 *under section 5(f)(3) shall include a*  
25 *justification for the determination of*

1           *the Administrator and identify the*  
2           *chemical substance by generic class un-*  
3           *less the Administrator determines that*  
4           *more specific identification is required*  
5           *in the public interest; and*

6           “(II) as part of a claim to protect  
7           *the identity of a chemical substance*  
8           *under subsection (c)(2), a manufac-*  
9           *turer or processor may provide a ‘pub-*  
10           *lic name’ for the chemical substance for*  
11           *use by the Administrator when sharing*  
12           *information on the chemical substance*  
13           *under this subsection. The public*  
14           *names should disclose a maximum*  
15           *amount of information on the chemical*  
16           *structure of the substance, while pro-*  
17           *tecting those features of the chemical*  
18           *structure that are considered confiden-*  
19           *tial and the disclosure of which would*  
20           *potentially harm the owner of that in-*  
21           *formation.*

22           “(iii) *DURATION OF PROTECTION FOR*  
23           *CHEMICAL IDENTITY.—Notwithstanding*  
24           *subsection (c)(1)(B)(iv), the identity of a*  
25           *chemical substance for which a request has*



1           *been submitted pursuant to clause (i)(I)*  
2           *and meets the requirements of clause (i)*  
3           *shall be protected as confidential business*  
4           *information—*

5                     *“(I) for such period of time as the*  
6                     *Administrator, after reviewing the re-*  
7                     *quest, determines to be reasonable; and*

8                     *“(II) upon expiration of a time*  
9                     *period specified under this clause, for*  
10                    *an additional 5-year period, if the Ad-*  
11                    *ministrator, after reviewing the re-*  
12                    *quest, determines that the request for*  
13                    *protection continues to meet the cri-*  
14                    *teria established in this subparagraph.*

15                    *“(iv) PUBLICATION REQUIREMENT.—*  
16            *The Administrator shall annually publish a*  
17            *notice that—*

18                    *“(I) includes an updated, cumu-*  
19                    *lative list of each new chemical sub-*  
20                    *stance for which the Administrator has*  
21                    *approved a request to protect informa-*  
22                    *tion under this paragraph, identified*  
23                    *by a unique identifier, other than the*  
24                    *precise chemical identity, and includ-*

1                    *ing the period of time for which the*  
2                    *protection applies; and*

3                    *“(II) for each chemical substance*  
4                    *for which the protection provided*  
5                    *under this paragraph has expired, pro-*  
6                    *vides the precise identity of the chem-*  
7                    *ical substance, and provides public ac-*  
8                    *cess to any information that had been*  
9                    *submitted to the Administrator which*  
10                   *concealed the identity of the chemical*  
11                   *substance in accordance with this*  
12                   *paragraph.*

13                   *“(C) IMPURITIES.—Notwithstanding sub-*  
14                   *paragraph (A), the Administrator may deter-*  
15                   *mine not to disclose information relating to the*  
16                   *degree of purity or the identity of impurities*  
17                   *present in a chemical substance or mixture if the*  
18                   *Administrator determines that knowledge of the*  
19                   *information would reveal processes used in the*  
20                   *manufacturing or processing of the chemical sub-*  
21                   *stance or mixture.*

22                   *“(3) INFORMATION THAT IS NEVER ELIGIBLE*  
23                   *FOR PROTECTION.—*

1           “(A) *IN GENERAL.*—*Except as provided in*  
2 *paragraph (2), the Administrator shall disclose*  
3 *the following information:*

4           “(i) *The identity of a chemical sub-*  
5 *stance.*

6           “(ii) *Any safety standard determina-*  
7 *tion developed under section 6, including*  
8 *supporting analysis developed by the Ad-*  
9 *ministrator.*

10          “(iii) *Any health and safety study*  
11 *data that is submitted under this Act with*  
12 *respect to—*

13           “(I) *any chemical substance or*  
14 *mixture—*

15           “(aa) *that has been offered*  
16 *for commercial distribution as of*  
17 *the date on which the study is to*  
18 *be disclosed; or*

19           “(bb) *for which testing is re-*  
20 *quired under section 4 or for*  
21 *which notification is required*  
22 *under section 5; and*

23           “(II) *any data reported to, or oth-*  
24 *erwise obtained by, the Administrator*  
25 *from a health and safety study that re-*

1                    *lates to a chemical substance or mix-*  
2                    *ture described in subclause (I).*

3                    *“(iv) Health and safety data in notices*  
4                    *of substantial risk submitted pursuant to*  
5                    *section 8(l) and in the underlying studies.*

6                    *“(v) General information describing*  
7                    *the manufacturing volumes, expressed in*  
8                    *ranges, and industrial, commercial, or con-*  
9                    *sumer functions and uses of a chemical sub-*  
10                   *stance or mixture.*

11                   *“(vi) Any information indicating the*  
12                   *presence of a chemical substance in con-*  
13                   *sumer products intended for use, or reason-*  
14                   *ably expected to be used, by children aged*  
15                   *14 years or younger, if—*

16                   *“(I) the Administrator, or another*  
17                   *authoritative body, has determined*  
18                   *that the chemical substance—*

19                   *“(aa) is a known or probable*  
20                   *reproductive, developmental, neu-*  
21                   *rological, or immunological toxic-*  
22                   *ant, carcinogen, or mutagen; or*

23                   *“(bb) is persistent, bio-*  
24                   *accumulative, and toxic; or*

1                   “(II) for a chemical substance for  
2                   which a safety standard determination  
3                   has been made, the Administrator has  
4                   not found that the chemical substance  
5                   meets the safety standard.

6                   “(B) PROHIBITION.—Nothing in this para-  
7                   graph authorizes the release of any data that dis-  
8                   closes a process used in the manufacturing or  
9                   processing of a chemical substance or mixture, or  
10                  in the case of a mixture, the release of data dis-  
11                  closing the portion of the mixture comprised by  
12                  any of the chemical substances in the mixture.

13                  “(C) APPLICABILITY OF OTHER LAWS.—Ex-  
14                  cept as provided in paragraph (2), if the Admin-  
15                  istrator receives a request for information under  
16                  section 552(a) of title 5, United States Code,  
17                  (commonly known as the ‘Freedom of Informa-  
18                  tion Act’) for information described in subpara-  
19                  graph (A), which is not information described in  
20                  subparagraph (B), the Administrator shall not  
21                  deny the request under subsection (b)(4) of that  
22                  section.

23                  “(c) DESIGNATION AND TREATMENT OF CONFIDENTIAL  
24                  BUSINESS INFORMATION.—

25                  “(1) DUTIES OF THE ADMINISTRATOR.—

1           “(A) *RULES.*—Not later than 1 year after  
2           the date of enactment of the Safe Chemicals Act  
3           of 2011, the Administrator shall promulgate  
4           rules that specify—

5                   “(i) the acceptable bases on which  
6                   written requests to maintain confidentiality  
7                   of information may be approved, which  
8                   shall be consistent with the requirements of  
9                   this section;

10                   “(ii) the nature of the documentation  
11                   and justification that must accompany such  
12                   a request; and

13                   “(iii) the types of information the Ad-  
14                   ministrator determines warrant protection  
15                   for an indefinite period of time, for which  
16                   the term of confidentiality specified in sub-  
17                   paragraph (B)(iv)(I) shall not apply.

18           “(B) *REVIEW OF REQUESTS.*—

19                   “(i) *IN GENERAL.*—Not later than 90  
20                   days after the date of receipt of information  
21                   under paragraph (2), the Administrator  
22                   shall review a request to maintain confiden-  
23                   tiality of information submitted under this  
24                   Act and determine whether to approve,  
25                   modify, or deny that request based on the

1 regulations promulgated by the Adminis-  
2 trator under subparagraph (A).

3 “(ii) *PROCESS.*—The Administrator  
4 shall, in accordance with clause (i)—

5 “(I) review all requests received to  
6 maintain confidentiality of submitted  
7 information; or

8 “(II) if it is not feasible for the  
9 Administrator to review all of the re-  
10 quests—

11 “(aa) review all requests re-  
12 lating to information described in  
13 subsection (b)(2)(B); and

14 “(bb) review a representative  
15 subset that includes not less than  
16 25 percent of all other requests re-  
17 ceived; and

18 “(III) publish in the *Federal Reg-*  
19 *ister* on at least an annual basis a de-  
20 scription of the number and types of  
21 requests received and reviewed by the  
22 Administrator.

23 “(iii) *DENIALS.*—If a request to main-  
24 tain confidentiality of submitted informa-  
25 tion is denied in accordance with subpara-

1 *graph (D), the Administrator shall prompt-*  
2 *ly make the information available to the*  
3 *public in accordance with section 8(i)(2).*

4 “(iv) *APPROVALS.—If a request to*  
5 *maintain confidentiality of submitted infor-*  
6 *mation is approved, the Administrator*  
7 *shall—*

8 “(I) *except with respect to re-*  
9 *quests subject to a rule issued pursuant*  
10 *to subparagraph (A)(iii) and requests*  
11 *submitted pursuant to subsection*  
12 *(b)(2)(B)(i)(I), specify a time period*  
13 *not to exceed 5 years for which the sub-*  
14 *mitted information shall be kept con-*  
15 *fidential, unless the information other-*  
16 *wise becomes available to the public*  
17 *during the period; and*

18 “(II) *upon the expiration of the*  
19 *protection period, make the informa-*  
20 *tion available to the public unless the*  
21 *manufacturer, processor, or distributor*  
22 *has submitted, documented, and justi-*  
23 *fied to the satisfaction of the Adminis-*  
24 *trator and in accordance with this sub-*  
25 *section the basis for a renewal of the*



1                   *protection, for a time period not to ex-*  
2                   *ceed 5 years.*

3                   “(C) *AUTHORITY OF THE ADMINIS-*  
4                   *TRATOR.—Nothing in subparagraph (A) or (B)*  
5                   *limits the authority of the Administrator to de-*  
6                   *termine that particular information, previously*  
7                   *treated as confidential, is no longer entitled to*  
8                   *confidential treatment.*

9                   “(D) *NOTIFICATIONS.—*

10                   “(i) *IN GENERAL.—Except as provided*  
11                   *in clause (ii), if the Administrator proposes*  
12                   *to release information for which a request*  
13                   *for confidential treatment has been ap-*  
14                   *proved under this section, the Administrator*  
15                   *shall electronically notify the manufacturer,*  
16                   *processor, or distributor in commerce who*  
17                   *submitted the request of the intent of the*  
18                   *Administrator to release the information*  
19                   *not less than 15 days prior to the release of*  
20                   *the information.*

21                   “(ii) *ADMINISTRATION.—The Adminis-*  
22                   *trator shall release the information de-*  
23                   *scribed in clause (i) in accordance with the*  
24                   *disclosure and procedural requirements of*  
25                   *section 552 of title 5, United States Code*

1                   *(commonly known as the ‘Freedom of Infor-*  
2                   *mation Act’), except that—*

3                   *“(I) if the release of the informa-*  
4                   *tion is to be made pursuant to a re-*  
5                   *quest made under section 552(a) of*  
6                   *title 5, United States Code, the notice*  
7                   *shall be given immediately upon ap-*  
8                   *proval of the request by the Adminis-*  
9                   *trator;*

10                  *“(II) if the Administrator deter-*  
11                  *mines that the release of information*  
12                  *pursuant to subsection (a)(2)(A)(iii) is*  
13                  *necessary to protect against imminent*  
14                  *and substantial harm to human health*  
15                  *or the environment, no notice shall be*  
16                  *required; and*

17                  *“(III) the requirements of this*  
18                  *subparagraph shall not apply to the re-*  
19                  *lease of information under—*

20                           *“(aa) clauses (i) through (iii)*  
21                           *of subsection (a)(2)(A); or*

22                           *“(bb) subsection (b)(3)(A).*

23                   *“(2) DUTIES OF MANUFACTURERS, PROCESSORS,*  
24                   *AND DISTRIBUTORS.—*

1           “(A) *IN GENERAL.*—*In submitting data*  
2           *under this Act, a manufacturer, processor, or*  
3           *distributor in commerce may—*

4                   “(i) *designate information, other than*  
5                   *information described in subsection (b)(3),*  
6                   *for which the manufacturer, processor, or*  
7                   *distributor requests confidential treatment*  
8                   *under subsection (a) or (b); and*

9                   “(ii) *submit the designated data sepa-*  
10                   *rately from other data submitted under this*  
11                   *Act.*

12           “(B) *REQUIREMENTS.*—*A designation*  
13           *under this paragraph shall be made in writing*  
14           *and in such manner as the Administrator may*  
15           *prescribe, and shall include—*

16                   “(i) *documentation and justification*  
17                   *for each request for confidentiality, except*  
18                   *for requests relating to the information de-*  
19                   *scribed in subsection (b)(1);*

20                   “(ii) *the period of time for which*  
21                   *maintenance of confidentiality of the infor-*  
22                   *mation is requested except with respect to*  
23                   *requests subject to a rule issued pursuant to*  
24                   *subsection (c)(1)(A)(iii);*

1           “(iii) a certification that the informa-  
2           tion is not otherwise publicly available;

3           “(iv) separate copies of all submitted  
4           information, with 1 copy containing and 1  
5           copy excluding the information to which the  
6           request applies; and

7           “(v) any additional information re-  
8           quired by the Administrator.

9           “(C) *REQUEST FOR RENEWAL.*—Prior to  
10          the expiration of the specified time period deter-  
11          mined by the Administrator under paragraph  
12          (1)(B)(iv), a manufacturer, processor, or dis-  
13          tributor may submit a request for renewal of  
14          protection for protected information. This request  
15          for renewal shall follow the same procedures and  
16          requirements as the initial submission under  
17          subparagraphs (A) and (B).

18          “(d) *CIVIL PENALTY FOR WRONGFUL DISCLOSURE OR*  
19          *WRONGFUL REQUESTS FOR PROTECTION.*—

20                 “(1) *IN GENERAL.*—Any officer or employee of  
21          the United States or former officer or employee of the  
22          United States, who, by virtue of employment or offi-  
23          cial position has obtained possession of, or has access  
24          to, material the disclosure of which is prohibited by  
25          subsection (a), and who knowing that disclosure of the

1     *material is prohibited by that subsection, willfully*  
2     *discloses the material in any manner to any person*  
3     *not entitled to receive the information, shall be subject*  
4     *to appropriate disciplinary action and subject to a*  
5     *civil money penalty of not more than \$10,000 for*  
6     *each violation.*

7             “(2) *APPLICABILITY OF OTHER LAWS.*—Section  
8     *1905 of title 18, United States Code, shall not apply*  
9     *with respect to the publishing, divulging, disclosure,*  
10    *making known, or making available of, information*  
11    *reported or otherwise obtained under this Act.*

12            “(3) *CONTRACTORS.*—For the purposes of para-  
13    *graph (1), any contractor with the United States who*  
14    *is furnished information as authorized by subsection*  
15    *(a)(2), including any employee of such a contractor,*  
16    *shall be considered to be an employee of the United*  
17    *States.*

18            “(4) *FALSE REQUESTS.*—Any officer or employee  
19    *of a company that submits information under this*  
20    *Act who willfully designates information as eligible*  
21    *for confidential treatment, knowing that the informa-*  
22    *tion is ineligible for such treatment, shall be subject*  
23    *to a civil money penalty of not more than \$10,000 for*  
24    *each such violation.*

1       “(e) *ACCESS BY CONGRESS.*—Notwithstanding this  
2 *section or any other provision of law, all information re-*  
3 *ported to or otherwise obtained by the Administrator (or*  
4 *any representative of the Administrator) under this Act*  
5 *shall be made available, on written request of any duly au-*  
6 *thorized committee of Congress, to that committee.*

7       “(f) *RISK INFORMATION FOR WORKERS.*—The Admin-  
8 *istrator shall facilitate the sharing of information that per-*  
9 *tains to chemical substances or mixtures or articles con-*  
10 *taining chemical substances that workers may come into*  
11 *contact with or may otherwise be exposed to during the*  
12 *course of work with those workers and representatives of*  
13 *each certified or recognized bargaining agent representing*  
14 *those workers. Nothing in this subsection authorizes disclo-*  
15 *sure of information other than those disclosures that may*  
16 *be made pursuant to subsections (a) through (e).”.*

17 **SEC. 15. PROHIBITED ACTS.**

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

20             (1) by striking paragraph (1) and inserting the  
21 following:

22             “(1) fail or refuse to comply with any rule,  
23 order, prohibition, restriction, or other requirement  
24 imposed by this Act or by the Administrator under  
25 this Act;”;

1 (2) in paragraph (2)—

2 (A) by striking “use” and inserting “man-  
3 ufacture, process, distribute in commerce, use,  
4 or dispose of”;

5 (B) by striking “or mixture” and inserting  
6 “, mixture, or article”; and

7 (C) by striking “section 5 or 6, a rule or  
8 order under section 5 or 6, or an order issued  
9 in action brought under section 5 or 7” and in-  
10 sserting “any rule, order, prohibition, restriction,  
11 or other requirement imposed by this Act or by  
12 the Administrator under this Act”;

13 (3) in paragraph (3)—

14 (A) in subparagraph (A), by inserting “ac-  
15 curate and complete” after “maintain”;

16 (B) in subparagraph (B)—

17 (i) by inserting “or make accurate  
18 and complete” after “submit”; and

19 (ii) by inserting “information submis-  
20 sions, disclosures, declarations, certifi-  
21 cations,” after “notices,”; and

22 (C) in subparagraph (C), by striking “or”  
23 after the semicolon;

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

1 (5) by adding at the end the following:

2 “(5) make or submit a statement, declaration,  
3 disclosure, certification, writing, data set, or rep-  
4 resentation that is materially false, in whole or in  
5 part, or to falsify or conceal any material fact, in  
6 taking any action or making any communication  
7 pursuant to this Act or pursuant to any rule or  
8 order promulgated or issued under this Act; or

9 “(6) take any action prohibited by this Act.”.

10 **SEC. 16. PENALTIES.**

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

13 (1) in subsection (a)—

14 (A) in paragraph (1)—

15 (i) in the first sentence—

16 (I) by inserting “this Act or a  
17 rule or order promulgated or issued  
18 pursuant to this Act, as described in”  
19 after “a provision of”; and

20 (II) by striking “\$25,000” and  
21 inserting “\$37,500”; and

22 (ii) in the second sentence, by striking  
23 “violation of section 15 or 409” and in-  
24 serting “violation of this Act”;



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

4 (C) by inserting after paragraph (1) the  
5 following:

6 “(2) In the case of any violation described in  
7 paragraph (1), the Administrator may commence a  
8 civil action in the appropriate United States district  
9 court to assess penalties pursuant to that para-  
10 graph.”;

11 (D) in subparagraph (A) of paragraph (3)  
12 (as redesignated by subparagraph (B))—

13 (i) in the first sentence, by inserting  
14 “this Act, as described in” before “section  
15 15 or 409”; and

16 (ii) in the last sentence, by striking  
17 “within 15 days of” and inserting “not  
18 later than 15 days after”;

19 (E) in the first sentence of paragraph (4)  
20 (as redesignated by subparagraph (B))—

21 (i) by striking “paragraph (2)(A)”  
22 and inserting “paragraph (3)(A)”; and

23 (ii) by striking “the United States  
24 Court of Appeals for the District of Co-  
25 lumbia Circuit or for any other circuit”

1           and inserting “the appropriate district  
2           court of the United States for the dis-  
3           trict”; and

4           (F) in paragraph (5) (as redesignated by  
5           subparagraph (B)), by striking “paragraph (3)”  
6           each place it appears and inserting “paragraph  
7           (4)”; and

8           (2) in subsection (b)—

9           (A) by striking “Any person” and inserting  
10          the following:

11          “(1) IN GENERAL.—Any person”;

12          (B) by striking “or willfully”;

13          (C) by inserting “this Act, as described in”  
14          after “any provision of”;

15          (D) by striking “\$25,000” and inserting  
16          “\$50,000”;

17          (E) by striking “one year” and inserting  
18          “5 years”; and

19          (F) by adding at the end the following:

20          “(2) IMMINENT DANGER OF DEATH OR SERIOUS  
21          BODILY INJURY.—

22          “(A) IN GENERAL.—Any individual who  
23          knowingly violates any provision of this Act and  
24          who knows at the time that the violation places  
25          another person in imminent danger of death or

1           serious bodily injury shall upon conviction be  
2           subject to a fine of not more than \$250,000, or  
3           imprisonment of not more than 15 years, or  
4           both.

5           “(B) OTHER PERSONS.—A person that is  
6           not an individual shall, upon conviction of vio-  
7           lating this paragraph, be subject to a fine of  
8           not more than \$1,000,000.”.

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

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

12           (1) in subsection (a)—

13            (A) in paragraph (1)—

14              (i) by striking “(1) The district  
15              courts” and all that follows through the  
16              end of subparagraph (C) and inserting the  
17              following:

18            “(1) AUTHORITY OF THE ADMINISTRATOR.—

19              “(A) IN GENERAL.—The Administrator  
20              may commence a civil action in the appropriate  
21              United States district court to compel compli-  
22              ance of any person with any provision of this  
23              Act or any rule or order promulgated pursuant  
24              to this Act.

1           “(B) ENFORCEMENT.—The authority of  
2 the Administrator to enforce this Act includes  
3 the authority—

4           “(i) to seek civil or criminal penalties  
5 under section 16 for any violation of this  
6 Act, as described in sections 15 and 409;

7           “(ii) to enjoin any violation of this  
8 Act, or of a rule or order promulgated or  
9 issued under this Act, as described in sec-  
10 tions 15 and 409;

11           “(iii) to order the compliance of any  
12 person with any provision of this Act, or  
13 with any rule or order promulgated or  
14 issued under this Act, through an adminis-  
15 trative proceeding (which may proceed con-  
16 currently with action under this section),  
17 in which the Administrator may levy pen-  
18 alties under section 16; and”;

19           (ii) in subparagraph (D)—

20           (I) by redesignating clause (i)  
21 through (iii) as subclauses (I) through  
22 (III), respectively, and indenting ap-  
23 propriately;

1 (II) by striking “(D) direct any  
2 manufacturer” and inserting the fol-  
3 lowing:

4 “(iv) to order any manufacturer”;

5 (III) by striking “product subject  
6 to title IV” and inserting “article sub-  
7 ject to this Act”;

8 (IV) by striking “product” each  
9 place it appears and inserting “arti-  
10 cle”;

11 (V) by striking “of section 5, 6,  
12 or title IV” and inserting “this Act”;  
13 and

14 (VI) by striking “under section  
15 5, 6, or title IV” and inserting “pro-  
16 mulgated and issued under this Act,  
17 as described in section 15 or 409,”;

18 (B) in paragraph (2)—

19 (i) by striking “(2) A civil action” and  
20 all that follows through “described in sub-  
21 paragraph (A) of such paragraph” in sub-  
22 paragraph (A) and inserting the following:

23 “(2) CIVIL ACTIONS.—

1           “(A) IN GENERAL.—The district courts of  
2 the United States shall have jurisdiction over a  
3 civil action described in paragraph (1).

4           “(B) REQUIREMENTS.—A civil action de-  
5 scribed in paragraph (1) may be brought—

6                 “(i) in the case of a civil action de-  
7 scribed in subparagraphs (A) and (B) of  
8 paragraph (1)”;

9                 (ii) in clause (i) (as so designated), by  
10 striking “of section 15” and inserting “of  
11 this Act, as described in section 15 or  
12 409”;

13                 (iii) by redesignating subparagraph  
14 (B) as clause (ii) and indenting appro-  
15 priately; and

16                 (iv) in clause (ii) (as so designated),  
17 by striking “such paragraph” and insert-  
18 ing “paragraph (1)”;

19           (C) in the undesignated matter following  
20 paragraph (2), by striking “In any” and insert-  
21 ing the following:

22           “(3) SERVING OF PROCESS AND SUBPOENAS.—

23           In any”; and

24           (2) in the first sentence of subsection (b)—

1 (A) by striking “title IV” and inserting  
2 “this Act”;

3 (B) by striking “product” the first place it  
4 appears and inserting “article”; and

5 (C) by striking “product,” both places it  
6 appears.

7 **SEC. 18. PREEMPTION.**

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

10 **“SEC. 18. PREEMPTION.**

11 “Nothing in this Act affects the right of a State or  
12 a political subdivision of a State to adopt or enforce any  
13 regulation, requirement, or standard of performance that  
14 is different from, or in addition to, a regulation, require-  
15 ment, liability, or standard of performance established  
16 pursuant to this Act unless compliance with both this Act  
17 and the State or political subdivision of a State regulation,  
18 requirement, or standard of performance is impossible, in  
19 which case the applicable provisions of this Act shall con-  
20 trol.”.

21 **SEC. 19. JUDICIAL REVIEW.**

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

24 (1) in subsection (a)—

25 (A) in paragraph (1)—

1 (i) by striking subparagraph (B);

2 (ii) in subparagraph (A), by striking  
3 “(1)(A) Not later” and all that follows  
4 through “under title II or IV,” and insert-  
5 ing the following:

6 “(1) JUDICIAL REVIEW.—Not later than 60  
7 days after the date of the promulgation or issuance  
8 of a rule under of this Act,”;

9 (iii) by inserting “or order” after  
10 “rule” each place it appears; and

11 (iv) in the second sentence, by strik-  
12 ing “(other than in an enforcement pro-  
13 ceeding)”;

14 (B) in paragraph (2)—

15 (i) in the first sentence, by striking  
16 “paragraph (1)(A)” and inserting “para-  
17 graph (1)”;

18 (ii) in the second sentence, by insert-  
19 ing “or order” after “rule”; and

20 (C) by striking paragraph (3);

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

23 (3) in subsection (c), by striking paragraph (1)  
24 and inserting the following:



1           “(1) IN GENERAL.—Upon the filing of a peti-  
2           tion under subsection (a)(1) for judicial review of a  
3           rule or order, the court shall have jurisdiction—

4                   “(A) to grant appropriate relief, including  
5           interim relief, as provided in chapter 7 of title  
6           5, United States Code; and

7                   “(B) to review the rule or order in accord-  
8           ance with that chapter.”.

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), by striking “under  
14           section 4, 5, or 6, or title II or IV, or order  
15           issued under section 5 or title II or IV to re-  
16           strain such violation,” and inserting “or order  
17           issued under this Act;”; and

18                   (B) in the third sentence of the undesig-  
19           nated language following paragraph (2), by in-  
20           serting “, to enforce this Act or any rule pro-  
21           mulgated or order issued under this Act, or to  
22           order the Administrator to perform an act or  
23           duty described in this Act, as the case may be”  
24           after “citizenship of the 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 the first sentence of paragraph (3),  
17           by striking “section 4, 5, 6, or 8” and inserting  
18           “the applicable provisions of this Act”; and

19           (C) in paragraph (4)—

20           (i) in the first sentence of subpara-  
21           graph (A), by striking “a rulemaking pro-  
22           ceeding” and inserting “proceedings au-  
23           thorized under this Act”; and

24           (ii) in subparagraph (B)—

1 (I) in the matter preceding clause

2 (i)—

3 (aa) in the first sentence, by  
4 striking “a proceeding to issue a  
5 rule under section 4, 6, or 8 or  
6 an order under section 5(e) or  
7 6(b)(2)” and inserting “pro-  
8 ceedings authorized under this  
9 Act”; and

10 (bb) by inserting “Notwith-  
11 standing the preceding sentence,  
12 in the case of a petition to delist  
13 a chemical substance under sec-  
14 tion 6(a), the delisting may not  
15 proceed except as authorized  
16 under that subsection.” after the  
17 first sentence;

18 (II) in clause (i)—

19 (aa) in the matter preceding  
20 subclause (I), by striking “in the  
21 case of a petition to initiate a  
22 proceeding for the issuance of a  
23 rule under section 4 or an order  
24 under section 5(e)” and inserting  
25 “except as provided in clause (ii),

1 in the case of a petition to ini-  
2 tiate a proceeding for the  
3 issuance of a rule or an order  
4 under this Act”; and

5 (bb) in subclause (II), by  
6 striking “an unreasonable risk  
7 to” and inserting “substantial  
8 endangerment”; and

9 (III) in clause (ii)—

10 (aa) by striking “issuance of  
11 a rule under section 6 or 8 or an  
12 order under section 6(b)(2)” and  
13 inserting “imposition or issuance  
14 of a restriction, use condition, or  
15 order under this chapter”;

16 (bb) by striking “an unrea-  
17 sonable risk of injury” and in-  
18 serting “a substantial  
19 endangerment”; and

20 (cc) by striking the period at  
21 the end and inserting a semi-  
22 colon.

23 **SEC. 22. EMPLOYMENT EFFECTS.**

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

1           (1) in subsection (a), in the matter preceding  
2 paragraph (1)—

3           (A) by striking “continuing” and inserting  
4 “periodic”; and

5           (B) by striking “plant closures)” and all  
6 that follows through the end of paragraph (2)  
7 and inserting “plant closures) of the implemen-  
8 tation of this Act.”;

9           (2) in subsection (b)—

10          (A) in paragraph (1), in the undesignated  
11 language following subparagraph (B), by strik-  
12 ing “section 4, 5, or 6 or a requirement of sec-  
13 tion 5 or 6” and inserting “this Act”;

14          (B) in paragraph (2)—

15           (i) in subparagraph (A)(ii), by strik-  
16 ing “by order issued” and inserting “in  
17 writing,”; and

18           (ii) in subparagraph (B)—

19           (I) in clause (i), by striking the  
20 comma after “such request” and in-  
21 serting “; and”;

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

23           (III) by redesignating clause (iii)  
24 as clause (ii); and

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

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

2 “(c) EFFECT.—Nothing in this section—

3 “(1) requires the Administrator to amend or re-  
4 peal any rule or order in effect under this Act; or

5 “(2) conditions the authority of the Adminis-  
6 trator to issue orders or promulgate rules under this  
7 Act.”.

8 **SEC. 23. ADMINISTRATION OF THE TOXIC SUBSTANCES**  
9 **CONTROL ACT.**

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

12 (1) by striking subsection (b) and inserting the  
13 following:

14 “(b) FEES.—

15 “(1) IN GENERAL.—The Administrator may, by  
16 rule, require the payment of a reasonable fee from  
17 any person required to submit data to defray the  
18 cost of administering this Act.

19 “(2) CONSIDERATIONS.—In setting a fee under  
20 this subsection, the Administrator shall take into ac-  
21 count—

22 “(A) the ability to pay of the person re-  
23 quired to submit the data; and

24 “(B) the cost to the Administrator of re-  
25 viewing the data.

1           “(3) FEE SHARING.—Rules described in para-  
2           graph (1) may provide for sharing a fee in any case  
3           in which the expenses of testing are shared under  
4           this Act.”;

5           (2) in subsection (c)—

6           (A) in the subsection heading, by adding  
7           “AND MIXTURES” after “CATEGORIES”; and

8           (B) by adding at the end the following:

9           “(3) MIXTURES.—Any action authorized or re-  
10          quired to be taken by the Administrator or any other  
11          person under any provision of this Act with respect  
12          to a chemical substance is likewise also authorized or  
13          required with respect to a mixture, if the Adminis-  
14          trator determines that such extension is reasonable  
15          and efficient.”; and

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

17          “(h) RULEMAKING OR ORDERS.—In carrying out this  
18          Act, the Administrator may issue such orders and pre-  
19          scribe such regulations as are necessary to carry out this  
20          Act.”.

21   **SEC. 24. STATE PROGRAMS.**

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

24          (1) in the first sentence of subsection (a)—

25                  (A) by striking “unreasonable”; and

1 (B) by striking “is unable or is not likely  
2 to take” and inserting “has not taken”;

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

5 (3) by inserting after subsection (a) the fol-  
6 lowing:

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

13 (4) in subsection (c)(2) (as redesignated by  
14 paragraph (2)), by striking “including cancer, birth  
15 defects, and gene mutations,”.

16 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

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

19 (1) by redesignating section 29 (15 U.S.C.  
20 2628) as section 38;

21 (2) by redesignating section 30 (15 U.S.C.  
22 2629) as section 37;

23 (3) by striking section 31 (Public Law 94–469;  
24 100 Stat. 2989); and



1 (4) by amending section 38 (as redesignated by  
2 paragraph (1)) to read as follows:

3 **“SEC. 38. AUTHORIZATION OF APPROPRIATIONS.**

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

7 **SEC. 26. ADDITIONAL REQUIREMENTS.**

8 (a) RESTRICTIONS ON CERTAIN CHEMICAL SUB-  
9 STANCES.—The Toxic Substances Control Act is amended  
10 by inserting after section 28 (15 U.S.C. 2627) the fol-  
11 lowing:

12 **“SEC. 29. CHILDREN’S ENVIRONMENTAL HEALTH RE-  
13 SEARCH PROGRAM.**

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

16 “(1) ESTABLISHMENT.—Not later than 90 days  
17 after the date of enactment of the Safe Chemicals  
18 Act of 2011, the Administrator shall establish within  
19 the Environmental Protection Agency a program to  
20 be known as the ‘Children’s Environmental Health  
21 Research Program’ (referred to in this subsection as  
22 the ‘Program’).

23 “(2) PURPOSE.—Subject to amounts made  
24 available in advance in appropriations Acts, the Ad-  
25 ministrator may enter into contracts and make

1 grants under the Program to further understanding  
2 of the vulnerability of children to chemical sub-  
3 stances and mixtures.

4 “(3) CONSULTATION.—Contracts and grants  
5 under this section shall be provided in consultation  
6 with the Interagency Science Advisory Board on  
7 Children’s Health Research established under sub-  
8 section (b)(1).

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

11 “(1) ESTABLISHMENT.—Not later than 90 days  
12 after the date of enactment of the Safe Chemicals  
13 Act of 2011, the Administrator shall establish an ad-  
14 visory board to be known as the ‘Interagency  
15 Science Advisory Board on Children’s Health Re-  
16 search’ (referred to in this subsection as the  
17 ‘Board’).

18 “(2) PURPOSE.—The purpose of the Board  
19 shall be to provide independent advice, expert con-  
20 sultation, and peer review, on request of the Admin-  
21 istrator or Congress, with respect to the scientific  
22 and technical aspects of issues relating to the imple-  
23 mentation of this title with respect to research on  
24 protecting children’s health.

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

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

3           “(i) the National Institute of Environ-  
4 mental Health Sciences;

5           “(ii) the Centers for Disease Control  
6 and Prevention;

7           “(iii) the National Toxicology Pro-  
8 gram;

9           “(iv) the National Cancer Institute;

10           “(v) the National EPA-Tribal Science  
11 Council; and

12           “(vi) not fewer than 3 centers of chil-  
13 dren’s health at leading institutions of  
14 higher education;

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

19           “(C) ensure that no individual appointed  
20 to serve on the Board has a conflict of interest  
21 that is relevant to the functions performed by  
22 the Board, unless—

23           “(i) the individual promptly and pub-  
24 licly discloses the conflict; and

1                   “(ii) the Administrator determines  
2                   that the conflict is unavoidable.

3                   “(4) APPLICABLE LAW.—The Board shall be  
4                   subject to subchapter II of chapter 5, and chapter  
5                   7, of title 5, United States Code (commonly known  
6                   as the ‘Administrative Procedure Act’).

7                   “(c) PRENATAL AND INFANT EXPOSURES.—

8                   “(1) MONITORING.—If, through studies per-  
9                   formed under subsection (a) or section 4 or in any  
10                  other available research, the Administrator identifies  
11                  a chemical substance that may be present in human  
12                  biological media that may have adverse effects on  
13                  early childhood development, the Administrator shall  
14                  coordinate with the Secretary of Health and Human  
15                  Services to conduct, not later than 2 years after the  
16                  date on which the Administrator identifies the chem-  
17                  ical substance, a biomonitoring study to determine  
18                  the presence of the chemical substance in human bi-  
19                  ological media in, at a minimum, pregnant women  
20                  and infants.

21                  “(2) PUBLICATION.—On completion of any  
22                  study conducted under paragraph (1), the Secretary  
23                  of Health and Human Services shall—

24                         “(A) notify the Administrator of the re-  
25                         sults of the study; and

1           “(B) publish the results of the study in a  
2 publicly available electronic format.

3           “(3) POSITIVE RESULTS.—

4           “(A) MANUFACTURE DISCLOSURE.—If a  
5 chemical substance or mixture is determined to  
6 be present in a study conducted under para-  
7 graph (1), the manufacturers and processors of  
8 the chemical substance or mixture shall, not  
9 later than 180 days after the date of publica-  
10 tion of the study, disclose to the Administrator,  
11 commercial customers of the manufacturers and  
12 processors, consumers, and the public—

13                   “(i) all known uses of the chemical  
14 substance or mixture; and

15                   “(ii) all articles in which the chemical  
16 substance or mixture is, or is expected to  
17 be, present.

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

21                   “(i) made available by the Adminis-  
22 trator in electronic format; and

23                   “(ii) made readily accessible and free  
24 of charge by each applicable manufacturer  
25 and processor in electronic format to the

1 commercial customers of such manufac-  
2 turer or processor, consumers, and the  
3 public.

4 **“SEC. 30. REDUCTION OF ANIMAL-BASED TESTING.**

5 “(a) ADMINISTRATION.—The Administrator shall  
6 take action to minimize the use of animals in testing of  
7 chemical substances or mixtures, including—

8 “(1) encouraging and facilitating, to the max-  
9 imum extent practicable—

10 “(A) the use of existing data of sufficient  
11 scientific quality;

12 “(B) the use of test methods that eliminate  
13 or reduce the use of animals while providing  
14 data of high scientific quality;

15 “(C) the grouping of 2 or more chemical  
16 substances into scientifically appropriate cat-  
17 egories in cases in which testing of 1 chemical  
18 substance would provide reliable and useful  
19 data on others in the category;

20 “(D) the formation of industry consortia to  
21 jointly conduct testing to avoid unnecessary du-  
22 plication of tests; and

23 “(E) the parallel submission of data from  
24 animal-based studies and from emerging meth-  
25 ods and models; and

1           “(2) funding research and validation studies to  
2           reduce, refine, and replace the use of animal tests in  
3           accordance with this subsection.

4           “(b) INTERAGENCY SCIENCE ADVISORY BOARD ON  
5 ALTERNATIVE TESTING METHODS.—

6           “(1) ESTABLISHMENT.—Not later than 90 days  
7           after the date of enactment of the Safe Chemicals  
8           Act of 2011, the Administrator shall establish an ad-  
9           visory board to be known as the ‘Interagency  
10          Science Advisory Board on Alternative Testing  
11          Methods’ (referred to in this subsection and sub-  
12          section (c) as the ‘Board’).

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

14                 “(A) appoint the members of the Board,  
15                 including, at a minimum, representatives 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                         and

24                         “(v) the National EPA-Tribal Science  
25                         Council; and

1           “(B) ensure that no individual appointed  
2           to serve on the Board has a conflict of interest  
3           that is relevant to the functions to be per-  
4           formed, unless—

5                   “(i) the individual promptly and pub-  
6                   licly discloses the conflict; and

7                   “(ii) the Administrator determines  
8                   that the conflict is unavoidable.

9           “(3) PURPOSE.—The purpose of the Board  
10          shall be to provide independent advice and peer re-  
11          view to Congress and the Administrator on the sci-  
12          entific and technical aspects of issues relating to the  
13          implementation of this title with respect to mini-  
14          mizing the use of animals in testing chemical sub-  
15          stances or mixtures.

16          “(4) APPLICABLE LAW.—The Board shall be  
17          subject to subchapter II of chapter 5, and chapter  
18          7, of title 5, United States Code (commonly known  
19          as the ‘Administrative Procedure Act’).

20          “(5) REPORT.—Not later than 1 year after the  
21          date of enactment of the Safe Chemicals Act of  
22          2011, and every 3 years thereafter, the Adminis-  
23          trator, in consultation with the Board, shall publish  
24          in the Federal Register a list of testing methods that  
25          reduce the use of animals in testing under section 4.



1       “(c) IMPLEMENTATION OF ALTERNATIVE TESTING  
2 METHODS.—To promote the development and timely in-  
3 corporation of new testing methods that are not animal-  
4 based, the Administrator shall—

5           “(1) in consultation with the Board, and after  
6 providing an opportunity for public comment, de-  
7 velop a strategic plan to promote the development  
8 and implementation of alternative test methods and  
9 testing strategies to generate information used for  
10 safety standard determinations under section 6(b)  
11 that do not use animals, including toxicity pathway-  
12 based risk assessment, in vitro studies, systems biol-  
13 ogy, computational toxicology, bioinformatics, and  
14 high-throughput screening;

15           “(2) beginning on the date that is 2 years after  
16 the date of enactment of the Safe Chemicals Act of  
17 2011 and every 2 years thereafter, submit to Con-  
18 gress a report that describes the progress made in  
19 implementing this section; and

20           “(3) fund and carry out research, development,  
21 performance assessment, and translational studies to  
22 accelerate the development of test methods and test-  
23 ing strategies that are not animal-based for use in  
24 safety standard determinations under section 6(b).

1       “(d) CRITERIA FOR ADAPTING OR WAIVING ANIMAL  
2 TESTING REQUIREMENTS.—On request from a manufac-  
3 turer or processor that is required to conduct animal-  
4 based testing of a chemical substance or mixture under  
5 this title, the Administrator may adapt or waive the ani-  
6 mal testing requirement if the Administrator determines  
7 that—

8           “(1) there is a sufficient weight of evidence  
9       from several independent sources of information to  
10       support a conclusion that a chemical substance or  
11       mixture has, or does not have, a particular property,  
12       in any case in which the information from each indi-  
13       vidual source alone is regarded as insufficient to  
14       support the conclusion;

15           “(2) because of 1 or more physical or chemical  
16       properties of the chemical substance or mixture,  
17       testing for a specific endpoint is technically not  
18       practicable to conduct; or

19           “(3) a chemical substance or mixture cannot be  
20       tested in animals at concentrations that do not re-  
21       sult in significant pain or distress, because of phys-  
22       ical or chemical properties of the chemical substance  
23       or mixture, such as potential to cause severe corro-  
24       sion or severe irritation to tissues.

1 **“SEC. 31. SAFER ALTERNATIVES AND GREEN CHEMISTRY**  
2 **AND ENGINEERING.**

3 “(a) SAFER ALTERNATIVES PROGRAM.—

4 “(1) IN GENERAL.—Not later than 1 year after  
5 the date of enactment of the Safe Chemicals Act of  
6 2011, the Administrator shall establish a program to  
7 create market incentives for the development of safer  
8 alternatives to existing chemical substances that re-  
9 duce or avoid the use and generation of hazardous  
10 substances.

11 “(2) REQUIREMENTS.—The program estab-  
12 lished under paragraph (1) shall include—

13 “(A) expedited review of new chemical sub-  
14 stances for which the manufacturer or proc-  
15 essor submits an alternatives analysis indicating  
16 that the new chemical substance is the safer al-  
17 ternative for a particular use than existing  
18 chemical substances used for the same purpose;

19 “(B) recognition for a chemical substance  
20 or product determined by the Administrator to  
21 be a safer alternative for a particular use by  
22 means of a special designation intended for use  
23 in marketing the safer alternative, and periodic  
24 public awards or rewards; and

25 “(C) such other incentives, as the Adminis-  
26 trator considers to be appropriate to encourage

1           the development, marketing, and use of chem-  
2           ical substances or products determined by the  
3           Administrator to be safer alternatives for the  
4           particular uses, such as job training and worker  
5           assistance.

6           “(b) GREEN CHEMISTRY RESEARCH NETWORK.—  
7           The Administrator shall establish a network of not less  
8           than 4 green chemistry and engineering centers, located  
9           in various regions of the United States, to support the  
10          development and adoption of safer alternatives to chemical  
11          substances, particularly chemical substances listed under  
12          section 6(a).

13          “(c) GREEN CHEMISTRY AND ENGINEERING RE-  
14          SEARCH GRANTS.—The Administrator shall make grants  
15          to promote and support the research, development, and  
16          adoption of safer alternatives to hazardous substances.

17          “(d) GREEN CHEMISTRY WORKFORCE EDUCATION  
18          AND TRAINING PROGRAM.—

19                 “(1) IN GENERAL.—The Administrator shall es-  
20                 tablish a program to facilitate the development of a  
21                 workforce, including industrial and scientific work-  
22                 ers, that produces safer alternatives to existing  
23                 chemical substances.

1           “(2) GOALS.—The goals of the program estab-  
2           lished under paragraph (1) are to provide workforce  
3           training on skills that would—

4                   “(A) facilitate the expansion of green  
5           chemistry;

6                   “(B) develop scientific and technical lead-  
7           ership in green chemistry;

8                   “(C) facilitate the successful and safe inte-  
9           gration of green chemistry into infrastructure  
10          projects;

11                  “(D) inform and engage communities  
12          about green chemistry; and

13                  “(E) promote innovation and strong public  
14          health and environmental protections.

15           “(3) IMPLEMENTATION.—The Administrator  
16          shall implement the program to achieve the goals of  
17          this Act, including by—

18                   “(A) helping to develop a broad range of  
19          skills relevant to the production and use of the  
20          safer alternatives, including the design, manu-  
21          facturing, use, and disposal of the alternatives;

22                   “(B) offering to develop partnerships with  
23          educational institutions, training organizations,  
24          private sector companies, and community orga-  
25          nizations; and

1           “(C) providing grants to States, units of  
2           local government, and the partnerships devel-  
3           oped under subparagraph (B) to promote and  
4           support activities consistent with achieving the  
5           goals of the program established under this  
6           subsection.

7   **“SEC. 32. COOPERATION WITH INTERNATIONAL EFFORTS.**

8           “In cooperation with the Secretary of State and the  
9           head of any other appropriate Federal agency (as deter-  
10          mined by the Administrator), the Administrator shall co-  
11          operate with international efforts as appropriate—

12           “(1) to develop a common protocol or electronic  
13          database relating to chemical substances; or

14           “(2) to develop safer alternatives for chemical  
15          substances.

16   **“SEC. 33. RELIABLE INFORMATION AND ADVICE.**

17          “Not later than 18 months after the date of enact-  
18          ment of the Safe Chemicals Act of 2011, the Adminis-  
19          trator shall, by order, establish and implement procedures  
20          to ensure data reliability including, at a minimum, re-  
21          quirements that the Administrator—

22           “(1) not less than annually randomly inspect  
23          laboratories that develop the data required under  
24          this title on the various properties and characteris-  
25          tics of a chemical substance;

1           “(2) annually perform a comprehensive data  
2           audit on a subset, as chosen by the Administrator,  
3           of the data submissions under this title;

4           “(3) establish and maintain a registry of all  
5           health- and safety-related studies initiated in re-  
6           sponse to requirements under this title;

7           “(4) have access to all records of health- and  
8           safety-related studies initiated in response to re-  
9           quirements under this title; and

10          “(5) require the submitter of any research  
11          study conducted by a third party in response to re-  
12          quirements under this title to disclose to the Admin-  
13          istrator and the public, at the time of submission,  
14          the sources of any funding used for the conduct or  
15          publication of the study received by the researchers  
16          who conducted the study.

17 **“SEC. 34. HOT SPOTS.**

18          “(a) DEFINITIONS.—In this section:

19               “(1) DISPROPORTIONATE EXPOSURE.—The  
20               term ‘disproportionate exposure’ means residential  
21               population exposure to 1 or more toxic chemical sub-  
22               stances or mixtures at levels that are significantly  
23               greater than the average exposure in the United  
24               States, as defined and identified by the Adminis-

1       trator in accordance with the criteria established  
2       under subsection (b).

3           “(2) LOCALITY.—The term ‘locality’ means any  
4       geographical area (including a county, city, town,  
5       neighborhood, census tract, zip code area, or other  
6       commonly understood political or geographical sub-  
7       division) in which the Administrator identifies dis-  
8       proportionate exposure.

9           “(b) CRITERIA.—Not later than 180 days after the  
10      date of enactment of the Safe Chemicals Act of 2011, the  
11      Administrator shall promulgate a rule to establish criteria  
12      consistent with this section that—

13           “(1) defines disproportionate exposure; and

14           “(2) identifies any locality that is disproportion-  
15      ately exposed.

16           “(c) IDENTIFICATION.—

17           “(1) IN GENERAL.—Not later than 120 days  
18      after the date on which the rule is promulgated  
19      under subsection (b), the Administrator shall iden-  
20      tify localities in the United States that are subject  
21      to disproportionate exposure.

22           “(2) USE OF DATA.—In identifying localities  
23      under paragraph (1), the Administrator—

24           “(A) shall use data contained in the Na-  
25      tional Air Toxic Assessment Database; and



1           “(B) may use other data available to the  
2 Administrator, including data developed  
3 under—

4           “(i) the Safe Drinking Water Act (42  
5 U.S.C. 300f et seq.);

6           “(ii) the Solid Waste Disposal Act (42  
7 U.S.C. 6901 et seq.);

8           “(iii) the Comprehensive Environ-  
9 mental Response, Compensation, and Li-  
10 ability Act of 1980 (42 U.S.C. 9601 et  
11 seq.); and

12           “(iv) the Emergency Planning and  
13 Community Right-to-Know Act of 1986  
14 (42 U.S.C. 11001 et seq.).

15           “(3) PUBLIC PARTICIPATION.—The Adminis-  
16 trator shall provide an opportunity for members of  
17 the public to nominate localities in which dispropor-  
18 tionate exposure may be found for inclusion in the  
19 identification of localities under paragraph (1).

20           “(d) LOCALITY LIST.—

21           “(1) IN GENERAL.—Not later than 180 days  
22 after completing the identification of localities under  
23 subsection (c)(1), the Administrator, after notice  
24 and consultation with applicable State, local, county

1 health, and environmental officials, State, local, and  
2 county legislators, and other elected officials, shall—

3 “(A) publish a list of the localities subject  
4 to disproportionate exposure identified under  
5 that subsection in the Federal Register; and

6 “(B) make the list published under sub-  
7 paragraph (A) available electronically.

8 “(2) UPDATED LIST.—

9 “(A) IN GENERAL.—Subject to subpara-  
10 graph (B), not later than 5 years after the date  
11 on which the list is published under paragraph  
12 (1)(A), and at least once every 5 years there-  
13 after, the Administrator shall update and re-  
14 publish the list.

15 “(B) DISCRETIONARY UPDATES.—The Ad-  
16 ministrator may update and republish the list  
17 under paragraph (1) more frequently than every  
18 5 years—

19 “(i) to add new localities that meet  
20 the criteria established under subsection  
21 (b); or

22 “(ii) to remove localities, if the Ad-  
23 ministrator determines that the exposure  
24 reduction has been achieved and no further

1           action is needed after actions are taken  
2           under subsection (f).

3           “(C) NOTIFICATION.—The Administrator  
4           shall notify all applicable State, local, county  
5           health, and environmental officials, State, local,  
6           and county legislators, and other elected offi-  
7           cials of the updated listing.

8           “(e) NO JUDICIAL REVIEW; NONDISCRETIONARY  
9 DUTY.—

10           “(1) NO JUDICIAL REVIEW.—The following ac-  
11           tions under this section shall not be subject to judi-  
12           cial review:

13           “(A) A decision to include on the list pub-  
14           lished under subsection (d)(1) a locality identi-  
15           fied under subsection (e)(1).

16           “(B) A decision in response to nominations  
17           submitted under subsection (e)(3).

18           “(C) A decision to list localities under sub-  
19           section (d)(1) or update the list under sub-  
20           section (d)(2).

21           “(2) NONDISCRETIONARY DUTY.—Notwith-  
22           standing paragraph (1), the failure of the Adminis-  
23           trator to publish or update the list of localities in ac-  
24           cordance with this section shall be—

1           “(A) considered to be a failure to perform  
2           a nondiscretionary duty; and

3           “(B) subject to judicial review.

4           “(f) ACTION PLANS.—

5           “(1) IN GENERAL.—Not later than 1 year after  
6           the date on which the list is published or updated  
7           under subsection (d), the Administrator shall de-  
8           velop and publish, for each locality identified on the  
9           list, an action plan that includes—

10           “(A) an identification of the chemical sub-  
11           stances and mixtures that contribute to the dis-  
12           proportionate exposure (including exposure lev-  
13           els, sources, and pathways); and

14           “(B) a description of actions planned by  
15           the Administrator to reduce disproportionate  
16           exposure in the locality.

17           “(2) GOALS.—The goal of each action plan  
18           under this subsection shall be to reduce dispropor-  
19           tionate exposure in the locality by establishing—

20           “(A) a percentage exposure reduction goal  
21           for each chemical substance and mixture; and

22           “(B) a timeline to achieve the percentage  
23           exposure reduction goal.

24           “(g) REPORT TO CONGRESS.—The Administrator  
25           shall—

1           “(1) submit to Congress an annual report that  
2 identifies—

3           “(A) each locality added to the list in the  
4 prior year under subsection (d);

5           “(B) each action plan developed in the  
6 prior year under subsection (f); and

7           “(C) the progress on each action plan to  
8 date; and

9           “(2) make the report available to the public in  
10 electronic format.

11 **“SEC. 35. APPLICATION OF THIS ACT TO FEDERAL AGEN-**

12 **CIES.**

13           “(a) IN GENERAL.—Except as provided in subsection  
14 (e), each Federal agency, and any officer, agent, or em-  
15 ployee of a Federal agency, shall be subject to, and comply  
16 with, all applicable requirements of this Act described in  
17 subsection (b), both substantive and procedural, in the  
18 same manner, and to the same extent, as any person sub-  
19 ject to the requirements.

20           “(b) DESCRIPTION OF REQUIREMENTS.—The sub-  
21 stantive and procedural requirements referred to in this  
22 subsection include—

23           “(1) any administrative order;

24           “(2) any civil or administrative penalty or fine,  
25 regardless of whether the penalty or fine is—

1           “(A) punitive or coercive in nature; or

2           “(B) imposed for isolated, intermittent, or  
3 continuing violations;

4           “(3) any requirement for reporting;

5           “(4) any provision for injunctive relief and  
6 sanctions that may be imposed by a court to enforce  
7 such relief; and

8           “(5) payment of reasonable service charges.

9           “(c) WAIVER OF IMMUNITY.—The United States ex-  
10 pressly waives any immunity otherwise applicable to the  
11 United States with respect to any substantive or proce-  
12 dural requirement referred to under subsection (a).

13           “(d) CIVIL PENALTIES.—No agent, employee, or offi-  
14 cer of the United States shall be personally liable for any  
15 civil penalty under this title with respect to any act or  
16 omission within the scope of the official duties of the  
17 agent, employee, or officer.

18           “(e) CRIMINAL SANCTIONS.—An agent, employee, or  
19 officer of the United States shall be subject to any crimi-  
20 nal sanction (including any fine or imprisonment) under  
21 this Act, but no department, agency, or instrumentality  
22 of the executive, legislative, or judicial branch of the Fed-  
23 eral Government shall be subject to such sanction.

24           “(f) EXEMPTION.—

1           “(1) IN GENERAL.—If the President determines  
2 it is in the paramount interest of the United States,  
3 the President may grant an exemption for any Fed-  
4 eral agency from compliance with any requirement  
5 of this Act.

6           “(2) LACK OF APPROPRIATION.—No exemption  
7 shall be granted under paragraph (1) due to lack of  
8 appropriation unless—

9                   “(A) the President has specifically re-  
10 requested the appropriation as a part of the  
11 budgetary process; and

12                   “(B) Congress has failed to make the re-  
13 quested appropriation available.

14           “(3) PERIOD OF EXEMPTION.—Any exemption  
15 granted under paragraph (1) shall be for a period of  
16 not more than 1 year, but additional exemptions  
17 may be granted for periods not to exceed 1 year, if  
18 the President makes a subsequent determination  
19 that the exemption is in the paramount interest of  
20 the United States.

21           “(4) REPORT.—Each January after the date of  
22 enactment of this section, the President shall submit  
23 to Congress a report that describes—

1           “(A) all exemptions granted under this  
2 subsection during the preceding calendar year;  
3 and

4           “(B) the reason for granting each exemp-  
5 tion.

6           “(g) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

7           “(1) IN GENERAL.—The Administrator may ini-  
8 tiate an administrative enforcement action against  
9 any Federal agency—

10           “(A) in accordance with the enforcement  
11 authorities of this Act; and

12           “(B) in the same manner and under the  
13 same circumstances as an action would be initi-  
14 ated against another person.

15           “(2) SETTLEMENT.—Any voluntary resolution  
16 or settlement of an administrative enforcement ac-  
17 tion initiated under this subsection shall be set forth  
18 in a consent order.

19           “(3) FINALITY OF ADMINISTRATIVE ORDER.—  
20 No administrative order issued to a Federal depart-  
21 ment, agency, or instrumentality under this sub-  
22 section shall become final until the Federal depart-  
23 ment, agency, or instrumentality has had the oppor-  
24 tunity to confer with the Administrator.



1 **“SEC. 36. IMPLEMENTATION OF STOCKHOLM CONVENTION,**  
2 **THE LRTAP POPS PROTOCOL, AND THE ROT-**  
3 **TERDAM CONVENTION.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) CHEMICAL.—The term ‘chemical’ includes  
6 any substance or mixture of substances, including a  
7 substance that is part of an article.

8 “(2) LRTAP CONVENTION.—The term  
9 ‘LRTAP Convention’ means the Convention on  
10 Long-Range Transboundary Air Pollution, done at  
11 Geneva on November 13, 1979 (TIAS 10541), and  
12 any subsequent amendments to which the United  
13 States is a party.

14 “(3) LRTAP POPS CHEMICAL.—The term  
15 ‘LRTAP POPS chemical’ means any chemical listed  
16 on any Annex of the LRTAP POPS Protocol, if such  
17 listing has entered into force for the United States.

18 “(4) LRTAP POPS PROTOCOL.—The term  
19 ‘LRTAP POPS Protocol’ means the Protocol on Per-  
20 sistent Organic Pollutants to the LRTAP Conven-  
21 tion, done at Aarhus on June 24, 1998, and any  
22 subsequent amendment to which the United States  
23 is a party.

24 “(5) MEETING OF THE PARTIES.—The term  
25 ‘meeting of the parties’ means—

1           “(A) the Conference of the Parties estab-  
2           lished by and operating under Article 19 of the  
3           Stockholm Convention;

4           “(B) the Executive Body established by  
5           and operating under Article 10 of the LRTAP  
6           POPs Convention; and

7           “(C) the Conference of the Parties estab-  
8           lished by and operating under Article 18 of the  
9           Rotterdam Convention.

10          “(6) PIC CHEMICAL.—The term ‘PIC chemical’  
11          means any chemical identified by notification to the  
12          Secretariat of the Rotterdam Convention by the  
13          United States as banned or severely restricted in the  
14          United States, and any chemical listed on any Annex  
15          of the Rotterdam Convention, if such listing has en-  
16          tered into force for the United States.

17          “(7) POPS CHEMICAL.—The term ‘POPs chem-  
18          ical’ means any chemical that is listed on any Annex  
19          of the Stockholm Convention, if such listing has en-  
20          tered into force for the United States.

21          “(8) ROTTERDAM CONVENTION.—The term  
22          ‘Rotterdam Convention’ means the Rotterdam Con-  
23          vention on the Prior Informed Consent Procedure  
24          for Certain Hazardous Chemicals and Pesticides in  
25          International Trade, done at Rotterdam on Sep-

1       tember 10, 1998, and any subsequent amendment to  
2       which the United States is a party.

3           “(9) STOCKHOLM CONVENTION.—The term  
4       ‘Stockholm Convention’ means the Stockholm Con-  
5       vention on Persistent Organic Pollutants, done at  
6       Stockholm on May 22, 2001, and any subsequent  
7       amendment to which the United States is a party.

8           “(b) IMPLEMENTATION OF INTERNATIONAL AGREE-  
9       MENTS.—

10          “(1) IN GENERAL.—The Administrator, in co-  
11       operation with appropriate Federal agencies, shall  
12       implement and support the implementation by the  
13       United States of the provisions of the Stockholm  
14       Convention, the LRTAP POPs Protocol, and the  
15       Rotterdam Convention that have entered into effect  
16       for the United States.

17          “(2) PROHIBITIONS.—Notwithstanding any  
18       other provision of law, no person may manufacture,  
19       process, distribute in commerce, use, dispose of, or  
20       take any other action with respect to a POPs chem-  
21       ical, LRTAP POPs chemical, or PIC chemical in a  
22       manner inconsistent with applicable obligations for  
23       that chemical under the Stockholm Convention,  
24       LRTAP POPs Protocol, or Rotterdam Convention.

25          “(3) PUBLIC NOTICE AND COMMENT.—

1           “(A) IN GENERAL.—The Administrator  
2 shall provide timely public notice and oppor-  
3 tunity to comment on a chemical proposed for  
4 listing to any Annex to the Stockholm Conven-  
5 tion, the LRTAP POPs Protocol, or the Rot-  
6 terdam Convention.

7           “(B) CONTENTS.—The Administrator shall  
8 identify in the notice under subparagraph (A)  
9 any relevant toxicity, exposure, and risk infor-  
10 mation on the chemical known to the Adminis-  
11 trator, and any domestic activities involving the  
12 chemical known to the Administrator.

13           “(C) NOTICE AND COMMENT.—

14           “(i) IN GENERAL.—Any interested  
15 person may provide relevant comment and  
16 information on the chemical in response to  
17 the notice under subparagraph (A).

18           “(ii) REQUEST FOR INFORMATION.—  
19 The Administrator may require the provi-  
20 sion of relevant information related to a  
21 proposed chemical from any person, as the  
22 Administrator determines necessary to as-  
23 sist the United States in the review.

24           “(iii) PUBLIC DOCKET.—The Admin-  
25 istrator shall consider all comments and in-

1 formation received under this subpara-  
2 graph in the review of the proposal and in-  
3 clude the comments and information in an  
4 established public docket.

5 “(D) POST-RECOMMENDATION.—

6 “(i) IN GENERAL.—The Administrator  
7 shall provide timely public notice and op-  
8 portunity to comment after a recommenda-  
9 tion is made to list a chemical on any  
10 Annex to the Stockholm Convention, the  
11 LRTAP POPs Protocol, or the Rotterdam  
12 Convention.

13 “(ii) MEETING OF THE PARTIES.—  
14 The Administrator shall provide the notice  
15 under clause (i) in advance of the meeting  
16 of the Parties at which the recommenda-  
17 tion is to be considered.

18 “(iii) REQUEST FOR INFORMATION.—  
19 The Administrator shall request comment  
20 and information on all aspects of the rec-  
21 ommendation and may, if the Adminis-  
22 trator determines it to be necessary to as-  
23 sist the United States in the review, re-  
24 quire the provision of relevant information

1 related to a proposed chemical from any  
2 person.

3 “(iv) PUBLIC DOCKET.—The Adminis-  
4 trator shall consider all comments and in-  
5 formation received under this subpara-  
6 graph in the review of the proposal and in-  
7 clude the comments and information in an  
8 established public docket.

9 “(E) DECISIONS.—

10 “(i) IN GENERAL.—Not later than 30  
11 days after a decision by the meeting of the  
12 parties, the Administrator shall provide  
13 timely public notice and opportunity to  
14 comment on any decision by the meeting of  
15 the parties to list a chemical on any Annex  
16 to the Stockholm Convention.

17 “(ii) CONTENTS.—The Administrator  
18 shall provide in the notice under clause (i)  
19 a description of the amendments to the in-  
20 struments and identify the changes to the  
21 domestic activities that the Administrator  
22 believes, based on information available to  
23 the Administrator, would be necessary if  
24 the United States chose to be bound by the  
25 listing decision.

1           “(iii) PUBLIC COMMENT.—Any inter-  
2           ested person may provide relevant com-  
3           ment and information in response to the  
4           notice under clause (i).

5           “(iv) PUBLIC DOCKET.—The Adminis-  
6           trator shall consider all comments and in-  
7           formation received under this subpara-  
8           graph in the review of the proposal and in-  
9           clude the comments and information in an  
10          established public docket.

11          “(F) RATIFICATION.—Not later than 30  
12          days after the United States deposits the in-  
13          strument of ratification for the Stockholm Con-  
14          vention, the LRTAP POPs Protocol, or the  
15          Rotterdam Convention, or not later than 30  
16          days after the listing of any chemical subse-  
17          quently added under those instruments has en-  
18          tered into force for the United States (which-  
19          ever date is earlier), the Administrator—

20                 “(i) shall provide public notice of—

21                         “(I) the chemicals that are sub-  
22                         ject to those instruments; and

23                         “(II) any chemical subsequently  
24                         added under those instruments; and

1                   “(ii) may specify the requirements  
2                   that are applicable for individual chemicals  
3                   in a public notice under this subparagraph.

4                   “(4) GENERAL RULEMAKING AUTHORITY.—The  
5                   Administrator may promulgate regulations necessary  
6                   to carry out the Stockholm Convention, the LRTAP  
7                   POPs Protocol, or the Rotterdam Convention, or to  
8                   ensure compliance with any obligations under such  
9                   instruments.

10                  “(5) OBLIGATIONS.—If a chemical is subject to  
11                  obligations under more than 1 of the instruments  
12                  that includes the Stockholm Convention, the LRTAP  
13                  POPs Protocol, or the Rotterdam Convention, the  
14                  most stringent of the obligations shall apply to en-  
15                  sure compliance with each of the instruments.

16                  “(c) ENFORCEMENT.—The prohibitions and any  
17                  other requirements of this section shall be enforced in the  
18                  same manner as final rules or orders under section 6.”.

19                  (b) CONFORMING AMENDMENTS.—The table of con-  
20                  tents for the Toxic Substances Control Act (15 U.S.C.  
21                  2601 et seq.) is amended—

22                         (1) by striking the item relating to section 2  
23                         and inserting the following:

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



1           (2) by striking the item relating to section 4  
2           and inserting the following:

“Sec. 4. Minimum data set and testing of chemical substances.”;

3           (3) by striking the item relating to section 6  
4           and inserting the following:

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

5           (4) by striking the items relating to sections 29  
6           through 31; and

7           (5) by adding after the item relating to section  
8           28 the following:

“Sec. 29. Children’s Environmental Health Research Program.

“Sec. 30. Reduction of animal-based testing.

“Sec. 31. Safer alternatives and green chemistry and engineering.

“Sec. 32. Cooperation with international efforts.

“Sec. 33. Reliable information and advice.

“Sec. 34. Hot spots.

“Sec. 35. Application of this Act to Federal agencies.

“Sec. 36. Implementation of Stockholm Convention, the LRTAP Pops Protocol,  
and the Rotterdam Convention.

“Sec. 37. Annual report.

“Sec. 38. Authorization of appropriations.”.

Calendar No. 578

112<sup>TH</sup> CONGRESS  
2D SESSION

**S. 847**

[Report No. 112-264]

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## **A BILL**

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

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DECEMBER 27, 2012

Reported with amendments