

[DISCUSSION DRAFT]

111TH CONGRESS
2^D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. RUSH (for himself and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Toxic Chemicals Safety
5 Act of 2010”.

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

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

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

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

9 “(a) FINDINGS.—Congress finds that—

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

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

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

22 “(4) biomonitoring reveals that people in the
23 United States have many hazardous chemicals in
24 their bodies;

25 “(5) the concentrations of certain chemicals
26 that persist and bioaccumulate are increasing in

1 human bodies, the environment, and around the
2 world, including in the remote Arctic in which Na-
3 tive Americans face increasing contamination of tra-
4 ditional foods;

5 “(6) adverse effects from chemical exposures
6 are modulated by changes in metabolism, physiology,
7 and the potential for exposure over the course of
8 human development, especially exposures that occur
9 in utero, during infancy, and during other critical
10 periods of development;

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

19 “(8) a revised policy on the safety of chemicals
20 will assist in renewing the manufacturing sector of
21 the United States, create new and safer jobs, spur
22 innovations in green chemistry, restore confidence
23 domestically and internationally in the safety of
24 products of the United States, and ensure that prod-

1 ucts of the United States remain competitive in the
2 global market.

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

4 “(1) to protect the health of children, workers,
5 consumers, and the public, and to protect the envi-
6 ronment from adverse effects of exposures to chemi-
7 cals;

8 “(2) to promote the use of safer alternatives
9 and other actions that reduce use of and exposure
10 to hazardous chemicals and reward innovation in de-
11 veloping safer chemicals, processes, and products;

12 “(3) to require that all chemicals in commerce
13 meet a risk-based safety standard that protects vul-
14 nerable and affected populations and the environ-
15 ment;

16 “(4) to require manufacturers and processors to
17 provide sufficient health and environmental informa-
18 tion for the chemicals which they manufacture or
19 process as a condition of allowing distribution of
20 such chemicals in commerce;

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

23 “(6) to guarantee the right of the public and
24 workers to know about the risks associated with
25 chemicals that they may be exposed to by maxi-

1 mizing public access to information on such chemi-
2 cals;

3 “(7) to strengthen cooperation between and
4 among the Federal Government and State, munic-
5 ipal, tribal, and foreign governments; and

6 “(8) to ensure the Administrator has the au-
7 thority to develop sufficient information to assess
8 chemical safety, and to act effectively when the Ad-
9 ministrator obtains information that indicates there
10 are risks of harmful chemical exposure.

11 “(c) GOAL.—It is the goal of the United States to
12 protect health and the environment by addressing expo-
13 sure to harmful chemicals distributed in commerce, includ-
14 ing exposure of vulnerable or disproportionately affected
15 populations, by—

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

18 “(2) applying appropriate restrictions to the use
19 of a chemical, where warranted; and

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

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

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

1 **SEC. 3. DEFINITIONS.**

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

4 (1) in paragraph (2)—

5 (A) in subparagraph (A)—

6 (i) by striking “subparagraph (B)”
7 and inserting “subparagraphs (B) and
8 (C)”;

9 (ii) in clause (i), by striking “and”
10 after “nature,”;

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

13 (iv) by adding at the end the following
14 new clause:

15 “(iii) any chemical substance contained in
16 or formed into an article.”; and

17 (B) by adding at the end the following new
18 subparagraph:

19 “(C) For purposes of this Act, such term may
20 include more than 1 form of a substance with a par-
21 ticular molecular identity as described in subpara-
22 graph (A) if the Administrator has determined such
23 forms to be different substances, based on variations
24 in the substance characteristics. New forms of exist-
25 ing chemical substances so determined shall be con-
26 sidered new chemical substances.”;

1 (2) in paragraph (4)—

2 (A) by striking “or” after “or article;”;

3 and

4 (B) by inserting “; or to export or offer for
5 export the substance, mixture, or article” after
6 “article after its introduction into commerce”;

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

9 (4) in paragraph (6), by inserting “relating to
10 a chemical substance or mixture or to the specific
11 chemical identity of the chemical substance or mix-
12 ture” after “test”;

13 (5) in paragraph (8), by inserting “The term
14 ‘mixture’ includes any mixture contained in or
15 formed into an article.” after “combination were
16 combined.”;

17 (6) in paragraph (9), by striking “which is not
18 included in the chemical substance list compiled and
19 published under section 8(b)” and inserting “for
20 which the manufacturer or processor of the chemical
21 substance has not submitted a declaration under sec-
22 tion 8(a)(2) or section 5(c)(1)(A), except that, with
23 respect to the first year after the date of enactment
24 of the Toxic Chemicals Safety Act of 2010, such

1 term shall not include a chemical substance distrib-
2 uted in commerce as of such date of enactment”;

3 (7) by striking paragraph (12) and redesign-
4 nating paragraphs (13) and (14) as paragraphs (12)
5 and (13), respectively; and

6 (8) by adding at the end the following new
7 paragraphs:

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

12 “(A) affects or alters the performance of
13 an anatomic structure of a vital system of an
14 organism or progeny of an organism;

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

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

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

- 1 “(15) The term ‘aggregate exposure’ means—
- 2 “(A) all exposure from the manufacture,
- 3 processing, distribution, use, and disposal of—
- 4 “(i) a chemical substance or mixture;
- 5 “(ii) a substance that is not consid-
- 6 ered to be the chemical substance or mix-
- 7 ture under clause (i) solely because of the
- 8 use of the substance as or in a food, food
- 9 additive, drug, cosmetic, or device (as such
- 10 terms are defined in section 201 of the
- 11 Federal Food, Drug, and Cosmetic Act (21
- 12 U.S.C. 321)); and
- 13 “(iii) any mixture containing a sub-
- 14 stance described in clause (i) or clause (ii);
- 15 and
- 16 “(B) all exposure from all other sources of
- 17 a substance described in subparagraph (A), in-
- 18 cluding—
- 19 “(i) contamination of food, air, water,
- 20 soil, house dust, and any other environ-
- 21 mental media from current or prior uses or
- 22 activity;
- 23 “(ii) accidental releases;
- 24 “(iii) permitted sources of pollution;

1 “(iv) nonpoint sources of pollution;
2 and

3 “(v) documented background levels
4 from natural and anthropogenic sources.

5 “(16) The term ‘bioaccumulative’ has the mean-
6 ing given to such term in the policy statement enti-
7 tled ‘Category for Persistent, Bioaccumulative, and
8 Toxic New Chemical Substances’ (64 Fed. Reg.
9 60194; Nov. 4, 1999). In order to reflect best avail-
10 able science, the Administrator may, by rule, revise
11 the definition of such term for purposes of this Act.

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

14 “(A) each common and trade name of the
15 chemical substance;

16 “(B) the name of the chemical substance
17 appearing in International Union of Pure and
18 Applied Chemistry nomenclature and 9th Col-
19 lective Index format;

20 “(C) each Chemical Abstracts Service reg-
21 istration number of the chemical substance; and

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

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

1 “(A) each of the chemical substances that
2 are known or suspected to contribute appre-
3 ciably to the risk of the same or similar adverse
4 effect; and

5 “(B) mixtures containing chemical sub-
6 stances described in subparagraph (A).

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

13 “(20) The term ‘persistent’ has the meaning
14 given to such term in the policy statement entitled
15 ‘Category for Persistent, Bioaccumulative, and Toxic
16 New Chemical Substances’ (64 Fed. Reg. 60194;
17 Nov. 4, 1999). In order to reflect best available
18 science, the Administrator may, by rule, revise the
19 definition of such term for purposes of this Act.

20 “(21) The term ‘substance characteristic’
21 means, with respect to a particular chemical sub-
22 stance, the physical and chemical characteristics
23 that may vary for such substance, and whose vari-
24 ation may bear on the toxicological properties of the
25 chemical substance, including—

1 “(A) chemical structure and composition;
2 “(B) size or size distribution;
3 “(C) shape;
4 “(D) surface structure;
5 “(E) reactivity; and
6 “(F) other characteristics and properties
7 that may bear on toxicological properties.

8 “(22) The term ‘toxic’, with respect to a chem-
9 ical substance or mixture, means that the chemical
10 substance or mixture has a toxicological property—

11 “(A) that causes an adverse effect that has
12 been demonstrated in humans or other orga-
13 nisms; or

14 “(B) for which the weight of evidence
15 (such as demonstration of such an adverse ef-
16 fect as described in subparagraph (A) in labora-
17 tory studies or data for a chemical from the
18 same chemical class that exhibits such an ad-
19 verse effect) demonstrates the potential for an
20 adverse effect in humans or other organisms.

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

11 “(24) The term ‘vulnerable population’ means a

12 population that is subject to a disproportionate expo-

13 sure to, or potential for a disproportionate adverse

14 effect from exposure to, a chemical substance or

15 mixture, including—

- 16 “(A) infants, children, and adolescents;
- 17 “(B) pregnant women;
- 18 “(C) the elderly;
- 19 “(D) individuals with preexisting medical
- 20 conditions;
- 21 “(E) workers; and
- 22 “(F) members of any other appropriate
- 23 population identified by the Administrator.”.

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

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

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

7 “(a) **MINIMUM DATA SET.**—

8 “(1) Not later than 1 year after the date of en-
9 actment of the Toxic Chemicals Safety Act of 2010,
10 the Administrator shall establish, by rule, the data
11 that constitute the minimum data set for chemical
12 substances and mixtures. The rule shall require
13 manufacturers and processors to submit a minimum
14 data set, including information on substance charac-
15 teristics and on hazard, exposure, and use of chem-
16 ical substances and mixtures that the Administrator
17 anticipates will be useful in conducting safety stand-
18 ard determinations pursuant to section 6(b) or car-
19 rying out any provision of this Act. The rule shall
20 also establish requirements for manufacturers and
21 processors to update their minimum data set sub-
22 missions, as appropriate. The rule may provide for
23 varied or tiered testing for different chemical sub-
24 stances, mixtures, or categories of chemical sub-
25 stances and mixtures. Studies conducted to satisfy

1 such data requirements shall be conducted in accord-
2 ance with section 35.

3 “(2) The manufacturers and processors of a
4 chemical substance or mixture shall submit the min-
5 imum data set established by the rule under para-
6 graph (1) for such chemical substance or mixture to
7 the Administrator—

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

10 “(i) 18 months after the date on
11 which the Administrator lists the chemical
12 substance or mixture on the priority list
13 under section 6(a); or

14 “(ii) 5 years after the date of enact-
15 ment of the Toxic Chemicals Safety Act of
16 2010; or

17 “(B) for a new chemical substance or mix-
18 ture, the date on which the notice required
19 under section 5(a)(1)(A) is submitted.

20 “(3) The Administrator may, by order, prohibit
21 a manufacturer or processor in violation of para-
22 graph (2) from manufacturing, processing, or dis-
23 tributing in commerce the chemical substance, or
24 any mixture or article containing the chemical sub-
25 stance.”.

1 (2) In subsection (b)—

2 (A) by redesignating paragraphs (2)
3 through (5) as paragraphs (3) through (6), re-
4 spectively;

5 (B) in paragraph (1)—

6 (i) by striking “A rule under sub-
7 section (a) shall include” and all that fol-
8 lows through “during the period prescribed
9 under subparagraph (C)”; and

10 (C) by striking the following:

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

13 “(b) TESTING RULES AND ORDERS.—

14 “(1)(A) The Administrator may, by rule or
15 order, require testing in addition to the requirements
16 for testing for the minimum data set under sub-
17 section (a) with respect to any chemical substance or
18 mixture or categories of chemical substances or mix-
19 tures, and the submission of test results by a speci-
20 fied date, as necessary for making a safety standard
21 determination under section 6(b) or carrying out any
22 provision of this Act.

23 “(B) The Administrator may, by order, prohibit
24 a manufacturer or processor in violation of a rule or
25 order under subparagraph (A) from manufacturing,

1 processing, or distributing in commerce the chemical
2 substance or mixture or any article containing the
3 chemical substance or mixture.

4 “(2) A rule or order under paragraph (1)(A)
5 shall include—

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

9 “(B) a methodology for testing for such
10 substance or mixture; and

11 “(C) a specification of the period (which
12 period may not be of unreasonable duration)
13 within which the persons required to conduct
14 the testing shall submit to the Administrator
15 data developed in accordance with a method-
16 ology referred to in subparagraph (B).

17 In determining the methodology and period to be in-
18 cluded, pursuant to subparagraphs (B) and (C), in
19 a rule or order under paragraph (1)(A), the Admin-
20 istrator’s considerations shall include the relative
21 costs of the various test protocols and methodologies
22 which may be required under the rule or order and
23 the reasonably foreseeable availability of the facili-
24 ties and personnel needed to perform the testing re-
25 quired under the rule or order. Any such rule or

1 order may require the submission to the Adminis-
2 trator of preliminary data during the period pre-
3 scribed under subparagraph (C).”;

4 (D) in paragraph (3), as redesignated by
5 subparagraph (A) of this paragraph—

6 (i) by redesignating subparagraph (B)
7 as subparagraph (C);

8 (ii) in subparagraph (A)—

9 (I) by striking “standards for the
10 development of test data” and insert-
11 ing “testing”;

12 (II) by inserting “endocrine dis-
13 ruption,” after “cumulative or syner-
14 gistic effects,”;

15 (III) by striking “present an un-
16 reasonable risk of injury to health or
17 the environment.” and inserting “be
18 considered in a safety standard deter-
19 mination under section 6(b). The ex-
20 posure information for which testing
21 may be prescribed includes the pres-
22 ence of the chemical substance or mix-
23 ture in animal or human biological
24 media.”;

1 (IV) by striking “which such
2 standards” and inserting “which test-
3 ing”;

4 (V) by inserting “bioaccumula-
5 tion,” after “persistence,”;

6 (VI) by striking “present such a
7 risk” and inserting “be considered in
8 a safety standard determination under
9 section 6(b)”;

10 (VII) by redesignating the sen-
11 tence beginning “The methodologies
12 that may be prescribed” as subpara-
13 graph (B); and

14 (VIII) in subparagraph (B), as
15 redesignated by subclause (VII), by
16 striking “such standards” and insert-
17 ing “testing”; and

18 (iii) in subparagraph (C), as redesign-
19 nated by clause (i)—

20 (I) by striking “standards for de-
21 velopment of data” and inserting
22 “methodology for testing”;

23 (II) by striking “under sub-
24 section (a)” and inserting “or orders
25 under paragraph (1)(A)”;

1 (III) by striking “such stand-
2 ards” and inserting “such method-
3 ology”;

4 (E) in paragraph (4), as redesignated by
5 subparagraph (A) of this paragraph—

6 (i) by striking subparagraph (B); and

7 (ii) by striking “(A) A rule under sub-
8 section (a) respecting a chemical substance
9 or mixture shall require the persons de-
10 scribed in subparagraph (B)” and insert-
11 ing “A rule or order under paragraph
12 (1)(A) respecting a chemical substance or
13 mixture shall specify the persons re-
14 quired”;

15 (F) in paragraph (5), as redesignated by
16 subparagraph (A) of this paragraph—

17 (i) by striking “under subsection (a)”
18 in both places it appears and inserting “or
19 order under paragraph (1)(A)”;

20 (ii) by striking “repeals the rule” in
21 both places it appears and inserting “with-
22 draws the rule or order”; and

23 (iii) by striking “repeals the applica-
24 tion of the rule” and inserting “withdraws
25 the rule or order with respect”; and

1 (G) by amending paragraph (6), as reded-
2 igned by subparagraph (A) of this paragraph,
3 to read as follows:

4 “(6) If a manufacturer or processor has submitted
5 a declaration of cessation of manufacture or processing
6 under section 8(a)(3) for a chemical substance or mixture,
7 the manufacturer or processor shall be exempted from the
8 requirements of this subsection with regard to such chem-
9 ical substance or mixture.”.

10 (3) In subsection (c)—

11 (A) in paragraph (1)—

12 (i) by inserting “or order” after
13 “rule”; and

14 (ii) by striking “subsection (a)” and
15 inserting “subsection (b)(1)(A)”;

16 (B) in paragraph (2)—

17 (i) by striking “under subsection (a)”
18 and inserting “under subsection
19 (b)(1)(A)”;

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

22 (C) in paragraph (3)(B)(i), by striking
23 “promulgated under subsection (a)” and insert-
24 ing “or order issued under subsection
25 (b)(1)(A)”;

- 1 (D) in paragraph (4)—
- 2 (i) in subparagraph (A)—
- 3 (I) by striking “promulgated
- 4 under subsection (a)” and inserting
- 5 “issued under subsection (b)(1)(A)”;
- 6 and
- 7 (II) by inserting “or order” after
- 8 “rule” each place it appears; and
- 9 (ii) in subparagraph (B)—
- 10 (I) by striking “promulgated
- 11 under subsection (a)” and inserting
- 12 “or order issued under subsection
- 13 (b)(1)(A)”;
- 14 (II) by inserting “or order” after
- 15 “such rule”; and
- 16 (III) by inserting “or order”
- 17 after “requirements of the rule”.
- 18 (4) In subsection (d), by striking “under sub-
- 19 section (a)” and inserting “or order under sub-
- 20 section (b)(1)(A)”.
- 21 (5) In subsection (e)—
- 22 (A) in the subsection heading, by striking
- 23 “PRIORITY LIST” and inserting “INTERAGENCY
- 24 TESTING COMMITTEE”; and
- 25 (B) in paragraph (1)—

1 (i) in subparagraph (A)—

2 (I) by striking “rule under sub-
3 section (a)” and inserting “rule or
4 order under subsection (b)(1)(A)”;

5 (II) in clause (v), by striking “an
6 unreasonable risk of injury to” and
7 inserting “a substantial hazard to”;
8 and

9 (III) in the flush language after
10 clause (viii)—

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

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

19 (ii) in subparagraph (B), by striking
20 “rulemaking proceeding under subsection
21 (a)” and inserting “proceeding to promul-
22 gate a rule or issue an order under sub-
23 section (b)(1)(A)”;

24 (iii) by inserting after subparagraph
25 (B) the following new subparagraph:

1 “(C) The committee shall provide advice and rec-
2 ommendation to the Administrator regarding the priority
3 list under section 6(a)(1).”.

4 (6) By amending subsection (f) to read as fol-
5 lows:

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

8 “(1) IN GENERAL.—If a Federal agency deter-
9 mines that information relating to a chemical sub-
10 stance or mixture, including data derived from new
11 testing or monitoring, would assist such agency in
12 carrying out duties or exercising authority of such
13 agency, but such information is not available to the
14 agency, such agency may request the Administrator
15 to seek such information on its behalf.

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

19 “(A) if in possession of the requested data,
20 make such data available to the requesting
21 agency, subject to section 14;

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

1 “(C) issue a rule or order, under sub-
2 section (b)(1)(A), to develop such data, and fur-
3 ther requiring such data be furnished to the re-
4 questing agency; or

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

8 (7) By striking subsection (g).

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

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

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

14 “(a) NEW CHEMICAL SUBSTANCES AND MIXTURES
15 AND NEW USES OF CHEMICAL SUBSTANCES AND MIX-
16 TURES.—

17 “(1) Except as provided in subsection (d), no
18 person may manufacture or process a new chemical
19 substance or mixture, or manufacture or process any
20 chemical substance or mixture for a use which the
21 Administrator has determined, in accordance with
22 paragraph (2), is a new use, unless—

23 “(A) such person submits to the Adminis-
24 trator, at least 90 days before such manufac-
25 ture or processing, a notice, in accordance with

1 subsection (c) and section 8(h), of such person's
2 intention to manufacture or process such sub-
3 stance and such person complies with any appli-
4 cable requirement of subsection (b); and

5 “(B) the Administrator finds that—

6 “(i) such substance or mixture, or use
7 of such substance or mixture, is not rea-
8 sonably anticipated to present a risk of in-
9 jury to health or the environment, based
10 upon anticipated use and production vol-
11 ume, toxicity, persistence, bioaccumulation,
12 or other properties indicating risk, as de-
13 termined by the Administrator; or

14 “(ii) the manufacturers and proc-
15 essors have established that the anticipated
16 use of the chemical substance or mixture
17 meets the safety standard under section
18 6(b).

19 “(2)(A) A use shall be determined by the Ad-
20 ministrator to be new if—

21 “(i) no manufacturer or processor has
22 previously declared the use under section
23 8(a)(2);

1 “(ii) the manufacturer or processor
2 proposing the use has not previously de-
3 clared the use under section 8(a)(2); or

4 “(iii) the proposed use will result in
5 manufacturing or processing of the chem-
6 ical substance or mixture at a significantly
7 increased volume from that previously de-
8 clared under section 8(a)(2).

9 “(B) For any new use of an existing chem-
10 ical substance or mixture that has already re-
11 ceived a safety standard determination under
12 section 6(b), the requirement described in para-
13 graph (1)(B)(ii) shall only be met through a re-
14 determination including the proposed new use.

15 “(3) Not later than 30 days after the date on
16 which a manufacturer or processor commences man-
17 ufacturing or processing of a new chemical sub-
18 stance or mixture or commences manufacturing or
19 processing of a chemical substance or mixture for a
20 new use, the manufacturer or processor shall submit
21 to the Administrator a notice of commencement of
22 manufacture or processing.”.

23 (2) By amending subsection (b) to read as fol-
24 lows:

25 “(b) SUBMISSION OF TEST DATA FOR NEW USES.—

1 “(1) For any new use of a chemical substance
2 or mixture that is subject to a rule or order under
3 section 4, the manufacturer or processor of such
4 chemical substance or mixture shall submit to the
5 Administrator any data required in accordance with
6 such rule or order with the notice under subsection
7 (a)(1)(A).

8 “(2) Not later than 90 days after submission of
9 a notice under subsection (a)(1)(A), and data under
10 paragraph (1), if required, the Administrator shall
11 determine whether the chemical substance or mix-
12 ture is not reasonably anticipated to present a risk
13 of injury to health or the environment under sub-
14 section (a)(1)(B). Not later than 6 months after the
15 date of such determination, the Administrator shall
16 complete the safety standard determination for any
17 chemical substance or mixture that may be reason-
18 ably anticipated to present a risk of injury to health
19 or the environment. The Administrator’s failure to
20 make a determination pursuant to this paragraph in
21 a timely manner shall not be deemed to satisfy sub-
22 section (a)(1)(B).”.

23 (3) By striking subsection (c) and redesignating
24 subsection (d) as subsection (c).

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

3 (A) by amending paragraph (1) to read as
4 follows: (1) The notice required by subsection
5 (a)(1)(A) shall include—

6 “(A) the declaration under section 8(a)(2);

7 “(B) the minimum data set, as defined
8 pursuant to section 4(a); and

9 “(C) a statement that the chemical sub-
10 stance or mixture is reasonably anticipated to
11 meet the safety standard under section 6(b)
12 and a justification for such statement.

13 Such a notice shall be made available, subject to sec-
14 tion 14, for examination by interested persons.”;

15 (B) in paragraph (2)—

16 (i) by striking “or of data under sub-
17 section (b)”;

18 (ii) by amending subparagraph (A) to
19 read as follows:

20 “(A) identifies the chemical substance or
21 mixture for which notice has been received by
22 name and chemical identity;”;

23 (iii) in subparagraph (B), by striking
24 “substance; and” and inserting “substance
25 or mixture;”;

1 (iv) in subparagraph (C), by striking
2 “describes the nature” and all that follows
3 through “section 4.” and inserting “de-
4 scribes the nature and results of the tests
5 performed on such substance or mixture;
6 and”; and

7 (v) by striking the flush language fol-
8 lowing subparagraph (C) and adding at the
9 end the following new subparagraph:

10 “(D) discloses the availability of the dec-
11 laration under section 8(a) and the minimum
12 data set under section 4(a).”; and

13 (C) by striking paragraph (3).

14 (5) By striking subsections (e), (f), and (g),
15 and redesignating subsections (h) and (i) as sub-
16 sections (d) and (e), respectively.

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

19 (A) in paragraph (1)—

20 (i) by inserting “and by order,” after
21 “upon application,”;

22 (ii) by inserting “or mixture” after
23 “substance” each place it appears; and

24 (iii) by striking “any unreasonable”
25 and inserting “a substantial”;

1 (B) in paragraph (2)—

2 (i) by amending subparagraph (A) to
3 read as follows:

4 “(A) The Administrator shall exempt any per-
5 son from the requirement to submit data for a
6 chemical substance or mixture pursuant to sub-
7 section (b)(1), if upon receipt of an application from
8 such person, the Administrator determines that—

9 “(i) the chemical substance or mixture
10 with respect to which such application was sub-
11 mitted is equivalent to a chemical substance or
12 mixture for which data has been submitted to
13 the Administrator as required by this Act; and

14 “(ii) submission of data by the applicant
15 on such substance or mixture would be dupli-
16 cative of data which has been submitted to the
17 Administrator in accordance with subsection
18 (b)(1).

19 No exemption which is granted under this subpara-
20 graph with respect to the submission of data for a
21 chemical substance or mixture may take effect be-
22 fore the beginning of the reimbursement period ap-
23 plicable to such data.”;

24 (ii) in subparagraph (B)—

1 (I) by striking “subsection
2 (b)(2)” each place it appears and in-
3 serting “subsection (b)(1)”;

4 (II) by inserting “or mixture”
5 after “chemical substance” each place
6 it appears; and

7 (III) in the flush language after
8 clause (ii), by inserting “or mixture”
9 after “market for such substance”;
10 and

11 (iii) in subparagraph (C), by inserting
12 “or mixture” after “substance” each place
13 it appears;

14 (C) in paragraph (3), by inserting “or mix-
15 ture” after “substance” each place it appears;

16 (D) by striking paragraph (4) and redesign-
17 ating paragraphs (5) and (6) as paragraphs
18 (4) and (5), respectively; and

19 (E) in paragraph (5), as redesignated by
20 subparagraph (D) of this paragraph, by strik-
21 ing “(5)” and inserting “(4)”.

1 **SEC. 6. PRIORITIZATION, SAFETY STANDARD DETERMINA-**
2 **TION, AND RISK MANAGEMENT.**

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

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

9 (2) By striking subsection (d).

10 (3) By redesignating subsections (e) and (f) as
11 subsections (f) and (g), respectively.

12 (4) By redesignating subsections (a) through
13 (c) as subsections (e) through (g), respectively.

14 (5) By inserting before subsection (e), as reded-
15 igned by paragraph (4) of this subsection, the fol-
16 lowing new subsections:

17 “(a) PRIORITY LIST FOR SAFETY STANDARD DETER-
18 MINATIONS.—

19 “(1) ESTABLISHMENT OF LIST.—Not later than
20 18 months after the date of enactment of the Toxic
21 Chemicals Safety Act of 2010, the Administrator
22 shall publish in the Federal Register a list of not
23 fewer than 300 chemical substances and mixtures
24 for which safety standard determinations shall first
25 be made. Chemical substances and mixtures shall be
26 listed at the Administrator’s discretion, based on

1 available scientific evidence, consideration of their
2 risk relative to other chemical substances and mix-
3 tures, presence in biological and environmental
4 media, use, production volume, toxicity, persistence,
5 bioaccumulation, or other properties indicating risk.

6 “(2) UPDATING OF LIST.—The Administrator
7 shall—

8 “(A) remove a chemical substance or mix-
9 ture from the list under paragraph (1) only
10 after the safety standard determination has
11 been made for such chemical substance or mix-
12 ture pursuant to subsection (b); and

13 “(B) add chemical substances or mixtures
14 to the list periodically so that the number of
15 chemical substances on the list will not be fewer
16 than 300 at any given time, until such time as
17 all chemical substances and mixtures distrib-
18 uted in commerce have had a safety standard
19 determination. Additions to the list shall be
20 consistent with paragraph (1) and based on
21 consideration of risk relative to listed chemical
22 substances and mixtures to the extent prac-
23 ticable. Such additions to the list may be made
24 in response to petitions under section 21 or rec-

1 ommendations from the Interagency Testing
2 Committee under section 4(e).

3 “(b) SAFETY STANDARD DETERMINATIONS.—

4 “(1) SAFETY STANDARD.—The Administrator
5 shall apply, as a safety standard under this title, a
6 standard takes into account aggregate and cumu-
7 lative exposure to a chemical substance or mixture
8 and that provides a reasonable certainty of no harm,
9 including to vulnerable populations, and protects the
10 public welfare from adverse effects, including effects
11 on the environment.

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

16 “(3) DETERMINATION.—The Administrator
17 shall determine whether a manufacturer or processor
18 of a chemical substance or mixture has shown that
19 the chemical substance or mixture meets the safety
20 standard based on known or anticipated uses using
21 the best available science and regarding any adverse
22 effect. In assessing risk to make this determination,
23 the Administrator may require the submission of ad-
24 ditional information by the manufacturer or proc-
25 essor, pursuant to a rule or order under section

1 4(b). Failure to submit such information shall con-
2 stitute grounds for determining that the manufac-
3 turers and processors have not demonstrated that
4 the chemical substance or mixture meets the safety
5 standard. The determination shall be completed not
6 later than 6 months after the submission of all re-
7 quired information.

8 “(4) PUBLICATION.— The Administrator shall
9 make publicly available the determination made pur-
10 suant to paragraph (3) with a list of allowed uses
11 of the chemical substance or mixture and any condi-
12 tions on those uses necessary to ensure that the
13 safety standard is met.

14 “(5) RENEWAL AND REDETERMINATION.—The
15 determination made pursuant to paragraph (3) re-
16 garding a chemical substance or mixture shall re-
17 main in effect for 15 years, except that the Adminis-
18 trator shall make a redetermination pursuant to
19 paragraph (3) if a new use of such chemical sub-
20 stance or mixture is introduced or new information
21 on such chemical substance or mixture warrants a
22 redetermination. The Administrator may renew a de-
23 termination made pursuant to paragraph (3) for ad-
24 ditional 15 year periods. The burden of proof for re-
25 newal of a determination or redetermination shall re-

1 main with the manufacturers and processors of each
2 chemical substance or mixture.

3 “(6) FAILURE TO MEET DEADLINES.—If the
4 Administrator fails to publish or renew a determina-
5 tion or publish a redetermination by the applicable
6 deadline pursuant to this subsection, the Adminis-
7 trator shall publish notice of such failure in the Fed-
8 eral Register, identifying the chemical substance or
9 mixture and any information gaps that have im-
10 peded the determination.”.

11 (6) By amending subsection (c), as redesign-
12 nated by paragraph (4) of this subsection, to read
13 as follows:

14 “(c) RISK MANAGEMENT.—

15 “(1) CHEMICAL SUBSTANCES AND MIXTURES
16 DETERMINED TO MEET THE SAFETY STANDARD
17 WITHOUT CONDITIONS.—A chemical substance or
18 mixture, for which the Administrator has deter-
19 mined, pursuant to subsection (b)(3), that the man-
20 ufacturers and processors have demonstrated that
21 the chemical substance or mixture meets the safety
22 standard without imposition of conditions, may be
23 manufactured, processed, and distributed in com-
24 merce.

1 “(2) CHEMICAL SUBSTANCES AND MIXTURES
2 DETERMINED TO MEET THE SAFETY STANDARD
3 WITH CONDITIONS.—A chemical substance or mix-
4 ture, for which the Administrator has determined,
5 pursuant to subsection (b)(2), that imposition of
6 conditions is required to ensure that the chemical
7 substance or mixture meets the safety standard, may
8 be subject to conditions on manufacture, processing,
9 use, distribution in commerce, or disposal, as speci-
10 fied by the Administrator, including:

11 “(A) A requirement—

12 “(i) prohibiting the manufacturing,
13 processing, or distribution in commerce of
14 such substance or mixture; or

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

19 “(B) A requirement—

20 “(i) prohibiting the manufacture,
21 processing, or distribution in commerce of
22 such substance or mixture for—

23 “(I) a particular use; or

24 “(II) a particular use in a con-
25 centration in excess of a level specified

1 by the Administrator in the rule im-
2 posing the requirement; or

3 “(ii) limiting the amount of such sub-
4 stance or mixture which may be manufac-
5 tured, processed, or distributed in com-
6 merce for—

7 “(I) a particular use; or

8 “(II) a particular use in a con-
9 centration in excess of a level specified
10 by the Administrator in the rule im-
11 posing the requirement.

12 “(C) A requirement that such substance or
13 mixture or any article containing such sub-
14 stance or mixture be marked with or accom-
15 panied by clear and adequate warnings and in-
16 structions with respect to its use, distribution in
17 commerce, or disposal or with respect to any
18 combination of such activities. The form and
19 content of such warnings and instructions shall
20 be prescribed by the Administrator.

21 “(D) A requirement that manufacturers
22 and processors of such substance or mixture
23 make and retain records of the processes used
24 to manufacture or process such substance or
25 mixture and monitor or conduct tests which are

1 reasonable and necessary to assure compliance
2 with the requirements of any rule applicable
3 under this paragraph.

4 “(E) A requirement prohibiting or other-
5 wise regulating any manner or method of com-
6 mercial use of such substance or mixture.

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

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

22 “(G) A requirement that the manufactur-
23 ers and processors of such chemical substance
24 or mixture, or article containing such chemical
25 substance or mixture, develop a risk reduction

1 management plan to achieve a risk reduction
2 specified by the Administrator.

3 Where the Administrator imposes conditions in a
4 safety standard determination for a chemical sub-
5 stance or mixture, effective one year after publica-
6 tion of the determination, no person shall manufac-
7 ture, process, or distribute in commerce the chemical
8 substance or mixture, or any article containing the
9 chemical substance or mixture, unless all conditions
10 of the determination are met.

11 “(3) If the Administrator determines that the
12 manufacturers and processors of a chemical sub-
13 stance or mixture have not shown that such sub-
14 stance or mixture meets the safety standard—

15 “(A) for a new chemical substance or mix-
16 ture, no person shall manufacture, process, or
17 distribute in commerce the new chemical sub-
18 stance or mixture;

19 “(B) for a new use of an existing chemical
20 substance or mixture, no person shall manufac-
21 ture, process, or distribute in commerce the ex-
22 isting chemical substance or mixture for the
23 new use; or

24 “(C) for an existing chemical substance or
25 mixture, effective 1 year after publication of the

1 determination, no person shall manufacture,
2 process, or distribute in commerce the chemical
3 substance or mixture.”.

4 (7) In subsection (d), as redesignated by para-
5 graph (4) of this subsection—

6 (A) by striking “unintentionally” before
7 “causes the chemical substance or mixture to
8 present or which will cause it to present”; and

9 (B) by striking “present an unreasonable”
10 each place it appears and inserting “present a
11 substantial”.

12 (8) By amending subsection (e), as redesign-
13 nated by paragraph (4) of this subsection, to read
14 as follows:

15 “(e) **CRITICAL USE EXEMPTIONS.**—

16 “(1) Exemptions from restrictions on manufac-
17 ture, processing, use, distribution in commerce, or
18 disposal imposed under this title may be requested
19 for a specific use by a manufacturer or processor of
20 a chemical substance or mixture, and may be grant-
21 ed by the Administrator if the Administrator deter-
22 mines, after providing public notice and opportunity
23 for comment, that the manufacturer or processor
24 has demonstrated by clear and convincing evidence
25 that—

1 “(A)(i) an exemption for the specific use is
2 in the paramount interest of national security;

3 “(ii) the restriction would significantly dis-
4 rupt the national economy; or

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

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

9 “(ii) the specified use of the chemical sub-
10 stance or mixture provides a net benefit to
11 health or the environment when compared to all
12 available alternatives.

13 “(2) Exemptions granted under paragraph (1)
14 shall expire after a period not to exceed 5 years, but
15 may be renewed for one or more additional 5 year
16 periods if the Administrator finds, after providing
17 public notice and opportunity for comment, that the
18 use continues to meet the requirements of paragraph
19 (1).

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

22 “(A) to known purchasers by the manufac-
23 turers and processors of the subject chemical
24 substance or mixture; and

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

1 “(4) The Administrator may impose conditions
2 on any use receiving an exemption under this sub-
3 section to protect health and the environment. Any
4 such condition shall take effect upon the granting of
5 such exemption under paragraph (1).”.

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

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

10 **SEC. 7. IMMINENT HAZARDS.**

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

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

15 “(a) ACTIONS AUTHORIZED AND REQUIRED.—

16 “(1) The Administrator may commence a civil
17 action in an appropriate district court of the United
18 States—

19 “(A) for seizure of a chemical substance or
20 mixture or any article containing such a sub-
21 stance or mixture, that may present an immi-
22 nent and substantial endangerment to health or
23 the environment;

24 “(B) for relief (as authorized by subsection
25 (b)) against any person who manufactures,

1 processes, distributes in commerce, uses, or dis-
2 poses of, a chemical substance or mixture or
3 any article containing such a substance or mix-
4 ture, that may present an imminent and sub-
5 stantial endangerment to health or the environ-
6 ment; or

7 “(C) for both such seizure and relief.

8 A civil action may be commenced under this para-
9 graph notwithstanding the existence of a rule or
10 order under this Act, and notwithstanding the pend-
11 ency of any administrative or judicial proceeding
12 under any provision of this Act.

13 “(2) The Administrator may issue such orders
14 as may be necessary to protect health or the envi-
15 ronment from a chemical substance or mixture that
16 may present an imminent and substantial
17 endangerment to health or the environment. Such
18 orders may include any requirements on the manu-
19 facture, processing, distribution in commerce, use, or
20 disposal of such chemical substance or mixture, or
21 article containing such chemical substance or mix-
22 ture, as are necessary to protect health or the envi-
23 ronment, including those requirements listed in sec-
24 tion 6(c) and the relief authorized in subsection (b)
25 of this section.”.

- 1 (2) In subsection (b)—
- 2 (A) in paragraph (1)—
- 3 (i) by striking “subsection (a)” and
- 4 inserting “subsection (a)(1)”; and
- 5 (ii) by striking “unreasonable risk”
- 6 and inserting “imminent and substantial
- 7 endangerment”;
- 8 (B) in paragraph (2)—
- 9 (i) by striking “subsection (a)” and
- 10 inserting “subsection (a)(1)”;
- 11 (ii) by striking “or distributes in com-
- 12 merce” and inserting “distributes in com-
- 13 merce, uses, or disposes of”;
- 14 (iii) by striking “risk” each place it
- 15 appears and inserting “hazard”; and
- 16 (iv) by striking “article; or (E)” and
- 17 inserting “(E) risk management measures
- 18 available pursuant to section 6(c); or (F)”;
- 19 and
- 20 (C) in paragraph (3), by striking “sub-
- 21 section (a)” and inserting “subsection (a)(1)”;
- 22 (3) In subsection (c), by striking “subsection
- 23 (a)” each place it appears and inserting “subsection
- 24 (a)(1)”.

1 (4) By striking subsections (d) and (f) and re-
2 designating subsection (e) as subsection (d).

3 (5) In subsection (d), as redesignated by para-
4 graph (4) of this section, by striking “subsection
5 (a)” and inserting “subsection (a)(1)”.

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

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

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

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

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

15 (4) by striking subsection (d);

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

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

21 “(a) DECLARATIONS.—

22 “(1) IN GENERAL.—Not later than 1 year after
23 the date of enactment of the Toxic Chemicals Safety
24 Act of 2010, each manufacturer or processor of a
25 chemical substance or mixture distributed in com-

1 merce shall submit to the Administrator a declara-
2 tion described in paragraph (2) or (3), accompanied
3 by the certification described in subsection (h).

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

10 “(A) the chemical identity of the chemical
11 substance or mixture;

12 “(B) the name and location of each facility
13 under the control of the manufacturer or proc-
14 essor at which the chemical substance or mix-
15 ture is manufactured or processed or from
16 which the chemical substance or mixture is dis-
17 tributed in commerce;

18 “(C) a list of health and safety studies
19 conducted or initiated by or for, known to, or
20 reasonably ascertainable by the manufacturer
21 or processor with respect to the chemical sub-
22 stance or mixture, and copies of any such stud-
23 ies that have not previously been submitted to
24 the Administrator; and

1 “(D) all other information known to, in the
2 possession or control of, or reasonably ascer-
3 tainable by the manufacturer or processor that
4 has not previously been submitted to the Ad-
5 ministrator regarding—

6 “(i) the physical, chemical, and toxi-
7 cological properties of the chemical sub-
8 stance or mixture;

9 “(ii) the annual production volume
10 and known uses of, and exposure informa-
11 tion relating to, the chemical substance or
12 mixture; and

13 “(iii) the name and location of each
14 facility to which the chemical substance or
15 mixture is sent, after manufacture and
16 processing, for subsequent processing, dis-
17 tribution, or use.

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

1 “(4) UPDATING OF DECLARATION.—Each man-
2 ufacturer or processor of a chemical substance or
3 mixture that submits to the Administrator a declara-
4 tion required under paragraph (2) or section
5 5(c)(1)(A) shall update and submit to the Adminis-
6 trator a new declaration, at a minimum, once every
7 3 years, and immediately, at any time at which there
8 becomes known or available to, in the possession or
9 control of, or reasonably ascertainable by the manu-
10 facturer or processor, significant new information re-
11 garding a physical, chemical, toxicological property
12 or use of, or exposure to, the chemical substance or
13 mixture, including any information that dem-
14 onstrates a new potential adverse effect of the chem-
15 ical substance or mixture, corroborates previous in-
16 formation demonstrating or suggesting an adverse
17 effect, or suggests an adverse effect at a lower dose
18 than previously demonstrated.

19 “(5) RECORDS TO SUPPORT DECLARATIONS.—
20 Each manufacturer or processor of a chemical sub-
21 stance distributed in commerce shall maintain
22 records of the information described in subpara-
23 graphs (A) through (D) of paragraph (2).

24 “(6) PROHIBITION.—The Administrator may,
25 by order, prohibit a manufacturer or processor in

1 violation of paragraphs (1) or (4) from manufac-
2 turing, processing, or distributing in commerce a
3 chemical substance or mixture or any article con-
4 taining such chemical substance or mixture.

5 “(b) RECORDKEEPING AND REPORTS.—

6 “(1) The Administrator may, by rule or order,
7 require any person who manufactures, processes,
8 distributes in commerce, uses, or disposes of a chem-
9 ical substance, mixture, or article containing such
10 substance or mixture (other than as described in
11 paragraph (2)) to maintain records of and submit
12 reports by a specified date any information con-
13 cerning the chemical substance, mixture, or article
14 containing such substance or mixture that, in the
15 judgment of the Administrator, would assist the Ad-
16 ministrator in—

17 “(A) making a safety standard determina-
18 tion with respect to a chemical substance or
19 mixture under this title; or

20 “(B) any other aspect of administering
21 this Act.

22 “(2) With respect to the manufacture, proc-
23 essing, distribution in commerce, use, or disposal of
24 a chemical substance or mixture in small quantities
25 (as defined by the Administrator by rule) solely for

1 purposes of scientific experimentation or analysis or
2 chemical research, including any such research or
3 analysis for the development of a product, the Ad-
4 ministrator may require a person to maintain
5 records or submit a report under paragraph (1) only
6 to the extent the Administrator determines the
7 maintenance of records or submission of reports, or
8 both, is necessary for the effective enforcement of
9 this Act.

10 “(3) The Administrator may, by order, prohibit
11 a manufacturer or processor in violation of a re-
12 quirement of a rule or order under paragraph (1)
13 from manufacturing, processing, or distributing in
14 commerce the chemical substance or any article con-
15 taining the chemical substance.”;

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

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

20 (B) in paragraph (1)—

21 (i) by inserting the paragraph heading
22 “INVENTORY”;

23 (ii) by inserting “or mixture” after
24 “substance” each place it appears;

1 (iii) by striking “subsection (a)” and
2 inserting “subsection (b)”;

3 (iv) by striking “within three years
4 before the effective date of the rules pro-
5 mulgated pursuant to the last sentence of
6 subsection (a)(1)”;

7 (C) by amending paragraph (2) to read as
8 follows:

9 “(2) CATEGORIZATION.—Not later than 5 years
10 after the date of enactment of the Toxic Chemicals
11 Safety Act of 2010, and from time to time there-
12 after, the Administrator shall publish in the Federal
13 Register a list of all chemical substances and mix-
14 tures distributed in commerce that categorizes the
15 chemical substances and mixtures, based on existing
16 information available to the Administrator, based
17 upon known health or environmental effects, expo-
18 sure, insufficient data, or other category that the
19 Administrator determines appropriate.”;

20 (8) by inserting after subsection (e), as redesign-
21 nated by paragraph (1) of this section, the following
22 new subsection:

23 “(d) ELECTRONIC DATABASE AND PUBLIC ACCESS
24 TO SIGNIFICANT INFORMATION.—

1 “(1) ELECTRONIC DATABASE.—Not later than
2 1 year after the date of enactment of Toxic Chemi-
3 cals Safety Act of 2010, the Administrator shall es-
4 tablish—

5 “(A) an electronic database that is publicly
6 accessible on the Internet for storing and shar-
7 ing of information relating to the toxicity and
8 use of, and exposure to, chemical substances
9 and mixtures; and

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

12 “(2) PUBLIC ACCESS TO SIGNIFICANT INFORMA-
13 TION.—Not later than 90 days after the date of any
14 significant decision made by the Administrator or re-
15 ceipt by the Administrator of any significant infor-
16 mation submitted pursuant to this title, the Admin-
17 istrator shall, at the discretion of the Administrator
18 and subject to section 14, make available to the pub-
19 lic on the electronic database established under
20 paragraph (1) significant decisions made by the Ad-
21 ministrator under this title or significant informa-
22 tion submitted pursuant to this title.”;

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

1 (A) in the subsection heading, by inserting
2 “OF SIGNIFICANT ADVERSE REACTIONS” after
3 “RECORDS”;

4 (B) by inserting “Such records shall be
5 submitted to the Administrator on an annual
6 basis.” after the first sentence; and

7 (C) by striking the last sentence;

8 (10) by inserting after subsection (e), as reded-
9 igned by paragraph (3) of this section, the fol-
10 lowing new subsection:

11 “(f) INFORMATION IN THE POSSESSION OF OTHER
12 FEDERAL AGENCIES.—

13 “(1) Upon the request of the Administrator,
14 each Federal agency shall submit to the Adminis-
15 trator—

16 “(A) any information in the possession or
17 control of such Federal agency relating to a
18 hazard of, use of, exposure to, or risk of a
19 chemical substance or mixture; and

20 “(B) a report, including copies of the data
21 and records in the possession or control of such
22 Federal agency that may be useful to the Ad-
23 ministrator in carrying out the purposes of this
24 Act.

1 “(2) The Administrator shall prescribe, by
2 order issued to the Federal agency, the format, con-
3 tent, and level of detail of the report under para-
4 graph (1)(B).

5 “(3) Each Federal agency shall make its initial
6 submission to the Administrator within 60 days of
7 receipt of the order issued under paragraph (2).”;
8 and

9 (11) by inserting after subsection (g), as reded-
10 signed by paragraph (2) of this section, the fol-
11 lowing new subsection:

12 “(h) CERTIFICATION.—Each submission required
13 pursuant to this section or section 4, 5, or 6, or pursuant
14 to a rule or an order promulgated or issued by the Admin-
15 istrator under this section or section 4, 5, or 6, other than
16 a submission under subsection (f), shall be accompanied
17 by a certification signed by a responsible official of the
18 manufacturer or processor that each statement contained
19 in the submission—

20 “(1) is accurate and reliable; and

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

1 **SEC. 9. RELATIONSHIP TO OTHER FEDERAL LAWS.**

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

4 (1) in subsection (a)—

5 (A) in paragraph (1), by striking “If the
6 Administrator has reasonable basis” through
7 “which the Administrator has reason to believe
8 so presents such risk.” and inserting “If the
9 Administrator determines that the manufacture,
10 processing, distribution in commerce, use, or
11 disposal of a chemical substance or mixture, or
12 that any combination of such activities, does
13 not meet the safety standard under section
14 6(b), and the Administrator determines that ac-
15 tion may be taken under a Federal law not ad-
16 ministered by the Administrator to address the
17 uses of, or aggregate and cumulative exposure
18 to, such chemical substance or mixture, the Ad-
19 ministrator shall submit to the agency which
20 administers such law a report that describes
21 with specification the activity or combination of
22 activities that prevent the chemical substance or
23 mixture from meeting the safety standard
24 under section 6(b).”;

25 (B) in the flush language after subpara-
26 graph (B)—

1 (i) by inserting “promptly” before
2 “published” both places it appears; and

3 (ii) by striking “issue the requested
4 order, and make the requested response”
5 and inserting “take the action necessary to
6 ensure that the chemical substance or mix-
7 ture meets the safety standard under sec-
8 tion 6(b), if appropriate, and respond to
9 the Administrator’s request”

10 (C) by striking subparagraphs (A) and (B)
11 and inserting the following:

12 “(A) determine if action may be taken under
13 such law (or laws) administered by such agency;

14 “(B) if the agency determines under subpara-
15 graph (A) that such action may be taken by such
16 agency, initiate such action and provide a timetable
17 for such action; and

18 “(C) respond to the Administrator with respect
19 to the matters described in the report.”;

20 (D) by amending paragraph (2) to read as
21 follows:

22 “(2) If the Administrator submits a report
23 under paragraph (1) with respect to a chemical sub-
24 stance or mixture and the agency to which such re-
25 port was submitted initiates, within such time speci-

1 fied in the request under paragraph (1), action
2 under the law (or laws) administered by such agency
3 to ensure that a chemical substance or mixture
4 meets the safety standard under section 6(b), the
5 Administrator may not take action under this Act
6 with respect to that chemical substance or mix-
7 ture.”;

8 (E) by redesignating paragraph (3) as
9 paragraph (4);

10 (F) by inserting after paragraph (2) the
11 following new paragraph:

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

16 “(A) determines that action cannot be
17 taken under the authorities of such agency;

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

21 “(C) does not complete action within the
22 timeframe provided by such agency;

23 “(D) initiates action that does not ensure
24 that the chemical substance or mixture meets
25 the safety standard under section 6(b); or

1 “(E) fails to respond;
2 the Administrator may, by order, initiate action or
3 a combination of actions under this Act to ensure
4 compliance with the safety standard for the chemical
5 substance or mixture under section 6(b).”; and
6 (G) in paragraph (4), as redesignated by
7 subparagraph (E) of this paragraph—
8 (i) by striking “section 6 or 7” and
9 inserting “this Act”; and
10 (ii) by striking “against such risk”
11 after “Federal action”; and
12 (2) in subsection (d)—
13 (A) by striking “while imposing the least
14 burdens of duplicative requirements on those
15 subject to the Act and for other purposes”; and
16 (B) by striking “, in the report required by
17 section 30,”.

18 **SEC. 10. INSPECTIONS AND SUBPOENAS.**

19 Section 11 of the Toxic Substances Control Act (15
20 U.S.C. 2610) is amended by inserting “, articles con-
21 taining such substances or mixtures under this title” be-
22 fore “, or products subject to title IV”.

23 **SEC. 11. EXPORTS.**

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

1 (1) by striking subsection (a) and redesignating
2 subsections (b) and (c) as subsections (a) and (b),
3 respectively;

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

6 (A) in paragraph (1)—

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

8 (ii) by striking “or intent to export”

9 and inserting “not later than 30 days after
10 the date of exportation of the substance or
11 mixture”; and

12 (iii) by inserting “promptly there-
13 after” before “furnish”;

14 (B) in paragraph (2)—

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

16 (ii) by striking “an order has been
17 issued under section 5 or a rule has been
18 proposed or promulgated under section 5
19 or 6, or with respect to which an action is
20 pending, or relief has been granted under
21 section 5 or 7” and inserting “an action
22 has been taken pursuant to section 6(e) or
23 section 7”;

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

25 and inserting “not later than 30 days after

1 the date of exportation of the substance or
2 mixture”;

3 (iv) by inserting “promptly there-
4 after” before “furnish”; and

5 (v) by striking “such rule, order, ac-
6 tion, or relief” and inserting “such action
7 taken pursuant to section 6(c) or section
8 7”; and

9 (C) by adding at the end the following new
10 paragraph:

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

17 “(B) The Administrator shall promptly
18 furnish an updated notice to the governments
19 that have been notified pursuant to paragraphs
20 (1) and (2) regarding the exportation of any
21 chemical substance or mixture subject to this
22 section if—

23 “(i) data for such substance or mix-
24 ture have been received by the Adminis-

1 trator pursuant to section 4, section 5(b),
2 section 8(e), or section 8(g);

3 “ (ii) a change has occurred in the ex-
4 port status of such substance or mixture;
5 or

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

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

14 (4) by adding at the end the following new sub-
15 sections:

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

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

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

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

9 **SEC. 12. ENTRY INTO CUSTOMS TERRITORY OF THE**
10 **UNITED STATES.**

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

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

16 (2) in subsection (a)(1), by striking the em
17 dash and subparagraphs (A) and (B) and inserting
18 “the substance, mixture, or article fails to comply
19 with or is offered for entry in violation of any rule
20 or order in effect under this Act.”.

21 **SEC. 13. DISCLOSURE OF DATA.**

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

24 (1) by redesignating subsections (a) through (e)
25 as subsections (c) through (g), respectively;

1 (2) by inserting, before subsection (c), as redese-
2 ignated by paragraph (1) of this section, the fol-
3 lowing new subsections:

4 “(a) ADMINISTRATOR RESPONSIBILITIES.—The Ad-
5 ministrator shall ensure that—

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

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

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

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

1 (A) by striking “subsection (b)” and in-
2 serting “subsection (d)”;

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

5 (C) by adding after paragraph (2) the fol-
6 lowing new paragraph:

7 “(3) shall be disclosed upon request to a State,
8 tribal, municipal, or foreign government, including
9 identification of the location of the manufacture,
10 processing, or storage of a chemical substance upon
11 the request of such a government—

12 “(A) for the purpose of administration or
13 enforcement of a law; and

14 “(B) in accordance with any applicable
15 agreements that ensure that the recipient gov-
16 ernment takes appropriate steps to maintain
17 the confidentiality of the information in accord-
18 ance with this section and section 350.27 of
19 title 40, Code of Federal Regulations, or any
20 successor to such regulation;” and

21 (D) in paragraph (4), as redesignated by
22 subparagraph (B) of this paragraph, by striking
23 “an unreasonable” and inserting “a substan-
24 tial”;

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

3 (A) in the subsection heading, by striking
4 “DATA FROM HEALTH AND SAFETY STUDIES”
5 and inserting “INFORMATION NOT ELIGIBLE
6 FOR PROTECTION”;

7 (B) by amending paragraph (1) to read as
8 follows:

9 “(1) The following types of information shall
10 not be eligible for confidential treatment under this
11 section, and the Administrator shall not approve a
12 designation to treat information of the following
13 types as confidential under this section:

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

16 “(B) Any safety standard developed under
17 section 6(b), including any supporting informa-
18 tion developed by the Administrator.

19 “(C) Any health and safety study which is
20 submitted under this Act with respect to—

21 “(i) any chemical substance or mix-
22 ture—

23 “(I) which, on the date on which
24 such study is to be disclosed has been
25 offered for commercial distribution; or

1 “(II) for which testing is re-
2 quired under section 4 or for which
3 notification is required under section
4 5 of this title; and

5 “(ii) any data reported to, or other-
6 wise obtained by, the Administrator from a
7 health and safety study which relates to a
8 chemical substance or mixture described in
9 clause (i).

10 “(D) Any information indicating the pres-
11 ence of a chemical substance or mixture in an
12 article intended for use or reasonably expected
13 to be used by children or to which children can
14 otherwise be reasonably expected to be exposed.

15 This paragraph does not authorize the release of any
16 data which discloses processes used in the manufac-
17 turing or processing of a chemical substance or mix-
18 ture or, in the case of a mixture, the release of data
19 disclosing the portion of the mixture comprised by
20 any of the chemical substances in the mixture.”;

21 (C) in paragraph (2)—

22 (i) by striking “the first sentence of
23 paragraph (1)” and inserting “paragraph
24 (1)(C)”;

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

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

6 (A) by amending paragraph (1) to read as
7 follows:

8 “(1) DUTIES OF MANUFACTURERS AND PROC-
9 ESSORS.—

10 “(A) In submitting data under this Act, a
11 manufacturer, processor, or distributor in com-
12 merce may—

13 “(i) designate the data which such
14 manufacturer, processor, or distributor be-
15 lieves is entitled to confidential treatment
16 under this section; and

17 “(ii) submit such designated data sep-
18 arately from other data submitted under
19 this Act.

20 “(B) A designation by a manufacturer,
21 processor, or distributor under this paragraph
22 shall be made in writing and in such manner as
23 the Administrator may prescribe, and shall in-
24 clude—

1 “(i) justification for each claim for
2 confidentiality;

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

5 “(iii) separate copies of all submitted
6 information, with 1 copy containing and 1
7 copy excluding the information to which
8 the request applies.”;

9 (B) by redesignating paragraph (2) as
10 paragraph (3) and inserting after paragraph
11 (1) the following new paragraph:

12 “(2) DUTIES OF THE ADMINISTRATOR.—The
13 Administrator shall—

14 “(A) not later than 1 year after the date
15 of enactment of the Toxic Chemicals Safety Act
16 of 2010, by order, develop and make publicly
17 available standards that specify—

18 “(i) the acceptable bases on which
19 designations under paragraph (1) to main-
20 tain confidentiality of information may be
21 approved under subparagraph (B), which
22 shall be no more restrictive of public dis-
23 closure than section 552 of title 5, United
24 States Code; and

1 “(ii) the documentation needed to ac-
2 company such designations;

3 “(B) not later than 90 days after the date
4 of receipt of information designated by a manu-
5 facturer, processor, or distributor under para-
6 graph (1), review such designation to maintain
7 confidentiality of the submitted information and
8 determine whether to approve or deny such des-
9 ignation based on whether such designation and
10 accompanying documentation comply with
11 standards that are developed under subpara-
12 graph (A) (except that if a request for the in-
13 formation is received under section 552 of title
14 5, United States Code, before the 90-day review
15 and decision period has elapsed, the disclosure
16 requirements, procedures, and judicial review
17 provisions of such section shall apply);

18 “(C) if such a designation is denied, make
19 the information available to the public in ac-
20 cordance with section 8(d); and

21 “(D) if such a designation is approved,
22 specify a time period of not greater than 5
23 years for which the submitted information shall
24 be kept confidential.”;

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

3 (i) in subparagraph (A)—

4 (I) by striking “paragraph
5 (1)(A)” and inserting “paragraph (1)
6 and approved by the Administrator
7 under paragraph (2)(B)”; and

8 (II) by striking “The Adminis-
9 trator may not release such data until
10 the expiration of 30 days after the
11 manufacturer, processor, or dis-
12 tributor in commerce submitting such
13 data has received the notice required
14 by this subparagraph.” and inserting
15 “The Administrator shall release the
16 information in accordance with the
17 disclosure and procedural require-
18 ments of section 552 of title 5, United
19 States Code.”; and

20 (ii) in subparagraph (B)(i)—

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

23 (II) by striking “subsection (a)”
24 each place it appears and inserting
25 “subsection (e)”; and

1 (III) by striking “paragraph (3)”
2 and inserting “paragraph (4)”;

3 (IV) by striking “that” before “if
4 the Administrator determines that the
5 release of such data”;

6 (V) by striking “, unreasonable”
7 before “risk of injury”; and

8 (VI) by striking “, such notice
9 may be made by such means as the
10 Administrator determines will provide
11 notice at least 24 hours before such
12 release is made”; and

13 (6) by adding at the end the following new sub-
14 section:

15 “(h) RISK INFORMATION FOR WORKERS.—The Ad-
16 ministrator shall provide standards for and facilitate the
17 sharing of chemical identity, safety standard determina-
18 tion, and health and safety data described in subsection
19 (d) that pertains to chemical substances or mixtures, or
20 articles containing chemical substances or mixtures, that
21 workers may come into contact with or otherwise be ex-
22 posed to during the course of their work, with such work-
23 ers and representatives of each certified or recognized bar-
24 gaining agent representing such workers.”.

1 **SEC. 14. PROHIBITED ACTS.**

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

4 (1) in paragraph (1), by striking “(A)” and all
5 that follows through “under title II” and inserting
6 “any rule, order, prohibition, restriction, or other re-
7 quirement imposed by this Act or by the Adminis-
8 trator under this Act”;

9 (2) in paragraph (2)—

10 (A) by striking “use” and inserting “man-
11 ufacture, process, distribute in commerce, use,
12 or dispose of”;

13 (B) by striking “or mixture” and inserting
14 “, mixture, or article containing such substance
15 or mixture”; and

16 (C) by striking “section 5 or 6, a rule or
17 order under section 5 or 6, or an order issued
18 in action brought under section 5 or 7” and in-
19 serting “any rule, order, prohibition, restriction,
20 or other requirement imposed by this Act or by
21 the Administrator under this Act”;

22 (3) by amending paragraph (3) to read as fol-
23 lows:

24 “(3) fail or refuse to (A) establish or maintain
25 accurate and complete records, (B) submit or make
26 accurate and complete reports, notices, information

1 submissions, disclosures, declarations, certifications,
2 or other information, or (C) permit access to or
3 copying of records, as required by this Act or a rule
4 thereunder;”;

5 (4) in paragraph (4), by striking the final pe-
6 riod and inserting “; or” ; and

7 (5) by adding at the end the following new
8 paragraph:

9 “(5) make or submit a statement, declaration,
10 disclosure, certification, data set, or any oral, writ-
11 ten, or electronic representation that is materially
12 false, in whole or in part, or to falsify or conceal any
13 material fact, in taking any action or making any
14 communication pursuant to this Act or pursuant to
15 any rule or order promulgated or issued under this
16 Act.”.

17 **SEC. 15. PENALTIES.**

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

20 (1) in subsection (a)—

21 (A) in paragraph (1)—

22 (i) by inserting “this Act or a rule or
23 order promulgated or issued pursuant to
24 this Act, as described in” before “section
25 15 or 409 shall be”;

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

3 (iii) by striking “violation of section
4 15 or 409” and inserting “violation of this
5 Act”;

6 (B) by redesignating paragraphs (2), (3),
7 and (4) as paragraphs (3), (4), and (5), respec-
8 tively;

9 (C) by inserting after paragraph (1) the
10 following new paragraph:

11 “(2) In the case of any violation described in
12 paragraph (1), the Administrator may commence a
13 civil action in the appropriate United States district
14 court to assess penalties pursuant to paragraph
15 (1).”

16 (D) in subparagraph (A) of paragraph (3),
17 as redesignated by subparagraph (B) of this
18 paragraph—

19 (i) by inserting “this Act, as described
20 in” before “section 15 or 409”; and

21 (ii) by striking “within 15 days of”
22 and inserting “not later than 15 days
23 after”;

24 (E) in paragraph (4), as redesignated by
25 subparagraph (B) of this paragraph—

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

3 (ii) by striking “the United States
4 Court of Appeals for the District of Co-
5 lumbia Circuit or for any other circuit”
6 and inserting “the appropriate district
7 court of the United States for the dis-
8 trict”; and

9 (F) in paragraph (5), as redesignated by
10 subparagraph (B) of this paragraph, by striking
11 “paragraph (3)” each place it appears and in-
12 serting “paragraph (4)”; and
13 (2) in subsection (b)—

14 (A) by inserting “(1)” before “Any person
15 who”;

16 (B) by inserting “this Act, as described in”
17 before “section 15 or 409”;

18 (C) by striking “\$25,000” and inserting
19 “\$50,000”;

20 (D) by striking “one year” and inserting
21 “5 years”; and

22 (E) by adding at the end the following new
23 paragraph:

24 “(2) Any person who knowingly or willfully vio-
25 lates any provision of this Act and who knows that

1 such violation may result in imminent danger of
2 death or serious bodily injury to any person shall,
3 upon conviction, be subject to a fine of not more
4 than \$250,000 or imprisonment of not more than 15
5 years, or both. A person that is not an individual
6 shall, upon conviction of violating this paragraph, be
7 subject to a fine of not more than \$1,000,000.”.

8 **SEC. 16. SPECIFIC ENFORCEMENT AND SEIZURE.**

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

11 (1) in subsection (a)—

12 (A) in paragraph (1)—

13 (i) by striking “The district courts of
14 the United States shall have jurisdiction
15 over civil actions to” and inserting “The
16 Administrator may commence a civil action
17 in the appropriate United States district
18 court to compel compliance of any person
19 with any provision of this Act or any rule
20 or order promulgated pursuant to this Act.
21 The Administrators authority to enforce
22 this Act includes the authority to”;

23 (ii) by striking subparagraphs (A)
24 through (C) and inserting the following
25 subparagraphs:

1 “(A) seek civil or criminal penalties under
2 section 16 for any violation of this Act as de-
3 scribed in section 15 or 409;

4 “(B) enjoin any violation of this Act, or of
5 a rule or order promulgated or issued under
6 this Act, as described in section 15 or 409;

7 “(C) order the compliance of any person
8 with any provision of this Act, or with any rule
9 or order promulgated or issued under this Act,
10 through an administrative proceeding in which
11 the Administrator may assess penalties under
12 section 16; or”

13 (iii) in subparagraph (D)—

14 (I) by striking “direct” and in-
15 sserting “order”;

16 (II) by inserting “, articles con-
17 taining such substances or mixtures
18 under this title” before “, or product
19 subject to title IV”;

20 (III) by striking “of section 5, 6,
21 or title IV” and inserting “this Act”;

22 (IV) by striking “under section
23 5, 6, or title IV” and inserting “pro-
24 mulgated and issued under this Act,
25 as described in section 15 or 409”;

1 (V) by inserting “, article” before
2 “, or product and, to the extent”;

3 (VI) by inserting “, article” be-
4 fore “, or product or exposed to such
5 substance”;

6 (VII) by inserting “, article” be-
7 fore “, or product, (ii) to give”; and

8 (VIII) by inserting “, article” be-
9 fore “, or product, whichever the per-
10 son to which the requirement”.

11 (B) in paragraph (2)—

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

17 (ii) in subparagraph (A)—

18 (I) by striking “subparagraph
19 (A) of such paragraph” and inserting
20 “subparagraphs (A) and (B) of para-
21 graph (1)”;

22 (II) by inserting “this Act, as de-
23 scribed in” before “section 15”; and

24 (III) by inserting “or 409” after
25 “section 15”; and

1 (iii) in subparagraph (B) by striking
2 “such paragraph” and inserting “para-
3 graph (1)”; and
4 (2) in subsection (b), by inserting “, articles
5 containing such substances or mixtures under this
6 title” before “, or product subject to title IV”.

7 **SEC. 17. 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 political subdivision of a State to adopt or enforce any reg-
13 ulation, requirement, or standard of performance that is
14 different from or in addition to a regulation, requirement,
15 liability, or standard of performance established pursuant
16 to this Act unless compliance with both this Act and the
17 State or political subdivision of a State regulation, require-
18 ment, or standard of performance is impossible.”.

19 **SEC. 18. JUDICIAL REVIEW.**

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

22 (1) in subsection (a)—

23 (A) in paragraph (1)—

24 (i) by striking subparagraph (B);

25 (ii) by striking “(A)”;

1 (iii) by inserting “or issuance” after
2 “promulgation”;

3 (iv) by striking “section 4(a), 5(a)(2),
4 5(b)(4), 6(a), 6(e), or 8, or under title II
5 or IV” and inserting “this Act”;

6 (v) by inserting “or order” after
7 “rule” each place it appears; and

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

10 (B) in paragraph (2)—

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

13 (ii) by inserting “or order” after
14 “rule”; and

15 (C) by striking paragraph (3);

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

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

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

23 “(A) to grant appropriate relief, including
24 interim relief, as provided in chapter 7 of title
25 5, United States Code; and

1 “(B) to review such rule or order in ac-
2 cordance with chapter 7 of title 5, United
3 States Code”.

4 **SEC. 19. CITIZENS’ CIVIL ACTION.**

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

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) by striking “under section 4, 5, or
10 6, or title II or IV,”; and

11 (ii) by striking “section 5 or title II or
12 IV to restrain such violation” and inserting
13 “this Act”; and

14 (B) in the flush language following para-
15 graph (2), by inserting “, to enforce this Act or
16 any rule promulgated or order issued under this
17 Act, or to order the Administrator to perform
18 an act or duty described in this Act, as the case
19 may be” after “citizenship of the parties”; and

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

22 **SEC. 20. CITIZENS’ PETITIONS.**

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

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

5 (2) in subsection (b)—

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

11 (B) in paragraph (3), by striking “section
12 4, 5, 6, or 8” and inserting “the applicable pro-
13 visions of this Act”; and

14 (C) in paragraph (4)—

15 (i) in subparagraph (A), by striking
16 “a rulemaking proceeding” and inserting
17 “proceedings authorized under this Act”;
18 and

19 (ii) in subparagraph (B)—

20 (I) by striking “a proceeding to
21 issue a rule under section 4, 6, or 8
22 or an order under section 5(e) or
23 6(b)(2)” and inserting “proceedings
24 authorized under this Act”;

25 (II) in clause (i)—

1 (aa) by inserting “except as
2 provided in clause (ii),” before
3 “in the case of”;

4 (bb) by inserting “or order”
5 after “issuance of a rule”;

6 (cc) by striking “or an order
7 under section 5(e)”; and

8 (dd) by striking “an unrea-
9 sonable” and inserting “a sub-
10 stantial”; and

11 (III) in clause (ii)—

12 (aa) by striking “issuance of
13 a rule under section 6 or 8 or an
14 order under section 6(b)(2)” and
15 inserting “promulgation of a
16 rule, issuance of an order, or im-
17 position or issuance of a restric-
18 tion or use condition under this
19 Act”; and

20 (bb) by striking “an unrea-
21 sonable” and inserting “a sub-
22 stantial”.

23 **SEC. 21. EMPLOYMENT EFFECTS.**

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

1 (1) in subsection (a)—

2 (A) by striking “continuing” and inserting
3 “periodic”; and

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

7 (2) in subsection (b)—

8 (A) in paragraph (1), by striking “section
9 4, 5, or 6 or a requirement of section 5 or 6”
10 and inserting “this Act”;

11 (B) in paragraph (2)—

12 (i) in subparagraph (A), by striking
13 “by order issued” and inserting “in writ-
14 ing,”; and

15 (ii) in subparagraph (B)—

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

18 (II) by striking clause (ii) and re-
19 designating clause (iii) as clause (ii);
20 and

21 (C) by amending paragraph (4) to read as
22 follows:

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

1 “(A) to require the Administrator to
2 amend or repeal any rule or order under this
3 Act; or

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

7 **SEC. 22. ADMINISTRATION OF THE ACT.**

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

10 (1) by amending subsection (b) to read as fol-
11 lows:

12 “(b) FEES.—The Administrator may, by rule, require
13 the payment of a reasonable fee from any person required
14 to submit data under this Act to defray the cost of admin-
15 istering this Act. In setting a fee under this subsection,
16 the Administrator shall take into account the ability to
17 pay of the person required to submit the data and the
18 cost to the Administrator of reviewing such data. Such
19 rules may provide for sharing such a fee in any case in
20 which the expenses of testing are shared under this Act.”;
21 and

22 (2) by adding at the end the following new sub-
23 section:

1 “(h) RULEMAKING.—In carrying out this Act, the
2 Administrator is authorized to prescribe such regulations
3 as are necessary to carry out this Act.”.

4 **SEC. 23. STATE PROGRAMS.**

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

7 (1) in subsection (a)—

8 (A) by striking “unreasonable” before
9 “risks within the States”; and

10 (B) by striking “is unable or is not likely
11 to take” and inserting “has not taken”;

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

14 (3) in subsection (c), as redesignated by para-
15 graph (2) of this section, in paragraph (2), by strik-
16 ing “including cancer, birth defects, and gene
17 mutations,”; and

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

20 “(b) COORDINATION.—The Administrator shall es-
21 tablish a process to coordinate with States, on an on-going
22 basis, to share data and priorities relating to the manage-
23 ment of chemical substances and mixtures under this title
24 and under programs operated by States, in keeping with
25 requirements of section 14.”.

1 **SEC. 24. AUTHORIZATION FOR APPROPRIATIONS.**

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

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

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

9 **SEC. 25. ADDITIONAL REQUIREMENTS.**

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

13 **“SEC. 32. RISK ASSESSMENT FOR CHEMICAL SUBSTANCES**
14 **AND MIXTURES THAT ARE PERSISTENT AND**
15 **BIOACCUMULATIVE.**

16 “(a) RISK EVALUATION METHODOLOGY.—Not later
17 than 1 year after the date of enactment of the Toxic
18 Chemicals Safety Act of 2010, the Administrator shall
19 promulgate a rule, after notice and opportunity for com-
20 ment, establishing methodology for evaluation of risk from
21 chemical substances and mixtures determined to be per-
22 sistent and bioaccumulative. Such rule shall take into ac-
23 count potential exposures and predicted rates of increase
24 in exposures that result from persistence and bioaccumu-
25 lation.

1 “(b) SAFETY STANDARD DETERMINATION.—For
2 each chemical substance or mixture listed on the priority
3 list under section 6(a) of this title, the Administrator shall
4 determine whether the chemical substance or mixture is
5 persistent and bioaccumulative, and shall conduct the
6 safety standard determination for any chemical substances
7 or mixtures so identified in accordance with the rule pro-
8 mulgated under subsection (a).

9 “(c) USE, CONDITIONS, AND RISK REDUCTION.—
10 The Administrator shall take action under section 6(c) as
11 necessary to ensure that the manufacturing, processing,
12 distribution in commerce, use, and disposal of a chemical
13 substance or mixture identified as persistent and bio-
14 accumulative meets the safety standard.

15 **“SEC. 33. EXPEDITED ACTION FOR CHEMICAL SUBSTANCES**
16 **WITH DOCUMENTED RISKS.**

17 “(a) PURPOSE.—In the case of a chemical substance
18 identified in subsection (b) for which risk to health and
19 the environment have been well documented yet sufficient
20 risk management actions have not been taken, expedited
21 action under this title is warranted.

22 “(b) COVERED CHEMICAL SUBSTANCES.—This sec-
23 tion applies to the following chemical substances:

24 “(1) Anthracene, pure.

25 “(2) Asbestos.

- 1 “(3) Bisphenol A.
- 2 “(4) Cadmium and cadmium compounds.
- 3 “(5) Chloroalkanes, C10–13 (short-chain
- 4 chlorinated paraffins).
- 5 “(6) Decabromodiphenyl ether and congeners in
- 6 the commercial DecaBDE mixture.
- 7 “(7) p-Dichlorobenzene.
- 8 “(8) Formaldehyde.
- 9 “(9) n-Hexane.
- 10 “(10) Hexabromocyclododecane, including all
- 11 major diastereomers.
- 12 “(11) Hexachlorobutadiene.
- 13 “(12) Hexavalent chromium.
- 14 “(13) Lead and lead compounds.
- 15 “(14) Methylene chloride.
- 16 “(15) Mercury and mercury compounds.
- 17 “(16) Musk xylene.
- 18 “(17) The following perfluorinated compounds:
- 19 “(A) Fluorinated telomers.
- 20 “(B) Perfluoroalkyl sulfonates.
- 21 “(C) Perfluorooctane sulfonic acid, its
- 22 salts, and perfluorooctane sulfonyl fluoride.
- 23 “(D) Perfluorooctanoic acid and related
- 24 salts.

- 1 “(E) Polyfluoroalkyl phosphoric acid
2 diesters.
- 3 “(18) Phenanthrene.
- 4 “(19) The following phthalates:
- 5 “(A) Benzylbutyl phthalate.
- 6 “(B) Dibutyl phthalate.
- 7 “(C) Diethylhexyl phthalate.
- 8 “(D) Di-isodecyl phthalate.
- 9 “(E) Di-n-hexyl phthalate.
- 10 “(20) Polybrominated biphenyls.
- 11 “(21) Polychlorinated terphenyls.
- 12 “(22) Tetrabromobisphenol A.
- 13 “(23) 1,2,3-Trichlorobenzene.
- 14 “(24) 1,2,4-Trichlorobenzene.
- 15 “(25) 1,2,3,4-Tetrachlorobenzene.
- 16 “(26) 1,2,4,5-Tetrachlorobenzene.
- 17 “(27) Trichloroethylene.
- 18 “(28) Tris (1,3-dichloro-2-propyl) phosphate.
- 19 “(29) Tris (2-chloroethyl) phosphate.
- 20 “(30) Tris (2,3-dibromopropyl) phosphate.
- 21 “(31) Vinyl chloride.
- 22 “(c) EXPEDITED ACTION.—
- 23 “(1) MANUFACTURER DUTIES.—
- 24 “(A) Notwithstanding the requirements of
25 section 4(a) of this title, manufacturers of

1 chemical substances listed in subsection (b)
2 shall not be required to submit a minimum data
3 set for such chemicals unless and until the de-
4 termination made pursuant to paragraph (2)
5 expires.

6 “(B) Notwithstanding the deadline under
7 section 8(a)(1), not later than 6 months after
8 the date of enactment of the Toxic Chemicals
9 Safety Act of 2010, manufacturers and proc-
10 essors of chemical substances listed in sub-
11 section (b) shall submit the declaration required
12 by section 8(a)(2) of this title.

13 “(2) ADMINISTRATOR DUTIES.—Notwith-
14 standing the deadline under section 6(b), not later
15 than 12 months after the date of enactment of the
16 Toxic Chemicals Safety Act of 2010, the Adminis-
17 trator shall determine whether the manufacturers
18 and processors of each chemical substance listed in
19 subsection (b) have established that the substance
20 meets the safety standard, and shall then take ap-
21 propriate action under section 6(c) to ensure that
22 the manufacturing, processing, distribution in com-
23 merce, use, and disposal of the chemical substance
24 or mixture meet the safety standard.

1 “(d) NEW USES OF LISTED CHEMICAL SUB-
2 STANCES.—No person may manufacture or process any
3 chemical substance listed under subsection (b) for a use
4 that is a new use as determined under section 5(a)(2),
5 except pursuant to section 6(e) of this title, and in accord-
6 ance with the redetermination process of section 6(b)(5).

7 **“SEC. 34. CHILDREN’S ENVIRONMENTAL HEALTH PRO-**
8 **GRAM.**

9 “(a) CHILDREN’S ENVIRONMENTAL HEALTH RE-
10 SEARCH PROGRAM.—

11 “(1) ESTABLISHMENT.—Not later than 90 days
12 after the date of enactment of the Toxic Chemicals
13 Safety Act of 2010, the Administrator shall establish
14 the ‘Children’s Environmental Health Research Pro-
15 gram’ within the Environmental Protection Agency.

16 “(2) PURPOSE.—Subject to amounts made
17 available in advance in appropriations Acts, under
18 the Children’s Environmental Health Research Pro-
19 gram established under paragraph (1), the Adminis-
20 trator may enter into contracts and make grants to
21 further understanding of the vulnerability of chil-
22 dren to chemical substances and mixtures.

23 “(3) CONSULTATION.—Contracts and grants
24 under this section shall be made in consultation with
25 Interagency Science Advisory Board on Children’s

1 Health and Toxic Substances established under sub-
2 section (b).

3 “(b) INTERAGENCY SCIENCE ADVISORY BOARD ON
4 CHILDREN’S HEALTH AND TOXIC SUBSTANCES.—

5 “(1) ESTABLISHMENT.—Not later than 90 days
6 after the date of enactment of the Toxic Chemicals
7 Safety Act of 2010, the Administrator shall establish
8 an advisory board to be known as the ‘Interagency
9 Science Advisory Board on Children’s Health and
10 Toxic Substances’. The Board shall be subject to the
11 Federal Advisory Committee Act (5 U.S.C. App.).

12 “(2) PURPOSES.—The purposes of the Inter-
13 agency Science Advisory Board on Children’s Health
14 and Toxic Substances shall be to provide inde-
15 pendent advice, expert consultation, and peer review
16 upon the request of the Administrator and Congress
17 on the scientific and technical aspects of issues relat-
18 ing to the implementation of this title with respect
19 to protecting children’s health in the context of this
20 Act.

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

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

24 “(i) the National Institute of Environ-
25 mental Health Sciences;

1 “(ii) the Centers for Disease Control
2 and Prevention;

3 “(iii) the National Toxicology Pro-
4 gram;

5 “(iv) the National Cancer Institute;

6 “(v) the National Tribal Science
7 Council; and

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

10 “(B) ensure that at least 1/3 of the mem-
11 bers of the Board have specific scientific exper-
12 tise in the relationship of chemical exposures to
13 prenatal, infant, and children’s health; and

14 “(C) ensure that no individual appointed
15 to serve on the Board has a conflict of interest
16 that is relevant to the functions performed, un-
17 less such conflict is promptly and publicly dis-
18 closed and the Administrator determines that
19 the conflict is unavoidable.

20 “(c) PRENATAL AND INFANT EXPOSURES.—

21 “(1) MONITORING.—If, through studies per-
22 formed pursuant to grants and contracts under sub-
23 section (a), testing under section 4, or other avail-
24 able research, the Administrator identifies a chem-
25 ical substance that may be present in human biologi-

1 cal media that may have adverse effects on early
2 childhood development, the Administrator shall co-
3 ordinate with the Secretary of Health and Human
4 Services to conduct, not later than 2 years after the
5 date on which the Administrator makes such identi-
6 fication, a biomonitoring study to determine the
7 presence of the chemical substance in human biologi-
8 cal media in, at a minimum, pregnant women and
9 infants.

10 “(2) PUBLICATION.—Upon completion of any
11 biomonitoring study conducted pursuant to para-
12 graph (1), the Administrator shall publish the re-
13 sults of the study in a publicly available electronic
14 format.

15 “(3) POSITIVE RESULTS.—

16 “(A) MANUFACTURE DISCLOSURE.—When-
17 ever a chemical substance or mixture is deter-
18 mined to be present in human biological media
19 in a biomonitoring study conducted pursuant to
20 paragraph (1), the manufacturers and proc-
21 essors of such chemical substance or mixture
22 shall, not later than 180 days after the date of
23 publication of such study, disclose to the Ad-
24 ministrator, commercial customers of the manu-

1 facturers and processors, consumers, and the
2 public—

3 “(i) all known uses of the chemical
4 substance or mixture; and

5 “(ii) all articles in which the chemical
6 substance or mixture is or is expected to
7 be present.

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

11 “(i) made available by the Adminis-
12 trator in electronic format; and

13 “(ii) made readily accessible and free
14 of charge by each applicable manufacturer
15 and processor in electronic format to the
16 commercial customers of such manufac-
17 turer or processor, consumers, and the
18 public.

19 **“SEC. 35. REDUCTION OF ANIMAL-BASED TESTING.**

20 “(a) ADMINISTRATION.—The Administrator shall
21 take action to minimize the use of animals in testing of
22 chemical substances or mixtures, including—

23 “(1) encouraging and facilitating, where prac-
24 ticable—

1 “(A) use of existing data of sufficient sci-
2 entific quality;

3 “(B) use of test methods that eliminate or
4 reduce the use of animals but provide data of
5 high scientific quality;

6 “(C) grouping of 2 or more chemical sub-
7 stances into scientifically appropriate categories
8 where testing of one chemical substance will
9 provide reliable and useful data on others in the
10 category;

11 “(D) formation of industry consortia to
12 jointly conduct testing to avoid unnecessary du-
13 plication of tests; and

14 “(E) parallel submission of data from ani-
15 mal-based studies and from emerging methods
16 and models;

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

20 “(3) in consultation with the Interagency
21 Science Advisory Board on Alternative Testing
22 Methods established under subsection (b)(1), and
23 after providing an opportunity for public comment—

24 “(A) by developing a strategic plan to pro-
25 mote the development and implementation of al-

1 ternative test methods and testing strategies to
2 generate information used for safety standard
3 determinations under section 6(b) that do not
4 use animals, including toxicity pathway-based
5 risk assessment, in vitro studies, systems biol-
6 ogy, computational toxicology, bioinformatics,
7 and high-throughput screening; and

8 “(B) biennially reporting to Congress on
9 progress made in implementing this section.

10 “(b) INTERAGENCY SCIENCE ADVISORY BOARD ON
11 ALTERNATIVE TESTING METHODS.—

12 “(1) ESTABLISHMENT.—Not later than 90 days
13 after the date of enactment of the Toxic Chemicals
14 Safety Act of 2010, the Administrator shall establish
15 an advisory board to be known as the ‘Interagency
16 Science Advisory Board on Alternative Testing
17 Methods’. The Board shall be subject to the Federal
18 Advisory Committee Act (5 U.S.C. App.).

19 “(2) COMPOSITION.—The Administrator shall—

20 “(A) appoint the members of the Inter-
21 agency Science Advisory Board on Alternative
22 Testing Methods, including, at a minimum, rep-
23 resentatives of—

24 “(i) the National Institute of Environ-
25 mental Health Sciences;

1 “(ii) the Centers for Disease Control
2 and Prevention;

3 “(iii) the National Toxicology Pro-
4 gram;

5 “(iv) the National Cancer Institute;
6 and

7 “(v) the National Tribal Science
8 Council; and

9 “(B) ensure that no individual appointed
10 to serve on the Interagency Science Advisory
11 Board on Alternative Testing Methods has a
12 conflict of interest that is relevant to the func-
13 tions to be performed, unless such conflict is
14 promptly and publicly disclosed and the Admin-
15 istrator determines that the conflict is unavoid-
16 able.

17 “(3) PURPOSE.—The purpose of the Inter-
18 agency Science Advisory Board on Alternative Test-
19 ing Methods shall be to provide independent advice
20 and peer review to the Administrator and Congress
21 on the scientific and technical aspects of issues relat-
22 ing to the implementation of this title with respect
23 to minimizing the use of animals in testing of chem-
24 ical substances or mixtures.

1 “(4) LIST OF METHODS.—Not later than 1 year
2 after the date of enactment of the Toxic Chemicals
3 Safety Act of 2010, and triennially thereafter, the
4 Administrator, in consultation with the Interagency
5 Science Advisory Board on Alternative Testing
6 Methods established under paragraph (1), shall pub-
7 lish a list of testing methods that reduce the use of
8 animals in testing under section 4 of this title.

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

15 “(1) there is sufficient weight-of-evidence from
16 several independent sources of information to sup-
17 port a conclusion that a chemical substance or mix-
18 ture has, or does not have, a particular property, in
19 any case in which the information from each indi-
20 vidual source alone is regarded as insufficient to
21 support the conclusion;

22 “(2) testing for a specific endpoint is tech-
23 nically not practicable to conduct as a consequence
24 of 1 or more physical or chemical properties of the
25 chemical substance or mixture; or

1 “(3) a chemical substance or mixture cannot be
2 tested in animals at concentrations that do not re-
3 sult in significant pain or distress, due to physical
4 or chemical properties of the chemical substance or
5 mixture, such as potential to cause severe corrosion
6 or severe irritation to tissues.

7 **“SEC. 36. SAFER ALTERNATIVES AND GREEN CHEMISTRY**
8 **AND ENGINEERING.**

9 “(a) SAFER ALTERNATIVES PROGRAM.—

10 “(1) IN GENERAL.—Not later than 1 year after
11 the date of enactment of the Toxic Chemicals Safety
12 Act of 2010, the Administrator shall establish a pro-
13 gram to create market incentives for the develop-
14 ment of safer alternatives to existing chemical sub-
15 stances or mixtures that reduce or avoid the use and
16 generation of hazardous chemical substances or mix-
17 tures.

18 “(2) REQUIREMENTS.—The program under
19 paragraph (1) shall include—

20 “(A) expedited review of new chemical sub-
21 stances or mixtures for which the manufacturer
22 or processor submits an alternatives analysis in-
23 dicating that the new chemical substance or
24 mixture is the safer alternative for a particular

1 use than existing chemical substances or mix-
2 tures used for the same purpose;

3 “(B) recognition for a chemical substance
4 or mixture or an article containing such chem-
5 ical substance or mixture determined by the Ad-
6 ministrator to be a safer alternative for a par-
7 ticular use by means of a special designation in-
8 tended for use in marketing the safer alter-
9 native, and periodic public awards or rewards;
10 and

11 “(C) such other incentives as the Adminis-
12 trator considers to be appropriate to encourage
13 the development, marketing, and use of chem-
14 ical substances or mixtures or articles con-
15 taining such substances or mixtures determined
16 by the Administrator to be safer alternatives for
17 particular uses.

18 “(b) GREEN CHEMISTRY RESEARCH NETWORK.—
19 Subject to amounts made available in advance in appro-
20 priations Acts, the Administrator shall establish a network
21 of not fewer than 4 green chemistry and engineering cen-
22 ters, located in various regions of the United States, to
23 support the development and adoption of safer alternatives
24 to chemical substances and mixtures, particularly chemical

1 substances and mixtures listed on the priority list under
2 section 6(a).

3 “(c) GREEN CHEMISTRY AND ENGINEERING RE-
4 SEARCH.—Subject to amounts made available in advance
5 in appropriations Acts, the Administrator shall make
6 grants and enter into contracts to promote and support
7 the research, development, and adoption of safer alter-
8 natives to hazardous chemical substances and mixtures.

9 **“SEC. 37. INTERNATIONAL COOPERATION AND AGREE-
10 MENTS.**

11 “(a) COOPERATION.—In coordination with the Sec-
12 retary of State and the head of any other Federal agency,
13 as appropriate, the Administrator shall cooperate with any
14 international effort—

15 “(1) to develop a common protocol or electronic
16 database relating to chemical substances and mix-
17 tures; or

18 “(2) to develop safer alternatives for chemical
19 substances and mixtures that the Administrator de-
20 termines has broad international support and a rea-
21 sonable expectation of success.

22 “(b) PROHIBITION.—

23 “(1) PROHIBITION.—Except as provided in
24 paragraph (2), notwithstanding any other provision
25 of law, effective 5 years after the date of enactment

1 of the Toxic Chemicals Safety Act of 2010, no per-
2 son shall manufacture, process, distribute in com-
3 merce, use, or dispose of the following chemical sub-
4 stances, except in a manner determined by the Ad-
5 ministrator to be protective of health and the envi-
6 ronment:

7 “(A) Hexabromobiphenyl.

8 “(B) Hexachlorobenzene.

9 “(C) Hexabromodiphenyl ether and
10 Heptabromodiphenyl ether and congeners in the
11 commercial OctaBDE mixture.

12 “(D) Pentachlorobenzene.

13 “(E) Tetrabromodiphenyl ether and
14 pentabromodiphenyl ether and congeners in the
15 commercial PentaBDE mixture.

16 “(2) EXCEPTION.—The prohibition under para-
17 graph (1) shall not apply to a use exempted pursu-
18 ant to section 6(e).

19 “(c) NOTICE OF RESTRICTIONS UNDER INTER-
20 NATIONAL AGREEMENTS.—Not later than 60 days after
21 the enactment of the Toxic Chemicals Safety Act of 2010,
22 the Administrator, in consultation with the Secretary of
23 State, shall publish in the Federal Register a notice of
24 the chemical substances or mixtures that are subject to
25 the Stockholm Convention, the PIC Convention, and the

1 LRTAP POPs Protocol, including conditions or restric-
2 tions relating to such chemical substances or mixtures im-
3 posed by such agreements or by foreign governments pur-
4 suant to such agreements.

5 “(d) IMPLEMENTING AGREEMENTS.—In consultation
6 with the Secretary of State and the head of any other ap-
7 propriate Federal agency (as determined by the Adminis-
8 trator), the Administrator shall implement the provisions
9 of international agreements (and any subsequent amend-
10 ment to such agreements) related to chemical substances
11 and mixtures to which the United States becomes a party.
12 Such implementation shall provide notice at each step in
13 the listing and delisting process as required in such agree-
14 ments and include requirements that:

15 “(1) Not later than 30 days after the United
16 States ratifies an international agreement related to
17 chemical substances and mixtures, the Administrator
18 shall provide public notice of the chemical sub-
19 stances or mixtures that are subject to that agree-
20 ment, and shall provide similar public notice of any
21 chemical substance or mixture subsequently added
22 under that agreement. In providing such notice, the
23 Administrator may specify the applicable require-
24 ments for individual chemical substances or mix-
25 tures.

1 “(2) Whenever a chemical substance or mixture
2 has been proposed for listing under an international
3 agreement to which the United States is a party, the
4 Administrator shall publish in the Federal Register
5 a notice that—

6 “(A) includes any relevant toxicity, expo-
7 sure, and risk information related to the chem-
8 ical substance or mixture known to the Admin-
9 istrator, as well as any domestic activities in-
10 volving the chemical substance or mixture
11 known to the Administrator;

12 “(B) includes a summary of the process,
13 under the international agreement, for the list-
14 ing or delisting step that was taken, including
15 criteria applied in that process and records gen-
16 erated by the international body during that
17 process;

18 “(C) requires any person that manufac-
19 tures, processes, distributes in commerce, uses,
20 or disposes of the chemical substance or mix-
21 ture to provide to the Administrator any infor-
22 mation that the Administrator determines to be
23 necessary to assist the United States in its con-
24 sideration of the proposal; and

1 “(D) provides an opportunity for public
2 comment on the proposed listing of the chem-
3 ical substance or mixture.

4 The comments and information received under this
5 paragraph shall be placed in a public docket and
6 shall be considered in the Administrator’s review of
7 the proposal.

8 “(3) Any chemical substance or mixture listed
9 under an international agreement to which the
10 United States is a party that is not already subject
11 to risk management under section 6(c) or already
12 listed on the priority list under section 6(a) shall be
13 promptly added to the priority list under section
14 6(a).

15 “(4) If there are applicable obligations for a
16 chemical substance or mixture under more than one
17 international agreements to which the United States
18 is a party, the most stringent of such obligations
19 shall apply to ensure compliance with each of those
20 agreements.

21 “(e) RULES.—The Administrator may promulgate
22 such rules as the Administrator determines are necessary
23 to cooperate with international efforts pursuant to sub-
24 section (a) and to implement international agreements re-

1 lated to chemical substances and mixtures pursuant to
2 subsection (d).

3 “(f) DEFINITIONS.—In this section:

4 “(1) LRTAP CONVENTION.—The term
5 ‘LRTAP Convention’ means the Convention on
6 Long-Range Transboundary Air Pollution, adopted
7 in Geneva on November 13, 1979, and any subse-
8 quent amendment or protocol.

9 “(2) LRTAP POPS PROTOCOL.—The term
10 ‘LRTAP POPs Protocol’ means the Protocol on Per-
11 sistent Organic Pollutants to the LRTAP Conven-
12 tion, adopted in Aarhus on June 24, 1998, and any
13 subsequent amendment.

14 “(3) STOCKHOLM CONVENTION.—The term
15 ‘Stockholm Convention’ means the Stockholm Con-
16 vention on Persistent Organic Pollutants adopted in
17 Stockholm on May 22, 2001, and any subsequent
18 amendment or protocol.

19 **“SEC. 38. DATA QUALITY.**

20 “Not later than 18 months after the date of enact-
21 ment of the Toxic Chemicals Safety Act of 2010, the Ad-
22 ministrator shall, by order, establish and implement proce-
23 dures to ensure data quality under this Act including, at
24 a minimum, requirements that—

1 “(1) not less than annually, the Administrator
2 randomly inspect commercial and private labora-
3 tories that develop the data required under this title
4 on the various properties and characteristics of a
5 chemical substance or mixture;

6 “(2) annually, the Administrator perform a
7 comprehensive data audit on a subset, as selected by
8 the Administrator, of the data submissions sub-
9 mitted by manufacturers and processors under this
10 title;

11 “(3) the Administrator have access to all
12 records of privately sponsored health and safety
13 studies initiated in response to requirements under
14 this title; and

15 “(4) the Administrator require the submitter of
16 any study conducted by a third party in response to
17 requirements under this title to disclose to the Ad-
18 ministrator and the public, at the time of submis-
19 sion, the sources of any funding used for the con-
20 duct or publication of the study received by the re-
21 searchers who conducted the study.

22 **“SEC. 39. HOT SPOTS.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) DISPROPORTIONATE EXPOSURE.—The
25 term ‘disproportionate exposure’ means a residential

1 population exposure to 1 or more toxic chemical sub-
2 stances and mixtures at levels that are significantly
3 greater than the average exposure in the United
4 States, as defined and identified by the Adminis-
5 trator in accordance with the criteria under sub-
6 section (b).

7 “(2) LOCALITY.—The term ‘locality’ means any
8 geographical area in which the Administrator identi-
9 fies disproportionate exposure and may include a
10 county, city, town, neighborhood, census tract, zip
11 code, or other commonly understood political or geo-
12 graphical subdivision.

13 “(b) CRITERIA.—Not later than 180 days after the
14 date of enactment of the Toxic Chemicals Safety Act of
15 2010, the Administrator shall promulgate a rule to estab-
16 lish criteria consistent with this section to—

17 “(1) define disproportionate exposure; and

18 “(2) identify any locality that is disproportion-
19 ately exposed.

20 “(c) IDENTIFICATION.—

21 “(1) IN GENERAL.—Not later than 120 days
22 after promulgation of the rule under subsection (b),
23 the Administrator shall identify localities within the
24 United States subject to disproportionate exposure.

1 “(2) USE OF DATA.—In identifying localities
2 under paragraph (1), the Administrator—

3 “(A) shall use data contained in the Na-
4 tional Air Toxic Assessment Database; and

5 “(B) may use other data available to the
6 Administrator, including data developed pursu-
7 ant to—

8 “(i) the Safe Drinking Water Act (42
9 U.S.C. 300f et seq.);

10 “(ii) the Solid Waste Disposal Act (42
11 U.S.C. 6901 et seq.);

12 “(iii) the Comprehensive Environ-
13 mental Response, Compensation, and Li-
14 ability Act of 1980 (42 U.S.C. 9601 et
15 seq.); and

16 “(iv) the Emergency Planning and
17 Community Right-to-Know Act of 1986
18 (42 U.S.C. 11001 et seq.).

19 “(3) PUBLIC PARTICIPATION.—The Adminis-
20 trator shall provide an opportunity for members of
21 the public to nominate localities for which there may
22 be disproportionate exposure for inclusion in the
23 identification of localities under paragraph (1).

24 “(d) HOT SPOT LIST.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after completing the identification of localities under
3 subsection (c)(1), the Administrator shall, after no-
4 tice and consultation with all applicable State, local,
5 county health, and environmental officials, and
6 State, local, and county legislators and other elected
7 officials, publish a list of the localities subject to dis-
8 proportionate exposure identified pursuant to such
9 subsection in the Federal Register and make such
10 list available electronically.

11 “(2) UPDATING.—Not later than 5 years after
12 the date of publication of the list under paragraph
13 (1), and at least once every 5 years thereafter, the
14 Administrator shall update and republish such list
15 as necessary. The Administrator may update and re-
16 publish such list more frequently than every 5 years
17 to add new localities that meet the criteria under
18 subsection (b), or to remove localities when the Ad-
19 ministrator determines that the percentage exposure
20 reduction goal for such a locality established pursu-
21 ant to subsection (e) has been achieved and no fur-
22 ther action is needed after actions are taken under
23 such subsection. The Administrator shall notify all
24 applicable State, local, county health, and environ-
25 mental officials, and State, local, and county legisla-

1 tors and other elected officials of such an updated
2 listing.

3 “(e) ACTION PLANS.—Not later than 1 year after
4 publishing or updating the list under subsection (d), the
5 Administrator shall develop and publish, for each locality
6 identified on the list, an action plan to reduce dispropor-
7 tionate exposure within such locality. Each such action
8 plan shall include—

9 “(1) identification of the chemical substances
10 and mixtures that contribute to the disproportionate
11 exposure (including exposure levels, sources, and
12 pathways);

13 “(2) a description of actions to be undertaken
14 by the Administrator, to reduce disproportionate ex-
15 posure within the locality;

16 “(3) a percentage exposure reduction goal for
17 each chemical substance and mixture identified
18 under paragraph (1); and

19 “(4) a timeline to achieve a percentage expo-
20 sure reduction goal under paragraph (3).

21 “(f) REPORT TO CONGRESS.—The Administrator
22 shall—

23 “(1) prepare and submit to Congress an annual
24 report identifying —

1 “(A) each locality added to the list in the
2 prior year under subsection (d);

3 “(B) each action plan developed in the
4 prior year under subsection (e); and

5 “(C) the progress on each action plan to
6 date; and

7 “(2) make the report available to the public in
8 electronic format.

9 **“SEC. 40. APPLICATION OF THIS ACT TO FEDERAL AGEN-**
10 **CIES.**

11 “(a) IN GENERAL.—Except as provided in subsection
12 (e), each Federal agency, and any officer, agent, or em-
13 ployee thereof, shall be subject to, and comply with, all
14 applicable requirements of this Act, both substantive and
15 procedural, in the same manner, and to the same extent,
16 as any person subject to such requirements. The sub-
17 stantive and procedural requirements referred to in this
18 subsection include—

19 “(1) any rule or order;

20 “(2) any civil or administrative penalty or fine,
21 regardless of whether such penalty or fine is punitive
22 or coercive in nature or is imposed for isolated,
23 intermittent, or continuing violations;

24 “(3) any requirement for reporting;

1 “(4) any provision for injunctive relief and such
2 sanctions as may be imposed by a court to enforce
3 such relief; and

4 “(5) payment of user fees under section 26(b).

5 “(b) WAIVER OF IMMUNITY.—The United States
6 hereby expressly waives any immunity otherwise applicable
7 to the United States with respect to any substantive or
8 procedural requirement referred to under subsection (a).

9 “(c) CIVIL PENALTIES.—No agent, employee, or offi-
10 cer of the United States shall be personally liable for any
11 civil penalty under this Act with respect to any act or
12 omission within the scope of the official duties of the
13 agent, employee, or officer.

14 “(d) CRIMINAL SANCTIONS.—An agent, employee, or
15 officer of the United States shall be subject to any crimi-
16 nal sanction (including any fine or imprisonment) under
17 this Act, but no Federal agency shall be subject to any
18 such sanction.

19 “(e) EXEMPTION.—

20 “(1) IN GENERAL.—If the President determines
21 it is in the paramount interest of the United States,
22 the President may grant an exemption for any Fed-
23 eral agency from compliance with any requirement
24 of this Act.

1 “(2) LACK OF APPROPRIATION.—No exemption
2 shall be granted under paragraph (1) due to lack of
3 appropriation unless the President has specifically
4 requested such appropriation as a part of the budg-
5 etary process and the Congress has failed to make
6 available such requested appropriation.

7 “(3) PERIOD OF EXEMPTION.—Any exemption
8 granted under paragraph (1) shall be for a period of
9 not more than 1 year, but additional exemptions
10 may be granted for periods not to exceed 1 year
11 upon the President’s making a new determination
12 that such exemption is in the paramount interest of
13 the United States.

14 “(4) REPORT.—Annually after the date of en-
15 actment of the Toxic Chemicals Safety Act of 2010,
16 the President shall report to the Congress all exemp-
17 tions under this subsection granted during the pre-
18 ceding calendar year, together with the reason for
19 granting each such exemption.

20 “(f) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

21 “(1) IN GENERAL.—The Administrator may
22 commence an administrative enforcement action
23 against any Federal agency pursuant to the enforce-
24 ment authorities contained in this Act. The Adminis-
25 trator shall initiate an administrative enforcement

1 action against such agency in the same manner and
2 under the same circumstances as an action would be
3 initiated against another person. Any voluntary reso-
4 lution or settlement of an administrative enforce-
5 ment action shall be set forth in a consent order.

6 “(2) FINAL.—No administrative order issued to
7 a Federal agency shall become final until such agen-
8 cy has had the opportunity to confer with the Ad-
9 ministrator.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents for the Toxic Substances Control Act is amended
12 by adding after the item relating to section 31, the fol-
13 lowing new items:

“Sec. 32. Risk assessment for chemical substances and mixtures that are per-
sistent and bioaccumulative.

“Sec. 33. Expedited action for chemical substances with documented risks.

“Sec. 34. Children’s environmental health program.

“Sec. 35. Reduction of animal-based testing.

“Sec. 36. Safer alternatives and green chemistry and engineering.

“Sec. 37. International cooperation and agreements.

“Sec. 38. Data quality.

“Sec. 39. Hot spots.

“Sec. 40. Application of this Act to Federal agencies.”.